

2012

The Politics of Animal Anti-Cruelty Legislation in Canada: An Analysis of Parliamentary Debates on Amending the Criminal Code

Antonio Verbora
University of Windsor

Follow this and additional works at: <https://scholar.uwindsor.ca/etd>

Recommended Citation

Verbora, Antonio, "The Politics of Animal Anti-Cruelty Legislation in Canada: An Analysis of Parliamentary Debates on Amending the Criminal Code" (2012). *Electronic Theses and Dissertations*. 241.
<https://scholar.uwindsor.ca/etd/241>

This online database contains the full-text of PhD dissertations and Masters' theses of University of Windsor students from 1954 forward. These documents are made available for personal study and research purposes only, in accordance with the Canadian Copyright Act and the Creative Commons license—CC BY-NC-ND (Attribution, Non-Commercial, No Derivative Works). Under this license, works must always be attributed to the copyright holder (original author), cannot be used for any commercial purposes, and may not be altered. Any other use would require the permission of the copyright holder. Students may inquire about withdrawing their dissertation and/or thesis from this database. For additional inquiries, please contact the repository administrator via email (scholarship@uwindsor.ca) or by telephone at 519-253-3000ext. 3208.

The Politics of Animal Anti-Cruelty Legislation in Canada: An Analysis of Parliamentary
Debates on Amending the Criminal Code

by

Antonio Robert Verbora

A Thesis
Submitted to the Faculty of Graduate Studies
through Sociology, Anthropology, and Criminology
in Partial Fulfillment of the Requirements for
the Degree of Master of Criminology at the
University of Windsor

Windsor, Ontario, Canada

2012

© 2012 Antonio Robert Verbora

The Politics of Animal Anti-Cruelty Legislation in Canada: An Analysis of Parliamentary
Debates on Amending the Criminal Code

by

Antonio Robert Verbora

APPROVED BY:

Dr. Beth Daly, External Reader
Faculty of Education

Dr. Danielle Soulliere, Second Reader
Department of Sociology, Anthropology, and Criminology

Dr. Amy Fitzgerald, Advisor
Department of Sociology, Anthropology, and Criminology

Dr. Tanya Basok, Chair of Defense
Department of Sociology, Anthropology, and Criminology

05, 22, 2012

DECLARATION OF ORIGINALITY

I hereby certify that I am the sole author of this thesis and that no part of this thesis has been published or submitted for publication.

I certify that, to the best of my knowledge, my thesis does not infringe upon anyone's copyright nor violate any proprietary rights and that any ideas, techniques, quotations, or any other material from the work of other people included in my thesis, published or otherwise, are fully acknowledged in accordance with the standard referencing practices. Furthermore, to the extent that I have included copyrighted material that surpasses the bounds of fair dealing within the meaning of the Canada Copyright Act, I certify that I have obtained a written permission from the copyright owner(s) to include such material(s) in my thesis and have included copies of such copyright clearances to my appendix.

I declare that this is a true copy of my thesis, including any final revisions, as approved by my thesis committee and the Graduate Studies office, and that this thesis has not been submitted for a higher degree to any other University or Institution.

ABSTRACT

In 1998 the federal government launched a consultation process which pointed out that nothing significant had been done to change federal anti-cruelty laws in Canada since 1892. The consultation process concluded that among other concerns, outdated wording of the law has prevented the prosecution of many serious animal abusers. Since 1999 there have been a number of failed amendments to the Criminal Code anti-cruelty provisions. This study examines the trajectory of the proposed changes since 1999 to the present, using official transcripts of Canadian parliamentary debates, and seeks to understand the politics of animal cruelty legislation in Canada. Using thematic analysis, this paper explores how resistance to the amendments is articulated and rationalized, as well as the grounds upon which proponents argue in favour of amending the anti-cruelty provisions. The study ultimately sheds light on the failure to bring 19th century Canadian criminal laws into the 21st century.

DEDICATION

This paper is dedicated to the billions of animals worldwide who have been neglected, mistreated, and exploited. To me, you are all feeling, sentient beings. You deserve to be treated with respect, not as economic commodities. You may not have a voice; however, I will continue to dedicate scholarly research to ensuring that this exploitation is brought to the forefront of criminological analyses.

ACKNOWLEDGEMENTS

First and foremost, this thesis would have not been made possible without the expertise, guidance, and support of my Advisor, Dr. Amy Fitzgerald. You have made this academic endeavour an enjoyable and rewarding experience. I appreciate the several reference letters you have written throughout the duration of this program. You have played a intricate role at both the undergraduate and graduate level in demonstrating the importance of pedagogy whilst opening my eyes to the several areas of research in Criminology that require further analysis and exploration. I am self-assured that you have provided me with the necessary tools to complete the Criminology Doctoral program, and I am forever indebted to you for instilling confidence in me. Thank you for allowing me to collaborate with you on publications and for providing me with a research position as well. Your dedication to my research and to Green Criminology has been admirable.

Many thanks to Dr. Danielle Soulliere and Dr. Beth Daly, members of my thesis committee, for your support and advice throughout the thesis process. Your suggestions have played a pivotal role in the production of this paper at the methodological level.

Thank you to Dr. Robert Arnold for your endless reference letters and guidance at both the graduate and undergraduate level. Your knowledge of quantitative research and your commitment to the field of Sociology has demonstrated the importance of scholarly research and dedication. Your commitment to both my non-academic and academic endeavours has been refreshing and essential to my social and academic growth. Thank you for permitting me to enrol as an auditor in the PhD Quantitative Statistics course.

I would also like to thank the Department of Sociology, Anthropology, and Criminology at the University of Windsor. Many thanks to Kelley Allard and Perry Pittao for your calm, supporting demeanour. Kelley, in several ways you have been a mentor in times of need, guidance, and instruction over the course of the last two years, thank you.

To my mother, Rosa Verbora and my father, Robert Verbora, you have instilled in me several important attributes over the course of my life: hard work, dedication, compassion, and motivation. You have provided me with the opportunities that you were unable to embark upon and have been teachers and role models. Thank you for your unwavering support both mentally and emotionally. Dad, I know you would be proud of how far I have come: you are the voice in my head telling me to persevere. Mom, you have been my crutch the last several years. You have several burdens, yet you manage to place everyone's needs before your own. This paper is a reflection of both of your hard work! To my sisters, Stephanie and Christina, you have provided me with mental and emotional support throughout the last several years: thank you for believing in me.

Lastly, I would like to extend my gratitude and appreciation to my cohort and to all of the Master students who elected me to be their Graduate Representative for the 2011-2012 year. I hope I served you well, and I thank you for the experience and support throughout this academic journey!

TABLE OF CONTENTS

DECLARATION OF ORIGINALITY	iii
ABSTRACT	iv
DEDICATION	v
ACKNOWLEDGEMENTS	vi
CHAPTER	
I. INTRODUCTION	1
II. LITERATURE REVIEW	
Animals and the Law	2
Attempted Amendments to the Federal Anti-Cruelty Provisions	4
III. THEORETICAL FRAMEWORK	
Green Criminology	7
Utilitarianism: Suffering and Equal Consideration	9
Rights Theory	11
Feminist Care Approach	13
IV. RESEARCH METHODS AND DATA	14
V. FINDINGS	16
Bills Introduced to Parliament	17
Opponents	18
Proponents	24
Bill S-203: A Watered Down, Industry-Backed Bill	28
VI. DISCUSSION	29
VII. CONCLUSIONS AND RECOMMENDATIONS	34
REFERENCES	37
VITA AUCTORIS	42

“Show me the enforced laws for the prevention of cruelty to animals and I, in turn, will give you a correct estimate of the refinement, enlightenment, integrity, and equity of that commonwealth's people.” — L.T. Danshiell, 1914 (Animal Rights Advocate)

INTRODUCTION

In recent years the Canadian media has reported on some gruesome cases of animal abuse. There was the Toronto cat skinning case; the three youths that killed a cat in the microwave while they listened to its shrieks of pain; the man in New Brunswick who beat five of his dogs to death with a hammer; and the border collie mix, Daisy Duke, who was beaten, bound, and dragged behind a car in Didsbury, Alberta (Canadian Federation of Humane Societies 2010). None of these heinous cases has been enough to catalyze the development of legislation fit for a 21st century society. In fact, animals in Canada are arguably less safe than in Ukraine or the Philippines, both of which have stronger legislation in place to protect animals (Hughes and Meyer 2000; Sorenson 2010; Wise 2003). It is clear that Canada's animals need better protection from deliberate acts of cruelty. While there have been numerous attempts to amend the Criminal Code to reflect this need, the only change was made in April 2008, and the amendments, which were supported by the livestock industries, simply increased the potential punishment for animal abusers. The amendments fail to protect animals in numerous, important ways.

Sorenson (2010: 155) delineates the many loopholes in the current law as follows: “Canada does not even clearly define “animal” while other countries are explicit. Unlike others, our cruelty provisions only apply to animals “kept for a lawful purpose,” so Canada offers almost no protection for wild and stray animals because they are not considered anyone’s property.” The provisions related to animal fighting are also problematic: individuals must be present in order to be charged and, unlike other

countries, breeding, training and profiting from fighting animals is not illegal here. “These loopholes allow abuse to continue even when police have evidence” (Sorenson 2010: 156). Also, the Criminal Code makes it almost impossible to prosecute animal neglect. The Code refers to “wilful neglect,” meaning that animal neglect must be deliberate (other countries do not face the task of proving wilful intent and motives). Other legal limitations include the following: the consequences for convictions remain light and Canada does not impose permanent prohibitions against owning animals for convicted abusers (Sorenson 2010).

This research explores attempts to amend the animal anti-cruelty provisions in the Canadian Criminal Code from 1999 to present. This study builds upon Létourneau (2003), Sorenson (2003), and Skibinsky’s (2005) research on anti-cruelty provisions in Canada and the impact of the provisions on the status of animals. Using thematic analysis, I analyze the parliamentary debates (Hansards) regarding proposed anti-cruelty amendments to the Criminal Code. This study goes beyond identifying the stakeholders on both sides and assesses how the resistance to the amendments is articulated and rationalized, as well as the grounds upon which proponents argue in favour of amending the anti-cruelty provisions. In doing so, this paper provides insight into the political landscape surrounding animal anti-cruelty legislation in Canada.

LITERATURE REVIEW

Animals and the Law

There is a long history of considering animals as property for humans to utilize (Beirne and South 2007). This anthropocentric view of animals still holds sway in modern times. According to Benton (1993) and Hughes and Meyer (2000), animals are

treated in tort, contract, and other non-criminal law primarily as personal property, and criminal offences involving animals are largely treated as property offences. Francione (2007) argues that laws cannot provide any significant protection for animals as long as they are the property of humans. In *Animals, Property, and the Law* (1995: 46), he explains why this is the case:

To classify something as property in a legal sense is to say that the thing is to be regarded solely as a means to the end determined by human property owners. If we say that an animal is property, we mean that the animal is to be treated under the law primarily, if not exclusively, as a means to a human ends, and not as an end in herself.

In Canada, animal cruelty is addressed under property crime and is governed by Sections 444 to 447 of the Criminal Code (Goff 2011). These sections describe offences involving killing, maiming, wounding, injuring, or endangering cattle (Section 444); or other animals that are kept for a lawful purpose (Section 445); or more generally causing unnecessary pain, suffering, or injury to an animal by any means (Section 446). Section 447 deals specifically with the keeping of a cockpit (Criminal Code of Canada 2012). Several of these crimes were originally summary conviction offenses (crimes against cattle is the exception), for which the maximum penalties are a fine of two thousand dollars, six months in prison, or both. The special protection given to cattle also extends to procedure and sentencing. According to the Minister of Justice and the Attorney General of Canada (1998: 8), “Section 444 makes killing, maiming, wounding, poisoning, or injuring cattle an indictable offence, and provides for a maximum penalty of imprisonment for a term not exceeding five years and with no upper limit on possible fines.” However, under Section 445, the same acts committed against dogs, birds, or animals that are not cattle could only be prosecuted on summary conviction with lesser

penalties as noted above (Minister of Justice and the Attorney General of Canada 1998). This changed when the most recent amendment (Bill S-203) received Royal Assent in 2008. It instituted penalty increases (adding an indictable, five-year maximum) to Section 445 and 447 of the Criminal Code (Sorenson 2010; Wise 2010).

According to Skibinsky (2005:174), the animal cruelty amendments were initially proposed beginning in 1999 in response to a consultation paper by the Minister of Justice and the Attorney General of Canada (1998) which examined cruelty to animals and pointed out that “legislatively nothing significant had been done to protect animals from abuse since 1892.” The consultation paper provides an overview of how animals are regarded in Canadian society and in the Criminal Code. The paper also examines key reform issues (i.e., prohibiting animal ownership to convicted offenders and eliminating inconsistencies in the law). There was a critical discussion regarding the removal of animal cruelty from the property section of the Criminal Code in the consultation paper. At the beginning of the proposals for legislative reform, there was a strong focus on the issue of animals being viewed as property, yet after the successful amendments animals still remain property under Canadian Criminal Law.

Literature on the Attempted Amendments to the Federal Anti-Cruelty Provisions

Létourneau (2003), Sorenson (2003), and Skibinsky (2005) have conducted research on some of the proposed anti-cruelty amendments in Canada and their impact on the status of animals. This study seeks to extend their research and include the most recent proposed amendments. In this section, I describe their research and explain how this study contributes to this literature.

In her assessment of pre-2004 anti-cruelty provisions in Canada, L  tourneau (2003: 1050) argues that the provisions imposed some legal constraints on the use of animals and implicitly recognized that animals, unlike inanimate property, possess an interest in having a favourable experiential welfare: in avoiding pain, suffering, and injury. In terms of the proposed revisions, L  tourneau focused her attention on Bill C-17, Bill C-15B, and Bill C-10B, as these were the only three Bills introduced to the Parliament of Canada at the time of her writing. Her main contention is that the aforementioned Bills were human-centred, not animal centred, as they condemned only the vicious killing of animals and the killing without a lawful purpose. L  tourneau (2003) further argues that the proposed changes implicitly admit that animals have an interest in life and in remaining alive; however, they stop short of acknowledging that animals have moral status. She concludes that animal interests are not protected irrespective of any benefit to human beings and argues that anti-cruelty legislation in Canada is not a path to animal liberation (L  tourneau 2003: 1055). Since L  tourneau’s article was published in 2003, twelve Bills have been introduced to the Parliament of Canada.

Sorenson (2003) focused primarily on Bill C-15B and concludes that the Bill was directed at individual acts of violence and “posed no challenge to animal exploitation industries and consisted of only moderately increased penalties for deliberately sadistic actions in non-institutional settings” (p. 377). Sorenson used critical discourse analysis to analyze opposition to the proposed amendments. He argues that opponents engaged in “deliberate and misleading attempts to exaggerate the implications of these modest amendments and to vilify animal-rights advocates and demonstrates the determination of animal exploiters to maintain hegemony over the status of animals in our society”

(Sorenson 2003: 379). Sorenson's findings suggest that while animal exploiters defend the "common sense" of their position, they are aware of its exploitative character, and they believe they must be constantly on guard against any potential changes, no matter how slight.

Skibinsky (2005) focused on the significance of Canada's recurring proposed animal cruelty amendments to the livestock industry. Skibinsky's research only focused on Bills introduced by the House of Commons pre-2005; that is, she paid particular attention to Bill C-17, Bill C-15B, Bill C-10B, and Bill C-22. Since the time of her research, which is the most recent on the topic to date, another eleven Bills have been introduced to the House of Commons. Skibinsky (2005: 173) paid particular attention to how each and every Bill proposed to the House of Commons died. She found that the largest obstacle to the passage of animal cruelty Bills in Canada has been the Senate, "as several Senators clearly demonstrate a protective spirit towards the livestock industry and other animal-use industries" (p. 175). The Senate has pushed for specific wording of provisions that would exclude protection to animals in some animal-use industries, and the House had held out for wording that would provide no such exemptions to the criminalization of outright cruelty to any animal (Skibinsky 2005). Like Hughes and Meyer (2000), Skibinsky (2005) argues that in order to obtain more precise legislation regarding animal cruelty, Canadians need to strive for consensus on the legitimacy and importance of human uses of animals (Skibinsky 2005). This is essential as there has never really been an examination of what Canadians' views are on the acceptable uses and treatments of animals.

To the best of my knowledge, no one has tracked the proposed amendments to the Criminal Code anti-cruelty provisions in Canada through the successful changes in 2008. In the span of twelve years, fifteen Bills have been introduced to Parliament, and only one has received Royal Assent: Bill S-203. This study examines the trajectory of the legal challenges since 1999 and seeks to better understand the politics of animal cruelty legislation in Canada.

THEORETICAL FRAMEWORK

Green Criminology

In the 1990s, green criminology emerged as an alternative for examining crimes against non-human animals (Lynch 2010). Beirne and South (2007: xiv) outline a useful definition of green criminology: “it refers to the study of those harms against humanity, against the environment, and against non-human animals committed both by powerful institutions (e.g., governments and transnational corporations) and also by ordinary people.” Links have been made between the study of green criminology and the pursuit of social justice (Beirne and South 2007). This perspective aims to uncover sources and forms of harms caused by the persistence of social inequality and by the unjust exercise of power. It is a perspective that is inherently challenging to criminology (Beirne 1995; Benton 2007).

This study is grounded in green criminology. Green criminological insights on the legal implications of speciesism are used here to shed light on how discrimination against animals is vocalized in legislative deliberations. Dunayer (2004: 5) refers to speciesism as “a failure, in attitude or practice, to accord any nonhuman being equal consideration and respect.” For example, animals are often conceptualized in primarily instrumental

terms (e.g., as pets or as food) or in mainly anthropocentric terms (e.g., wildlife or fisheries). Richard Ryder coined the term “speciesism” to define prejudice in favour of one’s own species, comparable to racism and sexism (Beirne and South 2007; Hughes and Meyer 2000; Sorenson 2010; White 2007). Ryder used the term as “a deliberate ‘wake-up call’ to challenge the morality of current practices where nonhuman animals are being exploited in research, in farming, domestically and in the wild” (Ryder 1975: 1). Sorenson (2010) argues that speciesist prejudice towards other animals naturalizes their suffering, making it seem acceptable, and marginalizes animal rights-based critiques. Ryder pointed out that “all such prejudices are based upon physical differences that are morally irrelevant” (1975: 1). Further, he argued that the “moral implication of Darwinism” is that all living animals should have a similar moral status, including humans (Ryder 2007). From this conceptual standpoint, using animals for biomedical experiments, product testing, food, clothing, and entertainment is “reconceptualised as comparable to the worst atrocities committed against humans” (Sorenson 2010: 12). Thus, speciesism allows individuals to treat animals as property, instead of as beings (White 2010).

Within green criminology and animal studies more generally, there are several philosophical differences in terms of the value given to the interests of animals. A vast amount of literature critiquing speciesism from different theoretical positions has developed. This study intends to explore some of these differences via the theoretical insights of Peter Singer, Tom Regan, and Carol Adams. The chief goals of these theorists have been to end the practices and ideologies of speciesism through the vehicles of utilitarianism, rights theory, and feminist theory. I will be examining the legislative

debates to see what, if any, elements of these theories emerge. This study does not seek to answer the philosophical question of whether animals have rights. Rather, the main objective is to examine if some of the claims made in these philosophical perspectives are mobilized more than others in the debates over changes to the anti-cruelty legislation in Canada.

Beirne (2009) discusses the value and perception of animals in criminology. He contends that criminology is speciesist, as animals are almost always passive, insentient objects acted on by humans when they do appear in criminology. For Beirne (2009: 7), “Green criminology seeks to uncover the sources and forms of power and social inequality and their ill effects.” Thus, the green perspective is a corrective to the speciesism of criminology as it takes a non-speciesist approach in analyzing the maltreatment of animals, including through the law (Beirne 2009). This study makes a contribution to non-speciesist green criminology because it generates a greater understanding of how legislative decisions regarding protecting animals are made and how speciesism figures into these decisions. The anti-cruelty provisions in the Canadian Criminal Code perpetuate a form of speciesism. For instance, the Criminal Code offers less protection for wild or stray animals in comparison to cattle and other working animals, and animals continue to be considered property. There seems to be a hierarchy of sorts, with humans at the top and animals at the bottom. As animals continue to be devalued, humans continue to be given greater moral consideration, especially in the law.

Utilitarianism: Suffering and Equal Consideration

Jeremy Bentham was one of the first to extend utilitarianism to human-animal interactions. He claimed that the suffering of animals must be considered in moral

decision- making because animals are sentient beings that can suffer and feel pain (Bentham 1823). They have an interest in avoiding pain, and given the principle of utility, humans are obliged not to inflict it on them (Beirne 1999: 128-130). Further, “the principle purports approval or disapproval of every action whatsoever according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question” (Bentham 1993: 53). According to Bentham (1823), this principle is the foundation for both law and morality.

In *Animal Liberation* (1975), a book of consequentialist moral theory applied to animal suffering, Peter Singer reviews Bentham’s ‘dictum’ that what matters for morality is not whether a being can reason, but whether it can suffer. Singer begins by pointing out that the basis of Bentham’s argument about animals is not that they have rights; rather, animals should be allowed the same consideration as humans (Singer 1975). In supporting the extension of utilitarianism to animals, Singer (2006) argues that the capacity for suffering is the essential precondition for having interests: humans and animals have an equal interest in avoiding suffering. He also argues that utilitarianism should entail equality of consideration for all animals.

In principle, “Singer’s act-utilitarianism does not preclude any form of torture or suffering inflicted on a minority if it reduces the suffering of the majority” (Francione 1997: 77). Singer’s theory neglects to focus on animal rights. For Singer, actions are deemed right or wrong depending on the consequences, and not by any appeal to right. Singer supports violating a right holder’s right in the event that the violation of such right will produce a more desirable consequence (Francione 1997). For example, Francione (1997: 77) argues that “Singer opposes most animal experimentation only because he

thinks that most animal experiments produce benefits that are insufficient to justify the animal suffering that results.” However, Singer does not oppose all animal experimentation. Singer would be committed to approving animal use if it led to the cure for cancer (Singer 1975). Singer has also acknowledged that under some circumstances, it would be acceptable to perform experiments on humans if the benefits for all affected outweighed the injury to the humans used in the experiment (Francione 1997).

Rights Theory

Some of the critiques and difficulties associated with Singer’s utilitarianism led to the formation of a non-consequentialist, deontological theory of animal rights offered by Tom Regan (Benton 1998). In *The Case for Animal Rights* (1983), Regan argues that the rights position views the institutionalized exploitation of nonhumans as morally unacceptable. Regan is against the use of animals for food, hunting, trapping, testing, education, and research (Francione 1996; Francione 1997). “Regan believes that humans and nonhumans are subjects-of-a-life and are of equal value” (Francione 1997: 78). He conceptualizes them as moral agents and moral patients. Moral agents have direct duties to other individuals who are not moral agents (moral patients) (Benton 1996: 24). Regan (2004: 422) describes moral agents as individuals varying in sophisticated abilities that freely choose or fail to choose to act as morality, as they conceive it, requires. In contrast, moral patients are creatures whom cannot control their own behaviour, and this would make them morally unaccountable for what they do (Regan 2004). Regan (1983; 2004) argues that moral agents have the capacity to make moral decisions (e.g., the majority of humans), whereas moral patients (e.g., animals) lack the ability to behave morally and be held accountable; however, they both have rights.

Furthermore, Regan distinguishes legal rights from moral rights. According to Regan (1996), legal rights are those which particular laws happen to classify as rights. As such, their existence depends on the society in which they are enacted. Moral rights, on the other hand, are universal rights. That is, they apply equally to all of their holders (Regan 1996). They are not acquired rights, but basic ones which everyone is obliged to uphold. Of all moral rights, Regan (1996) purports that the right to respectful treatment is the most basic right. Regan is claiming moral standing and legal protection for all subjects-of-a-life, whether human or not. The distinction between moral and legal rights is critical here since both are created differently. Legal rights have to be created through law, as they do not come into being on their own: they are made by human beings. As for moral rights, they are not created by humans: moral rights are universal and timeless (Regan 1996; Regan 2004).

For Regan, we have a direct, unyielding moral duty to not use and abuse animals for our own egotistical needs. This position stands in contrast to Kant's criterion of rational agency, which Regan (2004) argues fails as a necessary grounding for moral standing and legal protection for all subjects-of-a-life: many marginal case humans (i.e., infants and the disabled) lack rational agency, and yet we would agree that they have rights (Benton 1998). Humans and animals alike have interests in not being harmed, killed, or having their important preferences frustrated. So, for Regan, we should regard other people and animals who are subjects-of-a-life not merely as tools for our use but as good in themselves (Francione 1996; Francione 1997).

Feminist Care Approach

In the 1980s, feminist theorists developed an approach to the issue of the moral status of animals in reaction to Singer and Regan's theories. The feminist approach is rooted in feminist "ethic-of-care" theory, developed largely by Carol Gilligan. Gilligan (1982) identified a woman's conception of morality as "one that is concerned with the activity of care, responsibility, and relationships" which she contrasted to men's conception of morality as fairness (Adams 1995: 80). Other feminists have used Gilligan's work to argue that Singer and Regan share a common failure: "a masculinist adherence to scientific rationalism" (Beirne 2007: 71). Donovan and Adams (2007: 5) discuss the inherent problems in both the rights and welfare approaches:

One problem noted with rights theory is its rationalist bias. Animal rights theorists have argued that animals are entitled to be considered "persons" before the law and to have rights similar to those held by citizens: the basic right to have their territory (i.e., their bodies) held inviolate from unwarranted human intrusions and abuse. To sustain their claim, they have had to argue that animals are, in many respects, similar to humans: Regan argues that animals are autonomous individuals with an intelligence that is similar to human reason, whereas Singer argues that sentience rather than rationality should be the basis upon which "rights" and moral status are granted.

For Donovan and Adams (2007), rights theory and utilitarianism fail in that they assume that animals are analogous to rational, property-owning people.

Another problem feminists have with Regan and Singer's approaches is that they devalue, suppress, and deny emotions (Donovan and Adams 2007). The authors argue that this means that a major basis for the human-animal connection is not included. According to Donovan and Adams (2007), animal abuse and exploitation continue due to the exclusion of emotional response. Thus, the feminist care approach pays attention to

the individual suffering animal as well as the cultural, political, and economic systems that are contributing to the suffering (Donovan and Adams 2007). In brief, the feminist care approach recognizes the importance of each animal, yet analyzes why the animal is being abused in the first place.

The feminist approach is said to offer a more elastic, particularized, situational ethic (Donovan and Adams 2007). The feminist care approach to animal ethics “rejects abstract rule-based approaches in favour of one that is more situational and focused on the context,” allowing for a descriptive understanding of the particulars of a situation or issue (Donovan and Adams 2007: 2). Further, Donovan and Adams (2007) purport that as with feminism in general, care theory resists ‘hierarchical dominative dualisms’. They contend that these dualisms emphasize the powerful (humans, males, and whites) over the subordinate (animals, women, and people of colour).

Using the aforementioned theoretical frameworks, this study goes beyond identifying the stakeholders on both sides of the debates over revising anti-cruelty provisions. First, I analyze the grounds upon which opponents of the amendments make their cases and if and how they invoke any of the assumptions of these theoretical perspectives. Second, I analyze the grounds upon which proponents of the amendments make their cases. I examine whether they make claims about minimizing suffering and improving animal welfare, protecting rights, or a duty-to-care and emotions.

RESEARCH METHODS AND DATA

I analyze official transcripts of Canadian parliamentary debates in the House and Senate (Hansards) on proposed amendments to the anti-cruelty provisions in the Criminal Code of Canada from 1999 to the present. I also analyze the consultation paper published

by the Minister of Justice and the Attorney General of Canada (1998), which was the first paper to point out that animal law in Canada has not been changed since 1892 (Skibinsky 2005). Not only does the paper discuss the inherent problems with anti-cruelty legislation in Canada, it represents a critical analysis by the government of its own laws. This consultation paper was one of the main reasons why the subsequent Bills were introduced to Parliament.

Thematic analysis is the method employed for data analysis. Thematic analysis is a “careful, detailed, systematic examination and interpretation of a particular body of material used to identify patterns, themes, biases, and meanings” (Braun and Clarke 2006: 303). It can be performed on various forms of communications, such as written documents, photographs, motion pictures or videotape, and audiotapes, to name a few. Thematic analysis has also been used by a wide variety of disciplines. Regardless of where it is used, thematic analysis is chiefly a coding operation and data interpreting process (Babbie 2004). It is the best method for this study as it offers a theoretically-flexible, accessible approach to analyzing qualitative data.

According to Braun and Clarke (2006: 83), themes within data can be identified in an inductive or ‘bottom up’ way, or in a theoretical or deductive, ‘top down’ way. This study employs a theoretical, top down thematic analysis. This means that this analysis is driven by the researcher’s theoretical and analytic interest in the area: the analysis is more explicitly analyst driven (Frith and Gleeson 2004).

Fifteen Bills introduced to the House and Senate from 1999 to the present are analyzed. There were forty-two separate debates on these Bills: twenty-three in the House and nineteen in the Senate. On average, the Hansard debates for each Bill are forty pages

single-spaced, except for Bills that died after first reading. In total, over one thousand pages of legislative deliberations involving proposed anti-cruelty amendments to the Criminal Code are analyzed.

The coding began by familiarizing myself with the Hansard debates: I immersed myself in the debates and searched for meanings and patterns via repetition of certain arguments. Second, I generated initial codes about what was in the debates and what was interesting about them. Some of the initial codes include animal welfare, animal rights, legislative concerns, and animal abuse cases. Third, I coded the data and identified a long list of different codes. I analyzed the codes and considered how different codes may combine to form an overarching theme. For instance, legislative concerns was broken down into complexities and difficulties of omnibus Bills and public outcry. Once I devised a set of candidate themes, I reviewed each theme. Finally, I defined and refined the themes. I identified the essence of what each theme was about, and I determined what aspect of the debates each theme captured. In the discussion of the findings I utilize examples and quotes from the debates to illustrate the nature of each theme.

FINDINGS

Before delving into the thematic analysis, it is useful to provide a summary of the proposals, which provides important background for the subsequent analysis. The majority of Bills, with the notable exception of Bill S-203, attempted to amend the Criminal Code by consolidating animal cruelty offences into one section and introducing new offences for brutally or viciously killing an animal or abandoning one. Bill S-203, an industry-backed Bill, was different. The Bill addressed the issue of maximum penalties, but left offences from 1892 untouched. For instance, Bill S-203 continued to allow wild

animals and strays to be killed for any reason, or even for no reason. It also left in place wording that allows individuals to kill animals brutally and viciously if the animal dies immediately. The following table contains a brief synopsis of the proposed animal anti-cruelty revisions to the Criminal Code from 1999 to present. Bill S-203 was the only Bill that received Royal Assent.

Bills Introduced to Parliament

Bill/ Date	Introduced By	Main Proposals	Result
C-17 December 1999	Minister Anne McLellan (Liberal)	Remove animals from the property section, modernize language of existing offences, and provide uniform protection for all animals.	Bill died on the order when an election was called in the fall of 2000
C-15B October 2001	Minister Anne McLellan (Liberal)	Providing a definition of “animal” and increasing the maximum penalties available	Bill died when the House was prorogued at the end of June 2002
C-10B November 2002	Minister Anne McLellan (Liberal)	C-10B would modernize language of existing offences and provide uniform protection for all animals.	The House and the Senate disagreed on the outstanding amendments. Bill died on November 12 th , 2003 when Parliament was prorogued.
C-22 February 2004	Minister Anne McLellan (Liberal)	Same as C-10B	Bill C-22 passed to the Senate but died when PM Paul Martin called election
S-24 March 2005	Senator John Bryden (Liberal)	To increase the penalties for those convicted of acts of animal cruelty	The Bill died on the Order Paper when Parliament prorogued November 2005 for an election
C-50 May 2005	Senator John Bryden (Liberal)	Move animals out of the property section. Raise penalty for intentional cruelty to a maximum of five years imprisonment. Allow for a lifetime of prohibition on future animal ownership	Election was not called in May (prolonged until November) and the Bill consequently died
S-213 February 2006	Senator John Bryden (Liberal)	Same as C-24 and C-50	The Bill died when Parliament prorogued on September 14 th , 2007
C-373 October 2006	MP Mark Holland (Liberal)	Move animals out of the property section. Raise penalty for intentional cruelty to a maximum of five years imprisonment.	The Bill died when the House prorogued on September 14 th , 2007.

S-203 February 2008	Senator John Bryden (Liberal)	Increases penalties for some animal cruelty but leaves offences from 1892 untouched	Bill S-203 received Royal Assent on April 17 th , 2008.
C-558 June 2008	MP Penny Priddy (NDP)	Proposed revision in defining an animal; Bill also aimed to afford protection to all animals	Bill received first reading on June 4 th , 2008 and died when Parliament was prorogued
C-229 November 2008	MP Mark Holland (Liberal)	Identical to Bill C-373/Bill C-50	The Bill was last introduced in the 40 th Parliament, 3 rd Session (ended March 2011)
C-230 November 2008	MP Mark Holland (Liberal)	Identical to Bill C-229	Same as Bill C-229
C-232 June 2011	MP Peggy Nash (NDP)	Proposed removing animal cruelty out of the property section	This Bill is in the first session of the 41 st Parliament (elected in May 2011)
C-274 September 2011	Hon. Hedy Fry (Liberal)	Proposed consolidating animal cruelty offences and increasing the maximum penalties	Same as Bill C-232
C-277 September 2011	Hon. Hedy Fry (Liberal)	Proposed adding a new section for animal cruelty offences	Same as Bill C-232/C- 277

For the purposes of this study, the discourses in the debates are divided into two camps: opponents and proponents. It is clear in the debates that Members of Parliament and Senators were (at least publically) either for or against the proposed amendments to anti-cruelty legislation. There did not seem to be political fence-sitting on this particular issue, at least not that was made public during the debates. In fact, I would argue there was political polarization amongst those discussing the proposed amendments.

OPPONENTS

Within the Hansard debates, resistance to the proposed amendments was made clear by several Senators, the Progressive Conservative Party (PCP), the Canadian Alliance (CA), and the Bloc Québécois (BQ): Bill S-203 (the industry backed Bill which received Royal Assent) was the exception. In exploring this resistance, three overarching

themes were identified. First, there was fear that the removal of animals from the property section would yield a societal shift in terms of how animals are conceptualized. Those opposed to the amendments referred to this as a movement towards the humanization of animals in Canada. This theme was apparent in the majority of the debates. Second, the opposition discussed their resistance to the Bills in terms of the difficulties and complexities of omnibus Bills; that is, proposing modifications to legislation that entails a series of allegedly radical changes that do not belong together. Both themes appeared in almost all of the debates and they were both often interconnected. Namely, several of the Bills that were omnibus contained amendments that would remove animals from the property section of the Criminal Code. Lastly, resistance was rationalized in terms of the potential criminalization of industry groups: fishers, hunters, farmers, and trappers. This theme is connected to the fear of humanization. Although these themes are interconnected, I explore each individually in turn below.

The Fear of Humanization

A perceived movement towards the humanization of animals in Canada was frequently discussed in the debates. Most of the Bills, with few exceptions (e.g., S-203), contained amendments which would remove cruelty to animal offences from the property section of the Criminal Code. The PCP, BQ, and CA argued that taking animal cruelty out of the property section would be dangerous and unnecessary. In an attempt to sway the other political parties, the PCP argued that each Bill introduced to Parliament was really not about cruelty to animal legislation per se, but was more radical: “I must say that these Bills are not about cruelty to animals legislation. These are bills that move

towards the humanization of animals in the country” (Mark, PCP, December 5, 2001). Thus, the PCP, BQ, CA, and several Senators contended that once animals are taken out of the property section of the Criminal Code, it would begin a process of humanizing animals. According to one MP, “The problem is, once we take animals out of the property section of the criminal code and start perceiving animals from the perspective of humanity, then we are really on the slippery slope to something we may regret down the road” (Mark, PCP, December 5, 2001). The opposition was concerned that even modest proposals aimed at improving animal welfare would lead to more radical outcomes (i.e., animal rights).

Another set of concerns focused more on logistics. For instance, a related concern voiced was that the Criminal Code would no longer exempt those who use animals for legitimate, lawful, and justified practices. The phrase “legal justification or excuse and with colour of right,” which is currently in subsection 429(2) of the Criminal Code, provides protection for the offences found in respect to the property section (Department of Justice 2012). “However, by moving the offences out of the property offence section and leaving the defences, in fact those defences no longer apply to the offences” (Jocelyne, BQ, December 5, 2011). The PCP and several Senators also argued that removing animals from the property section would serve to delay court proceedings and would likely contribute to backlogs. This notion of “justified practices” is in line with Singer’s theorizing, although the opposition here is more concerned with maintaining the status quo than critically evaluating what can be justified.

The Difficulties and Complexities of Omnibus Bills

Another issue with amending anti-cruelty legislation in Canada brought up in the House and Senate was the use of “omnibus” Bills. “An omnibus bill is a hybrid that brings in several aspects of legislation that have no tie-in. What it does, in effect, is force divisions among all parties with respect to their ability to support certain issues, because there is no relation” (MacKay, PCP, October 12, 1999). Opponents such as the PCP, CA, and BQ argued that each individual Bill being introduced to Parliament regarding animal cruelty was proposing modifications to legislation that entailed a series of radical changes that did not belong together. Opponents argued that their apprehension stemmed from the complexities of these Bills. For White (Canadian Alliance, October 12, 1999), “One of the issues facing us in this bill, among other bills brought into the House of Commons, is the fact that it is basically an omnibus bill. It contains many changes. Some are technical amendments. Some affect the criminal code, and so on and so forth.” The opposition contended that a Bill that stands on its own should be created rather than lumping together several multifaceted provisions.

In several instances, the opposition, including the industry groups, argued for Bills that were not omnibus. A Canadian Alliance MP identified the following industry groups not in favour of the majority of omnibus Bills: the Fur Institute of Canada, the Canadian Outdoor Heritage Alliance, Ontario Federation of Anglers and Hunters, Western Stock Growers Association, Ontario Farm Animal Council, and Canadian Property Rights Research Institute. Those who opposed the amendments to the Criminal Code did, at times, support some parts of the Bill; however, due to the ambiguity and the size of the Bills, there were complexities that the opposition would not support. For example, Bill C-15B would amend the provisions dealing with cruelty to animals by

providing a definition of “animal.” The Bill would also create a new section to the Criminal Code for these offences, remove animals from the property section, increase the maximum penalties that are available, and would also add a new offence dealing with harming a law enforcement animal. The opposition argued in favour of increasing the maximum penalties for animal cruelty cases, but were against removing animals from the property section of the Criminal Code. Consequently, one of the main issues in amending anti-cruelty legislation in Canada has been related to the difficulties and complexities of omnibus Bills.

The Criminalization of Industry Groups

The definition of cruelty was another controversial aspect in amending the animal cruelty provisions of the Criminal Code. Representatives from the PCP and Senate asserted that the Bills were loosely worded in some of their provisions, and that the amendments to the Criminal Code could potentially criminalize industry groups, which was not the intent of the proposals. The following quote by a Conservative MP is illustrative of this sentiment: “The legislation would place fishermen, farmers, hunters, trappers and all those Liberals who want to boil a lobster, at risk. Forget the people who actually make a living in the country by raising livestock: cattle, hogs, chickens. This would be a deliberate act of violence under this legislation” (Keddy, PCP, December 5, 2001). The PCP argued that several of the provisions did not sit well with industry groups, which was reflected in the many letters of protest written in opposition to each Bill (with the exception of Bill S-203 – an industry-backed Bill). Examples of protest from industry groups were cited by the opposition: “Under the proposed legislation farmers feel they could be prosecuted for common practices such as branding or

dehorning cattle, an accepted practice in the beef industry. This is very problematic. Some anglers are convinced that fishermen could be charged for simply hooking a fish under the proposed federal legislation” (Thompson, PCP, October 12, 1999).

According to the PCP, industry groups mainly objected to the language of these provisions: “Some of the industry groups have requested that the language in the legislation be clarified, particularly with interpretations of phrases such as these I am quoting: “unnecessary pain, suffering or injury” and “brutally or viciously” killing an animal” (MacKay, PCP, October 12, 1999). The opposition argued in favour of animal cruelty legislation that would target only those who engage in “brutal” practices against animals and leave traditional practices alone: “The existing legislation touches ... on some traditional practices of hunting, fishing and farming. Yet they do not fit into the category of mean-spirited violence. Animal cruelty legislation should be clearly designed to target only those who engage in brutal practices against animals” (MacKay, PCP, Bill C-17, October 12, 1999). The PCP, CA, BQ, and several Senators argued that there was loose wording of the Bills, but they never provided alternative wording in terms of how “brutal” and “unnecessary pain” should be defined. This notion, regarding the treatment of animals, could be linked conceptually to Singer’s theorizing that in some contexts it is ethical to use animals, although the opposition seems to be drawing a rather arbitrary line based on tradition.

In almost every debate, the PCP and BQ were quick to provide cautionary hypothetical situations: the farmers that could potentially be prosecuted for common practices such as branding or dehorning cattle; anglers that could be charged with regard to tactics including baiting; biomedical researchers whose work could conceivably result

in criminal prosecution; and the potential legal problems with Jewish ritual slaughter methods. The opposition discussed the benefits of animal use: in research, branding, castration, methods of slaughter, and methods of medical and scientific research. They also supported killing and eating animals as long as they were killed painlessly.

PROPONENTS

In all of the Hansard debates, with the exception of Bill S-203, the Liberals and the New Democratic Party (NDP) were in support of the proposed anti-cruelty amendments. I identify three overarching themes in the proponent discourses. First, those in support of the proposals argued that there has been a public outcry over a large number of highly publicized cases involving animal abuse over the past decade. They asserted that Canadians share a concern that animals deserve to be protected from needless cruelty, which should be reflected in the law. Second, they articulated support for legislative improvements because there is a link between animal cruelty and violent offending against humans, particularly in the context of domestic violence. Both of these themes were discussed in the majority of the debates. Lastly, there was discussion of the conceptualization of animals in the law. The proponents argued that the law does not treat animals as feeling, sentient beings, and is therefore in need of modification.

Public Outcry over Highly Publicized Cases of Animal Abuse

In the debates, the Liberals and the NDP continually expressed how the proposed changes to animal law in the Criminal Code have stemmed from a public outcry over a large number of highly publicized cases involving animal abuse over the past decade. Among those highly publicized cases, the Honorable Hedy Fry referred to incidents where dogs have been beaten with hockey sticks and golf clubs, thrown off balconies and

dragged behind cars, and cats that have been mutilated, burned, tied to railroad tracks, and left for oncoming trains. Several other Honourable members for the Minister of Justice cited a number of incidents in alarming detail: cases of dog poisoning in Toronto and mutilated kittens in Montreal. These individual cases were cited as supporting evidence of the need for legislative change. It was noted that humane societies and animal welfare groups, not just the public, had been protesting for tougher measures for years.

The proponents contended that it was time for Parliament to act in concert with the will of the people. For instance, one member stated, “It is time for Parliament to demonstrate that we share the concern of Canadians that animals deserve to be protected from needless cruelty. This is what the overwhelming majority of the population is expecting of us” (Jaffer, Liberal, March 4, 2004). Aspects of this argument resonate with Regan’s position that varieties of needless cruelty ought to be condemned and discouraged. However, Regan wants to claim far more for animals: he opposes using animals regardless of any possible benefits to humans, which goes beyond what the proponents were explicitly arguing for here.

Animal Cruelty and the Connection to Human Harm

The proponents foregrounded the alarming connection between animal abuse and other forms of serious violent offences, including domestic violence. A Liberal MP explained “there is increasingly scientific evidence of a link between animal cruelty and subsequent violent offending against humans, particularly in the context of domestic violence. The women and children who are forced to witness animal cruelty know that it is not about property damage and it is time our Criminal Code recognized this reality”

(Macklin, May 16, 2005). This acknowledgement is consistent with that of the feminist care approach which argues that patriarchy has led dominant males to use violence as a means to control other less powerful individuals, both human and non-human. The Liberals addressed this issue repeatedly as each Bill was introduced to Parliament.

In addition to the concern that animal abuse can be instrumentalized to harm the human victims of domestic violence, attention was paid to the desensitization hypothesis: that those who harm animals, and who are insensitive to the pain that animals feel, can become capable of doing the same thing to fellow human beings. One MP connected this insensitivity to the lack of appreciation for life: “no matter what the level of that life may be, it certainly has an impact upon society. Children who are used to, who become used to, or who are not admonished for cruelty to animals will certainly grow up with an attitude that it does not matter if they hurt a living entity” (Earle, NDP, October 12, 1999). Thus, the proponents mobilized concern about the victimization of humans to support the cause of enhanced animal anti-cruelty laws.

Animals as Sentient Beings: A Conceptual Shift

Another theme advanced in the debates pertained to the conceptualization of animals in the law. We live with a law that, in practice, still treats animals as property and does not recognize them as feeling creatures. The NDP and the Liberal members who spoke during the debates were explicit in supporting the need for a shift from viewing animals as property that can be treated in any manner an owner deems suitable, to viewing animals as sentient beings. The proponents recognized that this would be a leap in law: “This idea, this shift, from viewing animals as simply property that can be treated however the owner of that property sees fit and viewing an animal as a sentient being, a

being with, I will not go as far as to say a soul but with a spirit, a life force that we acknowledge and recognize. That is a quantum leap in law and in the way that we craft our legislation” (Martin, NDP, February 3, 2005). Members of the Liberals and NDP even argued that animals have personalities. For instance, an NDP MP asserted “Anyone who has any contact with animals knows that they are breathing, thinking, feeling, sentient beings. Anyone who spends time with animals knows they have personality. They are not objects and should not be treated as though they are objects by our laws” (Nash, May 16, 2005). Here, the proponents were arguing in a manner consistent with Regan’s philosophy that animals are sentient beings with their own inherent value. A major difference between the proponents and Regan relates to Regan’s argument where he attributes equal moral status for all animals and humans. The proponents never discussed equal moral status, but rather focused on animal value and respectful treatment.

The proponents paid particular attention to the problematic definition of an animal in current law. Their objective in the amendments was to clearly define “animal as a vertebrate other than a human being.” Examples regarding the problematic definition of an animal included offences to cattle, which differ from that of other animals: “Offences to cattle are different than treatment of other animals and there is no justification for that. All animals are sentient beings and should be protected and would be under this broader definition of a vertebrate other than a human being” (Nash, NDP, April 26, 2006). If this issue were to be addressed, they argued that animals would be better protected. As discussed in the previous section on the opponents, the proponents were also advocating removing animal cruelty from the property section of the Criminal Code in several of the Bills.

BILL S-203: A WATERED DOWN, INDUSTRY-BACKED BILL

The discourses in this study were divided into two camps: opponents and proponents. With the exception of Bill S-203, which was introduced on February 14th, 2008, Senators, the PCP, BQ, CA, and industry groups opposed all anti-cruelty amendments to the Criminal Code from 1999 to the present. However, those in opposition to the proposed amendments were actually in favour of passing Bill S-203, along with a few Liberal party members. In fact, a Liberal member (MP John Bryden) introduced Bill S-203. Bill S-203 did not create new offences, modify existing ones, remove animals from the property section of the Criminal Code, or change the definition of animal. This Bill only addressed one perceived problem with the existing legislation: the penalties did not reflect the seriousness of cruelty offences.

Members of the Liberal party were on the fence regarding this Bill. A member of the Liberal party argued against Bill S-203 because it “only deals with the status quo. It does not move it along to the degree to which we need. After 100 and some years, one would think, given all the examples and issues that exist, that it would have been much more effective” (Wilfert, Liberal, November 20, 2007). Other Liberals apparently supported the Bill because it was introduced by one of their own. One MP stated plainly, “I am speaking in favour of Bill S-203 for the sole reason that Senator Bryden proposed it” (Szabo, Liberal, November 20, 2007).

When the final vote was taken on Bill S-203, the NDP and some Liberal members voted against the Bill. As one Liberal member put it, “We need effective animal cruelty legislation. The option exists for us to take action today. Let us reject this watered down,

vacuous placebo bill and finally do something about animal cruelty” (Holland, Liberal, November 20, 2007). Despite the opponents’ arguments, Bill S-203 received Royal Assent on April 17th, 2008.

After Bill S-203 was passed, several other Bills were introduced to Parliament in 2008, including Bill C-558, C-229, and C-230, all of which died after first reading. Three years after those Bills died, Bills C-232, C-274, and C-277 were all introduced in 2011. Again, these Bills were omnibus in that the provisions would remove animals from the property section of the Criminal Code and would also change the definition of animal. The Bills received first reading, and they remain in the first session of the 41st Parliament (elected in May 2011).

DISCUSSION

The analysis indicates there was a great degree of political polarization in the debates, although the terrain shifted somewhat with Bill S-203. Here I discuss how the proponents and opponents argued in ways that was consistent with aspects of Singer, Regan, and Adam’s theorizing. With the exception of Bill S-203, several Senators, the PCP, CA, BQ, and industry groups resisted the proposed amendments for a variety of reasons. First, they cited the fear that removing animals from the property section would result in the humanization of animals. There was implicit recognition that animals should indeed be treated differently from other physical property, but they contended that the changes that the legislation would bring about in animal law would have a tremendous impact on many who are dependent upon animal use for their livelihoods. Another aspect connected to this resistance dealt with the difficulties and complexities of omnibus Bills. Lastly, in all of the debates, the opponents were concerned about the potential

criminalization of industry groups. The opposition argued that removing animals from the property section could potentially result in the outlawing of industry groups' activities.

Some of the arguments the opposition presented were consistent to a degree with Peter Singer's theorizing. Singer's consequential moral theory supports the interests of animals, while he contends that the idea of rights for animals is not necessary in order to consider them to be of value (Singer 1975). In *Animal Liberation*, Singer purports that animal rights and human rights are quite distinct: "there are obviously important differences between humans and other animals, and these differences must give rise to some differences in the rights that each have" (Singer 1975: 2). For the opposition, the concept of humanizing animals was seen as ludicrous. The opponents were supportive of legislation that addressed concerns of animal welfare by increasing fines and penalties, but they did not support any modification that would remove animals from the property section of the Criminal Code, as this could lead to a change in how society conceptualizes animals. Singer (1975) supports the use of animals as long as suffering is minimized and the aggregate benefits outweigh the costs. As a utilitarian, he would approve of animal use if it led to the cure for cancer, for instance. Those in opposition to the proposed amendments articulated this type of philosophy throughout the debates. They contended that they were against those who are wilfully cruel to animals, but to use an animal for legitimate scientific and medical research would surely not be immoral. The BQ, CA, and PCP argued that animal research benefits humans. In all of the debates, the opponents supported legislation that would prosecute those who mistreated animals, so long as it did not interfere with those who practiced traditional occupations. Their position was clear: legislation should punish those who intentionally abuse and neglect animals in socially

disapproved of ways. There is, however, clear disagreement between what Singer and the opposition were espousing. Singer argues that animal interests should be included in moral calculations. On the contrary, the opponents were solely concerned with direct violence toward companion animals that is deemed unnecessary and maintaining the status quo for other types of animal harm.

The feminist care approach (Adams 2007) was implicit in the debates. For instance, members of the BQ, CA and the PCP purported that animal owners have a duty-to-care for their animals. Further, they contended that the expectation of protecting and caring for their animals is not unlike that of the expectation that people should have for the standard of care for their children. For these politicians, animals are unable, in many instances, to fend for themselves and are reliant upon their owners. Politicians argued that the law should ensure that owners are prosecuted if they abuse an animal so long as it does not affect the activities of traditional occupations. The opposition, however, failed to acknowledge how animal abuse and exploitation continue due to the lack of emotional response. Emotions were certainly overlooked in favour of masculine rationality by the opposition. Their concern seemed to be one of economics.

In all of the Hansard debates, with the exception of Bill S-203, the Liberals and the NDP were in support of the proposed anti-cruelty amendments. Proponents argued that Canadians share a concern that animals deserve to be protected from needless cruelty. They also articulated their support with references to the scientific link between animal cruelty and offending against humans, particularly in the context of domestic violence. Both themes were discussed in the majority of the debates. Finally, it was argued that the law has treated animals as property and does not recognize them as

feeling, sentient beings. The Liberals and NDP supported a change in law that would change how we view animals in society and in the law, and they argued that legal rights for animals will be virtually impossible if they continue to be classified and conceptualized as “its” and “things”.

Several of the arguments made by the proponents resonated with Tom Regan’s theorizing. Regan’s non-consequentialist, deontological theory of animal rights views the institutionalized exploitation of animals as unacceptable. The proponents did not seek to provide animal with rights, rather they argued for the respectful treatment of animals as they are subjects-of-a-life. Members of these political parties discussed animal owners and their pets: owners who look into the eyes of their pets, who accept that this is not a possession, this is a being with a spirit, this is a being that has feelings, and this is a being that deserves to be treated in a humane way. They also cited Jane Goodall who argued that “animals should not be regarded as mere objects that can be bought, sold, discarded, or destroyed at an owner’s whim.” Thus, supporters of the anti-cruelty amendments regarded animals as subjects-of-a-life that are not merely tools for our use, but as good in themselves.

Regan claims moral standing and legal protection for all subjects-of-a-life, whether human or not. Here, however, there is a key distinction to be made as the proponents and opponents never focused on morality to the degree that Regan does. Rather, in varying degrees, politicians argued in favour of animal welfare; the opponents seemed concerned about the potential criminalization of industry groups and focused on modifying the maximum penalties of anti-cruelty offences; the proponents, on the other hand, seemed to focus more on the broader issues of animal objectification (e.g., the

definition of an animal and animals as property). In contrast, “Regan recognizes the inherent value of animals and their equal right to be treated with respect” (Francione 1997: 77). Equality, to this degree, was never articulated by politicians on either side of the debates.

From the feminist care approach, Adams (2007) argues that animal abuse and animal exploitation continue due to the exclusion of emotional response. This argument was only addressed implicitly in approximately half of the debates, but is important nonetheless. According to the proponents, the cruelty issue invoked a very strong, emotional response from most Canadians. Here, politicians discussed human emotions (e.g., the emotional bond between people and their pets) and they insisted that animals should be removed from the property section of the Criminal Code. The proponents focused, albeit minimally (approximately half of the debates), on the recognition of the importance of responsibility and caring.

The findings from this study parallel several of the findings from L  tourneau (2003), Sorenson (2003), and Skibinsky’s (2005) research on some of the proposed Canadian federal anti-cruelty laws. First, as L  tourneau (2003) argues, the majority of the Bills introduced to the Parliament of Canada have been human-centered, not animal centered. The proposed changes since the time of her research continue to fall short of acknowledging that animals do have moral status. Second, as Sorenson (2003) found in the Bills up to 2003, the Bills fail to tackle the broader issues of animal exploitation. There was, however, support from the opponents to moderately increase penalties for animal cruelty cases so long as it did not affect the traditional practices of livestock industries. Lastly, Skibinsky (2005) highlighted how several Senators have a protective

spirit towards the livestock industry, which was a theme that permeated the legislative deliberations among the Senate. The potential criminalization of industry groups, a theme to which I highlighted, was an argument that Sorenson (2003) and Skibinsky (2005) underscored as well.

In contrast, the findings of the present study differ in several ways from Létourneau (2003), Sorenson (2003), and Skibinsky's (2005) findings. The authors overlooked the difficulties and complexities of omnibus Bills, which seemed to be a major deterrent for the opposition in passing anti-cruelty legislation in Canada. Connected to this theme, and also disregarded by the authors, was the fear of humanization. Sorenson (2003) and Skibinsky (2005) did highlight the broader issues of industry groups and criminalization, but the connection between omnibus Bills and humanization was never articulated by the authors. In analyzing the discourses of the proponents, Létourneau (2003) and Sorenson (2003) highlighted the conceptualization of animals in the law (i.e., animals as feeling, sentient beings). However, none of the authors discussed the connection between animal abuse and human harm, which was an argument that the proponents emphasized in the debates analyzed here. Also, a number of publicized cases were discussed by politicians during the debates, which I found to be a strong argument for the proponents. Létourneau (2003) did discuss a number of highly publicized cases, but they were not teased out as a theme in her analysis of debates over the Bills she analyzed.

CONCLUSION

In 1998, the Canadian government launched a consultation process which examined cruelty to animals and pointed out that nothing significant had been done to the

law to protect animals from abuse since 1892. This study sheds light on what has happened to the anti-cruelty provisions in the Criminal Code of Canada since that consultation process. This study is the first to analyze all of the Bills introduced to Parliament to date, including the one successful Bill. From 1999 to 2007, every single Bill died. It was not until 2008 that one of the Bills (S-203) passed: this study sheds some light on why that Bill passed when so many others failed. This study also provides insight into how opponents and proponents adopted arguments regarding animal cruelty in ways that were consistent with elements of utilitarian, rights, and feminist theorizing.

Billions of animals continue to be oppressed, exploited, and devalued in the Canadian context. Capitalism continues to intensify the scale of exploitation as animals are subjected to suffering and death via the globalized systems of agribusiness, biotechnology industries, pet trades, and entertainment industries (Sorenson 2010). To add to this oppression, animals have and continue to be perceived as living property in our legal system, which is conceived by and for human beings. Even now, the Canadian legal system continues to struggle in terms of how animals should be conceptualized in the law (i.e., as property or as sentient beings). This was an argument that held sway in the legislative deliberations between the political right and the left. This anthropocentric ideology, which continues to permeate our society to this day, has resulted in a number of failed amendments to the Criminal Code anti-cruelty provisions over the span of the last thirteen years.

Additional research is needed to explore the following multifaceted areas of animal law in Canada: Are provincial anti-cruelty laws able to redress some of the limitations in the current federal law? Have the changes to the law under S-203 actually

translated into larger numbers of prosecutions and stiffer penalties? What strategies might be useful to enact change that will ensure that animals are protected under the law? What would the consequences be of removing animals from the property section of the Criminal Code? How has this been handled in other countries? Future research could involve interviewing proponents, social movement groups, and industry stakeholders with regards to anti-cruelty legislation in Canada to gain greater insight into their respective positions.

Gaining a better understanding of how animals are conceptualized in Canadian law will enable us to better understand how we can protect animals and punish those who inflict pain upon them. Unfortunately, we are faced with the problem of urgency as individuals' actions towards animals (not to mention those of social institutions) have far out-paced the ability of our criminal justice system to respond effectively. Mahatma Gandhi (1940) once stated: "The greatness of a society and its moral progress can be judged by the way it treats its animals." The way animals are "protected" in anti-cruelty provisions in the Criminal Code is one way to judge how we as a nation treat animals, and by extension our greatness as a society and moral progress. This study indicates that while there has been progress in the form of numerous attempts to improve the legal protections afforded to animals in Canada, the political resistance has been, and will likely continue to be, substantial.

REFERENCES

- Adams, Carol. 1995. *Neither Man nor Beast: Feminism and the Defense of Animals*. New York: Continuum.
- Babbie, Earl. 2004. "Laud Humphreys and Research Ethics." *International Journal of Sociology and Social Policy*, 24(3): 12-19.
- Beirne, Piers and Nigel South. 2007. "Introduction: Approaching Green Criminology." in *Issues in Green Criminology: Confronting Harms against Environments, Humanity, and Other Animals*. Piers Beirne and Nigel South (eds). Portland: Willan Publishing. Pp. xiii-xxii.
- Beirne, Piers. 1995. "The Use and Abuse of Animals in Criminology: A Brief History and Current Review," *Social Justice*, 22(1): 5-31.
- Beirne, Piers. 1999. "For a Non-Speciesist Criminology: Animal Abuse as an Object of Study." *Criminology*, 37(1): 117-47.
- Beirne, Piers. 2007. "Animal Rights, Animal Abuse and Green Criminology." in *Issues in Green Criminology: Confronting Harms against Environments, Humanity, and Other Animals*. Piers Beirne and Nigel South (eds). Portland: Willan Publishing. Pp. 55-83.
- Beirne, Piers. 2009. *Confronting Animal Abuse: Law, Criminology, and Human-Animal Relationships*. United Kingdom: Rowman and Littlefield Publishers.
- Bentham, Jeremy. 1823. *An Introduction to the Principles of Morals and Legislation*. London: W. Pickering Press.
- Bentham, Jeremy. 1993. "Principle of Utility and Legal Philosophy." in *Jeremy Bentham: Critical assessments Volume 1*. Bhikhu C. Parekh (eds). New Fetter Lane: Routledge. Pp. 53-80.
- Benton, Ted. 1993. *Natural Relations: Ecology, Animals Rights, and Social Justice*. London: Verso Press.
- Benton, Ted. 1996. *The Greening of Marxism*. New York: The Guilford Press.
- Benton, Ted. 1998. "Rights and Justice on a Shared Planet: More Rights or New Relations?" *Theoretical Criminology*, 2(2): 149-75.
- Benton, Ted. 2007. "Ecology, Community and Justice: The Meaning of Green." in *Issues in Green Criminology: Confronting Harms against Environments*,

- Humanity, and Other Animals*. Piers Beirne and Nigel South (eds). Portland: Willan Publishing. Pp. 3-31.
- Braun, Virginia and Victoria Clarke. 2006. "Using Thematic Analysis in Psychology." *Qualitative Research in Psychology*, 3(2): 77-101.
- Canadian Federation of Humane Societies (CFHS). 2010. "Criminal Code Amendments in Canada." *Animals and the Law*. Retrieved June 30, 2011 (http://cfhs.ca/law/history_of_the_amendments/).
- Canadian Federation of Humane Societies (CFHS). 2011. "Provincial and Territorial Animal Protection Laws: The Good, the Bad, and the Ugly." *Animals and the Law*. Retrieved September 2, 2011 (http://cfhs.ca/features/provincial_38_territorial_animal_protection_laws_the_good_the_bad_and_the_downright_shameful/).
- Danshiell, L.T. 1914. "Animal Rights Advocate Quote." *Animal Rights Advocate: Enforced Laws*. Retrieved August 4, 2011 (<http://www.michbar.org/animal/pdfs/spring99.pdf>).
- Department of Justice Canada. 2012. "Criminal Code of Canada." *The Criminal Code*. Retrieved February 12, 2012 (<http://laws-lois.justice.gc.ca/eng/acts/C-46/>).
- Donovan, Josephine, and Carol Adams. 2007. *The Feminist Care Tradition in Animal Ethics: A Reader*. New York: Continuum.
- Dunayer, Joan. 2004. *Speciesism*. Derwood, Maryland: Ryce Publishing.
- Francione, Gary. 1995. *Animals, Property, and the Law*. Philadelphia: Temple University Press.
- Francione, Gary. 1996. *The Ideology of the Animal Rights Movement*. Philadelphia: Temple University Press.
- Francione, Gary. 1997. "Animal Rights Theory and Utilitarianism: Relative Normative Guidance." *Animal* 75(3): 75-100.
- Francione, Gary. 2007. "Reflections on Animals, Property, and the Law and Rain without Thunder." *Law and Contemporary Problems*, 70(9): 90: 9-56.
- Frith, Hannah and Kate Gleeson. 2004. "Clothing and Embodiment: Men Managing Body Image and Appearance." *Psychology of Men and Masculinity*, 5(1), 40-48.
- Gandhi, Mahatma. 1940. "Animal Welfare Quote." *New Animal Welfare Charity Guidelines*. Retrieved April, 2012 (<http://www.lawnow.org/d/sites/default/files/LN363F5.pdf>).

- Gilligan, Carol. 1982. *In a Different Voice: Psychological Theory and Women's Development*. Cambridge: Harvard University Press.
- Goff, Colin. 2011. *Criminal Justice in Canada*. Fifth edition. Toronto. Nelson Education Ltd.
- Hughes, Elaine and Christiane Meyer. 2000. "Animal Welfare Law in Canada and Europe." *Animal Law*, 19(3): 23-76.
- International Fund for Animal Welfare (IFAW). 2008. "Animal Cruelty in Canada: Support Anti-Cruelty Laws." *Animals and the Law*. Retrieved June 10, 2011 (http://www.ifaw.org/ifaw_canada_english/join_campaigns/national_and_regional_efforts/stop_animal_cruelty_in_canada_support_anti-cruelty_laws/index.php).
- Létourneau, Lyne. 2003. "Toward Animal Liberation? The new anti-cruelty provisions in Canada and their impact on the status of animals." *Theoretical Criminology*, 40(1): 1041- 1055.
- Lynch, Michael and Paul Stretsky. 2003. "The Meaning of Green: Contrasting Criminological Perspectives." *Theoretical Criminology*, 7(2): 217-38.
- Lynch, Michael. 2010. *Critical Criminology: Oxford Bibliographies Online Research Guide*. Florida: Oxford University Press, Inc.
- Minister of Justice and the Attorney General of Canada the Queen in Right of Canada. 1998. "Crimes Against Animals: A Consultation Paper." *Animals, Society, and the Criminal Code*. Retrieved June 28, 2011 (<http://web.archive.org/web/20031102040705/http://www.justice.gc.ca/en/cons/caa/index.html>)
- Regan, Tom. 1996. "Rights of Humans and Other Animals." *Ethics and Behavior*, 7(2): 103-111.
- Regan, Tom. 1983; 2004. *The Case for Animal Rights*. London: Routledge.
- Ryder, Richard. 1975. *Victims of science. The use of animals in research*. Don Mills, Ontario: Burns & MacEachern Limited.
- Ryder, Richard. 2007. "Richard Ryder." *Speciesism*. Retrieved June 25, 2011 (<http://www.richardryder.co.uk/speciesism.html>)
- Singer, Peter. 1975; 2006. *Animal Liberation*. London: Jonathan Cape.
- Skibinsky, Christina. 2005. "Changes in Store for the Livestock Industry? Canada's Recurring Proposed Animal Cruelty Amendments." *Saskatchewan Law Review*, 5(1): 173-222.

- Sorenson, John. 2003. "Some Strange Things Happening in Our Country: Opposing Proposed Changes in Anti-Cruelty Laws in Canada." *Social and Legal Studies*, 12(3), 377-402.
- Sorenson, John. 2010. *Animals and Social Justice*" in *About Canada: Animal Rights*. John Sorenson (eds). Fernwood Publishing. Pp. 9-21.
- White, Rob. 2007. "Green Criminology and the Pursuit of Social and Ecological Justice." in *Issues in Green Criminology: Confronting Harms against Environments, Humanity, and Other Animals*. Piers Beirne and Nigel South (eds). Portland: Willan Publishing. Pp. 32-54.
- Wise, Steven. 2003. *Rattling the Cage: Toward Legal Rights for Animals*. Cambridge: Perseus Publishing.
- Wise, Steven. 2010. "An Argument for the Basic Legal Rights of Farmed Animals." 106 *Michigan Law Review*, *First Impressions* 133.

Legislation Cited

- BILL C-17: AN Act to amend the Criminal Code (cruelty to animals, disarming a peace officer and other amendments) and the Firearms Act (technical amendments) [1999]
- BILL C-15B: AN Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act [2001]
- BILL C-10B: AN Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act [2002]
- BILL C-22: AN Act to amend the Criminal Code (cruelty to animals) [2004]
- BILL S-24: AN Act to amend the Criminal Code (cruelty to animals) [2005]
- BILL C-50: AN Act to amend the Criminal Code (cruelty to animals) [2005]
- BILL S-213: AN Act to amend the Criminal Code (cruelty to animals) [2006]
- BILL C-373: AN Act to amend the Criminal Code (cruelty to animals) [2006]
- BILL S-203: AN Act to amend the Criminal Code (cruelty to animals) [2008]
- BILL C-558: AN Act to amend the Criminal Code (cruelty to animals) [2008]
- BILL C-229: AN Act to amend the Criminal Code (cruelty to animals) [2008]

BILL C-230: AN Act to amend the Criminal Code (cruelty to animals) [2008]

BILL C-232: AN Act to amend the Criminal Code (cruelty to animals) [2011]

BILL C-274: AN Act to amend the Criminal Code (cruelty to animals) [2011]

BILL C-277: AN Act to amend the Criminal Code (cruelty to animals) [2011]

VITA AUCTORIS

NAME: Antonio Robert Verbora

PLACE OF BIRTH: Windsor, Ontario, Canada

YEAR OF BIRTH: 1988

EDUCATION: St. Joseph's High School, Windsor, Ontario
2002 – 2006, Ontario Scholar

University of Windsor, Windsor, Ontario
2006 – 2010, Bachelor of Arts (Honours)
Forensics and Criminology with Distinction

University of Windsor, Windsor, Ontario
2010 – 2012, Master of Arts, Criminology