

# **How to Protect Animal Welfare**

## **deliberation, democracy and representation**

*Policy Research Briefing*

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January 2016



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## About the Centre for Animals and Social Justice

The Centre for Animals and Social Justice (CASJ) is an animal protection think tank, founded in 2011 by leading academics and animal advocates, which is dedicated to understanding and overcoming the UK government's historic neglect of animal welfare. The political exclusion of animal welfare is a root cause of the relative impotence of the animal protection movement. To overcome the excessive and severe levels of harm caused to animals by human activity in the UK, the CASJ is committed to high-quality academic research and policy engagement to ensure that the essential welfare interests of animals are represented in government and to establish animal protection as a core goal of government policy.

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Registered charity no. 1144250

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## EXECUTIVE SUMMARY AND RECOMMENDATIONS

**‘As one of those ethicists seeking to make ethical arguments in order to try to change public attitudes, I’m convinced that what I and others are doing in this sphere is likely to be insufficient without the kind of scrutiny of the current levers of power and the need to cooperate in ways of changing them that the CASJ recommends.’**

*David Clough, Professor of Theological Ethics, University of Chester*

1. UK government policy-making relating to animals is structured by an overarching ‘animal use’ paradigm, where animal welfare and **related public opinion** are very much secondary considerations compared with goals such as ‘economic growth’, which in practice means deregulation of animal use business interests in the pursuit of profit maximisation. This situation is a fundamental hindrance to animal protection and the translation of majority **public opinion into policy outcomes**. **Changing the UK government’s approach to an ‘animal welfare’ paradigm**, where animal welfare is given the significant weight in policy-making demanded by the public, and where activities that put animal interests at risk are independently regulated, **is an essential precondition to achieve legitimate and effective standards of animal protection**.
2. One major factor sustaining the ‘animal use’ policy paradigm is the dubious narrative claiming that the UK has the world’s highest animal welfare standards.

Professor Garner’s CASJ-funded study of democracy and animal protection has yielded the following conclusions:

3. The ‘political turn’ in animal ethics can be interpreted in two ways. If a viable political strategy for the animal protection movement is to be realised, it is necessary to acknowledge the distinctions between politics and ethics. **A ‘political turn’ must tell us how to realise our values** and not just be concerned with the long-running debate about what we owe to animals morally.
4. Current democratic procedures are anthropocentric. That is, the degree to which animals are protected depends upon the degree to which humans want them to be.
5. There is a strong case, based on arguments current in political theory, for **recognising the democratic right of animals to be represented directly**.
6. However, it is recognised that such a non-anthropocentric democracy is an example of an ideal theory that is too detached from current thinking to be realised in the near future. **Therefore, the animal protection movement should continue to work on the more achievable goal of improving existing anthropocentric democratic procedures**.
7. Electoral reform, such as proportional representation, would be one such improvement.
8. Another major beneficial reform to anthropocentric democratic politics would be to move towards more deliberative forms of democracy. The evidence from empirical case studies suggests that whenever issues relating to animals are subject to deliberative forums, it is likely that participants will become more sympathetic to the interests of animals and hence policy decisions arrived at through such processes are likely to provide better welfare protection. Therefore, **animal protection organisations should campaign for greater deliberation wherever possible, but particularly within government**.

Building on Professor Garner's work on democracy and animal protection, the CASJ reaches the following conclusions regarding implementing deliberative democracy and other reforms to improve animal protection governance, and these will guide our ongoing research programmes:

9. Implementing deliberative democracy (DD) will be a major challenge due to resistance from powerful vested interests and government. **However DD is one of the most effective ways to ensure public policy actually reflects public opinion.** Making strategic alliances with other social justice movements with an interest in democratisation would also improve the chances of overcoming these obstacles.
10. Despite weaknesses in the representativeness of current democratic procedures, **animal advocates should continue their efforts to persuade the public of the case for the better protection of animals**, in particular where the treatment of animals is worse than the image projected by animal use interests and government regulators. Public opinion is animal protection's greatest political resource.
11. Another option is to **promote greater openness and transparency to improve the implementation and enforcement of legislation** already made through existing democracy.
12. However, translating sympathetic public opinion into policy outcomes for animals is problematic, with current mechanisms such as Early Day Motions and government E-petitions having little effect on government policy. So, paradoxically, **if the 'public persuasion' approach focussed on specific forms of harm (e.g. puppy breeding, wild animals in circuses, the badger cull) dominates advocates' work, it is unlikely to succeed due to the converse lack of attention to reforming the broader political context which is structurally antagonistic to animal protection.**
13. A suite of major structural reforms are required to sensitise the UK state to animal welfare values, including an institution such as a **government Animal Protection Commission and animal welfare policy impact assessments.**
14. **Collective action from animal protection NGOs on structural matters of mutual interest is essential.** It is the most important field of action as without structural changes, campaigns on specific animal welfare issues will continue to face virtually insurmountable hurdles. To facilitate collective action, one model to consider is the Equality and Diversity Forum, a national network of equality and human rights organisations, which has submitted to government consultations on, for example, the Deregulation Bill.

## PART I - INTRODUCTION

This report summarises the current research findings of the Centre for Animals & Social Justice, which puts politics at the centre of its analysis in order to understand the causes of and solutions to animal harm resulting from human activities. Over the past half century a great deal of work on our treatment of animals has been undertaken by moral philosophers. Moral philosophy seeks to discover how we ought to treat animals. Valuable though this work has been, it gives little guidance as to how these ethical prescriptions are to be achieved. It is, in other words, preoccupied with defining ideal moral principles rather than the processes and actions required to realise those goals.

To address this practical challenge, the CASJ's research is situated within the academic discipline of political studies. Until now, this field has largely overlooked the politics of animal protection, particularly policy-making. However animal protection political studies has an essential – if often unrecognised - contribution to make as it goes beyond surface-level descriptions of political events to develop robust explanations of animal welfare public policy, including how overarching structural forces such as power distributions and institutions have evolved and influenced the ability to achieve animal protection goals. From this knowledge base, the CASJ's research aims to identify innovative political reforms to enable effective animal welfare protection.

*The animal protection movement needs to address the UK's political structures which promote a generalised disregard for animals*

**Part 2** of the report sets the scene by summarising the findings of Dr Dan Lyons' work on animal protection policy-making. The key lesson to emerge is the animal protection movement's need to address the UK's political structures which promote a generalised disregard for animals' interests across public policy. It would be wrong to assume that the architecture of the British state allows it to reflect the strength of public opposition to harmful treatment of animals and that, therefore, public education and persuasion are sufficient on their own to make significant progress in animal protection. Indeed the lack of significant progress for animals, despite the many organisations working in the field and the high level of public support they have on many issues, is testament to this critical democratic deficit.

**Part 3**, the centrepiece of this report, summarises a CASJ-funded research project to address these democratic failures in UK animal welfare governance that was carried out by Professor Rob Garner (University of Leicester) during 2014-5. It begins with a review of the different ways that the discipline of politics has contributed to the debate about animal protection, which has recently culminated in attempts to address practical questions regarding how to achieve animal protection goals. The main section focusses on the relationship between democracy and animal protection, addressing questions such as, would enhanced democratic processes be better for animal protection and would reforms to current governance, in particular the establishment of deliberative democratic policy-making, be beneficial?

**Part 4** comprises analysis by the CASJ of the challenges to the implementation of deliberative democratic procedures in the face of a governmental environment that is antagonistic to greater public participation and animal protection.

Finally, **Part 5** summarises the CASJ's plans for research and advocacy projects which aim to enhance the ethical and democratic legitimacy of animal protection policy.

## PART 2 – THE STATE OF UK ANIMAL PROTECTION POLICY

This part of the report summarises Dan Lyons’ research into the evolution of UK animal research policy<sup>1</sup>, combined with ongoing analysis of other animal-related policy fields. Dan’s work indicates that a fundamental factor blocking effective animal protection is the persistence of an institutionalised ‘animal use’ paradigm across Whitehall which, contrary to government rhetoric, significantly downgrades animal welfare considerations in favour of commercial interests.

### The ‘animal use’ policy paradigm

‘Animal use’ is a position within the typology of animal-related belief systems developed first by bioethicist F. Barbara Orlans<sup>2</sup>. The salient feature of the ‘animal use’ position is that, in practice, animal welfare and related public opinion are very much secondary considerations compared with goals such as ‘economic growth’, which in practice means deregulation of animal use business interests in the pursuit of profit maximisation. Not surprisingly, this ideological stance reflects the interests and policy goals of ‘user’ or ‘producer’ groups whose activities cause animal harm.

By contrast, the ‘animal welfare’ paradigm in Orlans’ framework calls for animal welfare to be given significant weight in policy-making and emphasises independent, democratically-accountable regulation of activities that put animal interests at risk. This approach reflects the policy goals of animal protection groups and, judging from opinion data, the position of the majority of the public.

Currently, animal-related policy changes are largely constrained within the dominant animal use paradigm and therefore tend to be ‘peripheral’. A pre-condition for meaningful progress in animal welfare is a ‘significant’ or ‘core’ change in overall policy approach to ‘animal welfare’.

*A fundamental factor blocking animal protection is the persistence of an ‘animal use’ paradigm across Whitehall*

Detailed analysis of how policy is made, which interest groups have influence over policy and the resultant impacts on animals, convincingly illustrates that the UK government’s approach to animal-related policies is structured by a historically-entrenched animal use paradigm. For example, the Animals (Scientific Procedures) Act 1986 introduced a critical measure that – on the face of it - should have significantly changed this policy field’s organising ideology from animal use to animal welfare. Specifically, a cost-benefit assessment of proposed animal research projects was introduced whereby the expected adverse effects likely to be experienced by animals were supposed to be weighed against the likely benefit to accrue to ‘man, animals and the environment’.

However, analysis of this policy field, particularly through critical case studies such as the Imutran xenotransplantation research programme which reveal hitherto confidential data, uncovers a number of factors both within this policy-making area and, critically, across the whole of government that have combined to maintain the dominance of the animal use approach:

- the lack of legal definition to the measurement and comparison of cost-benefit assessment factors
- the highly-discretionary implementation of the assessment exclusively by researchers and Home Office inspectors sharing an ‘animal use’ belief system
- secrecy surrounding the implementation and outcomes of the cost-benefit assessment
- institutional governmental support for economic and related scientific goals through, for example, sponsoring departments and a state-wide approach to regulation known as ‘club government’ dating back to the 19th Century
- the lack of institutions mandating animal welfare consideration in policy-making to mitigate the dominance of economic and business goals
- symbolic reassurance of the public through government and industry presenting a false impression of an animal welfare policy approach

Consequently, the 1986 Act failed to herald the change to an animal welfare approach that was indicated by the formal legislation. In practice, 'costs' (i.e. pain, suffering & distress) to animals were underestimated and/or given little weight in comparison with the predicted 'benefits' claimed by researchers. It is significant that the animal use approach has persisted regardless of governing parties and indeed **these types of exclusive policy networks dominated by a combination of scientific and commercial interests are notoriously resistant to democratic scrutiny, including from Parliament.**

Initial research indicates that similar patterns appear to exist in farm animal policy. For example, despite EU regulations appearing to prohibit the farming of animals whose geno- or pheno-type is likely to cause them harm, the broiler industry with the support of the UK government has continued to use fast-growing genotypes that cause chronic hunger in the breeding birds amongst other severe welfare problems<sup>3</sup>.

Finally, a very recent Department for Environment, Food and Rural Affairs (Defra) study into options for improving the welfare of cage-reared gamebirds encapsulates the broader problem. Dr Toni Shephard from the League Against Cruel Sports commented<sup>4</sup> on the study report:

Rather than compare the welfare of birds kept in cages to those in free-range systems, as is necessary to answer the question posed in the project title [whether cage-based breeding for pheasants and partridges can fully meet birds' needs], Defra simply examined the impact of various industry-favoured 'enrichments' on birds confined in cages within a very limited size range that would be 'feasible for commercial implementation'. *Thus commercial interests were put above animal welfare from the start, undermining the very purpose of this half a million pound project.* [emphasis added]

#### **False narrative of UK's 'world-leading animal welfare standards'**

The false impression of an 'animal welfare' policy paradigm is a key factor that sustains a governmental approach which in reality has the opposite effect of rendering animals highly vulnerable to harm and abuse. A prominent line that promotes this misapprehension is: 'the UK has the highest animal welfare standards in the world'. However, in reality the government doesn't collect the data necessary to substantiate its claims of pre-eminence.

A Liaison Group of government animal welfare advisory committees produced a report in 2010 entitled 'Animal Welfare Surveillance'<sup>5</sup> which was implicitly critical of government. It pointed out that **there is no system of comprehensive, across-the-board welfare surveillance** for the billion or so animals per year in the UK who are adversely affected by humans. This is important because such a system is essential to set out basic social and policy goals by identifying the magnitude of problems, tracking progress and prioritising actions. Such systems, it says, are also critical to check that legislation is being enforced adequately. Perhaps most fundamentally, the absence of comprehensive welfare surveillance means that the government is failing in its 'guardianship duties on behalf of society'. In a similar vein it should be noted that animal welfare is not included as a direct factor in the Government's Policy Impact Assessments, even when the proposed measure, such as the badger cull, directly affects animal welfare.

Nevertheless, a recent comparative international 'Animal Protection Index' (API)<sup>6</sup> has reinforced the narrative about the UK's world-leading animal welfare standards. However, the top 'A' rating attributed to the UK is based on an incomplete methodology which overlooks pre-existing academic research and lacks political science input. Instead it relies largely on surface-level readings of legislative texts and government statements, rather than real outcomes for animals. It is thus unaware of the danger of implementation gaps, which tend to occur 'where regulation involves considerable... discretion to set standards within ... vague statutory principles'<sup>7</sup> - a good description of much animal protection policy.



The failure to account for implementation and outcomes means the API's UK analysis falls into the 'Westminster model' trap – an idealisation of British politics that implicitly assumes parliamentary sovereignty and representative democracy are the dominant characteristics.<sup>8</sup> The Westminster model reflects a long-discredited approach that takes political statements at face value while ignoring significant causal factors such as any dominant elite worldviews and related power structures.

As the CASJ predicted, the UK government has exploited the API rating, citing it in 'The Government's 5 year Progress Report on International Animal Welfare', released in February 2015, to support its contention that the UK is 'in the top four countries in the world for animal welfare' and that 'the UK has long been recognised as a world leader in delivering animal welfare improvements.'<sup>9</sup> The counterproductive effects of these claims are highlighted by their deployment by Defra to argue for the exclusion of animal welfare standards in their emerging 25 year strategic plan for food and farming.<sup>10</sup>

### Representing animal welfare in government

The cross-governmental dominance of the animal use paradigm does not mean that policy change is impossible; it just tends to be peripheral (i.e. constrained within that paradigm) and subject to an effective veto by user groups. The assent and survival thus far of the Hunting Act 2004 could be seen as the exception that confirms the rule. This is an unusual animal-related policy issue insofar as it is largely determined by Parliament via free vote rather than closed policy networks centred within government departments such as Defra or the Home Office. While pro-hunting interests are certainly influential, the scale of business and economic interests at stake are relatively small compared with agribusiness and pharmaceuticals. It is also highly politically salient, not least because it is one of the few animal policy issues where there is a marked conflict between the main political parties. It is therefore a relatively democratic process compared with policy-making on animals in farms or laboratories, and this may well help to explain the achievement and maintenance of pro-animal welfare change in this particular field.<sup>11</sup>

*Lobbying by animal advocates falls on barren ground because animal welfare is not a government policy goal*

The dominance over farm and research animal policy by user groups and their relative insulation from democratic pressures means that they are unlikely to reform of their own accord. A key point to make here is that the policy influence of a group depends on whether their aims coincide with the goals of the policy area. Because these policy areas are dominated by the animal use ideology, the knowledge, arguments and public support possessed by animal advocates fall on barren ground because animal welfare and public accountability are not significant goals of these policy networks. In fact, animal welfare is largely seen as a threat to the pursuit of user group interests.

A useful way of understanding this process builds on Jeremy Richardson's analogy of political ideas as 'viruses'<sup>12</sup>. We can analyse how ideas become genuinely influential in public policy by extending the analogy to incorporate the receptors that are essential for viruses to replicate. Thus the UK government's disregard for animal welfare can be understood as due to its lack of a 'receptor' for the animal welfare 'virus', manifested in the lack of government institutions to represent and advance animal welfare protection.

Therefore, for the animal protection movement to have a realistic chance of gaining traction in the key policy areas which affect the vast majority of animals at risk in Britain, external shocks are required to change the structure of those domains. In particular, reforms towards a paradigm change in government structure from 'animal use' to one of 'animal welfare' – involving greater democracy and the institutionalised representation of animals' interests in public policy – are essential. Options for instigating these changes are now discussed in the remainder of the report.

## PART 3 – DEMOCRACY AND ANIMAL PROTECTION

This part of the report presents the findings of Professor Rob Garner’s major CASJ-funded research project which has explored the key theme of the relationship between democracy and animal protection.

### The political turn in animal ethics

Some academics have talked about the emergence of a so-called ‘political turn’ in animal ethics. There have been two strands to this development. Firstly, in a narrow sense this refers to the work of those who embellish the philosophical debate about what we owe to animals morally with political theories and principles such as ‘justice’ or ‘liberalism’. This strand therefore remains focussed on making claims about how we *ought* to treat animals. These ‘normative’ contributions to the ‘political turn’ are adding a much-needed twist to traditional moral theory.

By contrast, the second strand of the ‘political turn’ refers to the work of academics who have addressed empirical questions concerning animal protection, by describing and explaining the impact of social movements, law, policies, power structures and institutions. This research project is situated within this more practical approach by asking questions about political procedures and agency. This focus stems from the fact that relatively little attention has been paid by animal advocates to the underlying complexities of the political process: *to how the value goals identified by moral theory are to be achieved.*

### The relationship between democracy and animal protection

Given that democracy is almost universally regarded as the most just and fair way to make collective decisions, the obvious starting point for this research was to explore the relationship between democracy and the protection of animals. This involved asking to what extent animal advocates ought to be democrats? Put another way, to what extent should democracy take account of the interests of animals? Is the protection of animals more likely to be achieved by democracy than any other system of collective decision-making? The proposition to examine here, then, is this:

*Little attention has been paid by animal advocates to how their values are to be achieved*

*‘that those concerned about the protection of animals ought to advocate a democratic form of rule because it will increase the possibility that the interests of animals will be taken into account when relevant decisions are made, and that, as a result, animals will receive better protection’*

While investigating this proposition, it is important to recognise that democracy is a complex concept, but its essence is that power in a society ought to be ultimately vested in its ‘eligible members’. The enormous variety of possible answers to questions such as ‘who counts as an eligible member’ and ‘how the will of those individuals should be translated into political decisions’ illuminates the critical point that democracy is a varied, contested idea.

Traditional democratic practice is human-centred or anthropocentric; that is, whether or not the interests of animals are considered in this form of ‘democracy’ depends on the extent to which people think that the protection of animals is a desirable objective. It might be the case that concern for animals is widespread, and that this concern is reflected in the decisions made. In that scenario, democratic decision-making will be conducive to the protection of animals. For example, the UK bans on fur farming, hunting with dogs and cosmetics testing on animals are instances where the majority position of the British public has translated (to some extent, at least) into policy outcomes. On the other hand, if the protection of animals is not a citizens’ priority, then such traditional democratic processes will be incompatible with the protection of animals.

The conclusion reached, therefore, is that, in a purely theoretical sense, the relationship between the anthropocentric model of democracy and the achievement of animal protection is uncertain and conditional. That is, there is no absolute guarantee that this type of democracy will lead to the substantive results that animal advocates desire. In relation to the proposition above: there would, at first sight, seem to be no particular advantage for animal advocates to align themselves with the political concept of democracy in its established anthropocentric form.

It is important to note here that the argument about the contingent animal-related outcomes of anthropocentric democracy is different from another objection to the political process often made. Animal advocates regularly protest at what they perceive to be the *undemocratic* nature of the political system, even in terms of the human-centred model. They may have a good case too. Sometimes, as in the case with the ban on hunting with dogs, there is a clear majority in favour of an animal protection measure, and that majority will has been translated into public policy (albeit precariously). More often than not, though, the political power of those, usually economic, interest groups with stakes in the continued exploitation of animals is a potent obstacle to the fair representation of citizens' views on animal protection. Indeed, recent grave threats to the Hunting Act reflect this deficit in democratic practice.

Public desires can be illegitimately thwarted by the economic and political clout of these vested interests, as can the implementation and enforcement of legislation made by a democratic legislature. For example, empirical research utilising policy network theory, undertaken by the CASJ's CEO Dan Lyons, has convincingly illustrated that, at least in the case of animal experimentation, the power of scientific and pharmaceutical interests has had a considerable impact in diluting the regulations designed to protect animals in British laboratories.

*Animals' lack of democratic representation is a key factor behind their widespread, systematic abuse*

However, the point here is that even if anthropocentric democracy worked effectively, its relationship with the objectives of animal advocates would remain essentially conditional as there is no absolute guarantee that the public will agree with the policy prescriptions of animal advocates, no matter how morally and empirically valid those desired reforms are deemed to be. The fundamental advantage of democracy is that it tends to diffuse power to each affected individual in a society, so that they have some control and say over their fate and are not vulnerable to the arbitrary, despotic exercise of power found in authoritarian or totalitarian states. When democracy is understood in those terms, then it is easy to understand how nonhuman animals' lack of democratic representation is a key factor behind their widespread, systematic abuse.

The obvious resolution to this weakness would be to propose and establish new non-anthropocentric forms of democracy where the interests of nonhumans are directly represented and considered, irrespective of human preferences.

### **A non-anthropocentric solution**

A non-anthropocentric account obliges democrats to consider the interests of animals irrespective of human volition. According to this alternative account, a democratic polity should take account of animal interests, not just because a substantial number of humans wish to see greater protection afforded to animals, but primarily because animals themselves are entitled to have their interests represented in the political process.

One obvious question is how the direct representation of animals can be achieved. Here, animal advocates can benefit from the work of political theorists who have developed, sometimes ingenious, schemes in which humans act as proxies for excluded, so-called 'mute', interests such as future generations and nature, whose representatives are allocated some seats in legislative assemblies or

included in government through the creation of dedicated institutions. The same could be envisaged for animals. Using this principle would require institutional reform whereby some humans are elected (possibly by a constituency made up of organisations concerned about the well-being of animals) to represent the interests of animals, and/or animals' interests are represented via government institutions. Crucially, this representation would then take place irrespective of the level of concern for animals in wider human society. This might seem fanciful from a current British perspective, but it should be pointed out that some governments have experimented with such schemes in the case of future generations or minority ethnic groups.<sup>13</sup>

The direct representation of animals could be justified on the grounds of moral considerability. As a result, the anthropocentrism intrinsic to conventional democratic theory is illegitimate because it fails to take into account, and is inconsistent with, the intrinsic value possessed by animals. This claim, then, is that there are morally compelling reasons for including animals as beings whose interests ought to be taken into account when collective decisions are made. In other words, including animals as part of the democratic constituency by virtue of their moral considerability ensures that the moral and political communities become more congruent.

The problem with this approach, however, is that the moral status of animals is, of course, disputed. We exclude children from the franchise on the grounds that we do not think they are competent enough to participate in politics and it might be argued, we should exclude animals on the same grounds. However, we can get round this objection by adopting an alternative, and much more persuasive, justification for including animals (and by the same token, children) within the democratic community. This is the so-called 'all-affected' principle.

The all-affected principle stipulates that those who are affected by collective decisions ought to have a say in the making of those decisions. That is, when we are asked how we are to determine who is to be a member of the democratic community, one response is that membership should be available to all those who are likely to be affected by the decisions made. Of course, if we adopt this principle then we must include animals because quite clearly their interests are affected, often detrimentally, by collective decisions.

However, such a radical change in the structure of the British state is hard to envisage in the short-term. Therefore the following section explores reforms to enhance the democratic credentials of the UK political system within an anthropocentric framework.

### **Reforming anthropocentric democratic procedures**

There are two possible routes here.

#### **1. Electoral reform**

Reforms to achieve fair processes and a level political playing field have the potential to be more consensual than specific outcome goals. Electoral reform, such as proportional representation (PR), would be one such improvement. A change, in Britain, to a more proportional electoral system would be one way in which smaller, green and animal parties might be able to gain greater representation and influence. The election of four parliamentary members from the Dutch Party for the Animals is a striking illustration of the more conducive political environment provided by an unusually proportional electoral system. The ultimate effectiveness of such MPs remains to be seen. Nevertheless, as PR appears to deliver more conducive conditions for animal protection insofar as it tends to dilute the political power of dominant economic and professional interests and distribute it more evenly amongst citizens, animal advocates ought to support this reform for the UK.

## 2. Deliberative Democracy

A significant reform from the animal advocacy perspective would be a move towards more 'deliberative' democratic processes. Academic research into democratic theory and practice has been characterised by a 'deliberative turn' over the past quarter of a century. A substantial part of this research project has been devoted to examining the case for deliberative democracy as a device to improve the likelihood of animal advocates achieving more of their goals.

Deliberative democracy can be contrasted with the currently dominant form of 'aggregative' democracy. The latter is a minimal approach which focusses on measuring all pre-existing citizen preferences in elections or referendums. Deliberative democracy, by contrast, also pays attention to how preferences are arrived at. It critiques conventional, aggregative models of democracy as inadequate on the grounds that in practice they are too open to abuse by those elites with money and the capacity to manipulate public opinion and the implementation of legislation.

For advocates of deliberative democracy, collective decisions are only legitimate if they are made after reasoned and detailed discussion. This can take place in so-called 'minipublics' such as citizens' juries, set up for the purpose, or in a system whereby deliberation by legislators, implementing authorities, affected interests and the public is encouraged throughout the political decision-making process.

*Evidence suggests that deliberative democracy is probably conducive to greater consideration of the interests of animals*

Deliberative theorists argue that:

- Genuinely democratic arenas for deliberation ought to be as inclusive as possible with all points of view and social characteristics represented, and an equal chance to participate offered to all of those who are present.
- During deliberation, self-interest should be put aside, as should strategic behaviour designed to achieve as much as possible of a pre-existing agenda. Instead, mutual respect and empathy for the arguments of others is encouraged.

It is further argued by deliberative theorists that the inclusive communication and social learning inherent in the deliberative process leads to better decisions in the sense that they are more informed, more effective, more just and therefore more legitimate. Deliberation increases the possibility of a consensus being arrived at and the transformation of the views of participants. That is not to say that unanimity is a real prospect in most cases. However, even if there is still disagreement, collective decisions made after deliberation are regarded as more legitimate than the mere aggregation of preferences because of the deliberative procedure followed. It involves a sense, that is, that all the views of participants are taken seriously and that everyone tries to empathise with the views of others.

There are a number of reasons to think that deliberative democracy might be conducive to greater consideration of, and sympathy for, the interests of animals:

- (a) Its insistence on inclusivity would ensure that animal advocates would get their views listened to.
- (b) Its insistence upon mutual respect of, and empathy for, the arguments and interests of others has the potential to include consideration for nonhuman animals.
- (c) Its insistence upon the advancement of arguments about what is right, and in the general or public interest - and not about what is in the self-interest of participants - might also encourage sympathy to animal protection given that the human espousal of animal protection is an altruistic cause, not directly benefiting (at least economically) the human deliberators.

From the point of view of effective and coherent decision-making, the benefit of deliberation, it is claimed, is that it increases the pool of information available to the participants, and it permits and improves the detection of factual and logical mistakes in their reasoning about the world. These advantages have been found to produce environmental policy benefits, compared with policies formulated through the non-deliberative status quo.<sup>14</sup>

In short, then, the proposal for testing here is now refined to this:

*‘existing preferences can be transformed by deliberation to create an environment much more favourably inclined to the protection of animals’*

The implications of this hypothesis, if supported by the evidence, are profound. At present, animal advocates can claim that, on at least some issues, existing public opinion is more supportive of greater protection for animals than is presently provided for by current legislation and regulations. Invoking deliberative democracy, however, allows the animal protection movement to go one step further. The revised claim that can be made is not just that policy outcomes can be contrasted with the more animal-friendly aggregation of individual preferences. Rather, the contrast is, potentially at least, between policy outcomes for animals and genuinely informed public opinion mediated through deliberation which is likely to be even more favourably inclined towards the protection of animals.

The arguments above are the product of deliberative theory. They set out what is predicted to be the impact of deliberation. However, this theory needs to be tested empirically. There are currently relatively few examples where animal issues have been subject to deliberation. These include:

*Public opinion informed through deliberation is likely to be even more favourably inclined towards the protection of animals*

- (a) Citizens’ juries on xenotransplantation conducted by governments (in Canada, Switzerland and the Netherlands) and by an academic science policy group.<sup>15</sup>
- (b) Citizens’ juries on farm animal welfare as part of an EU funded project entitled ‘Welfare Quality’<sup>16</sup>.
- (c) Focus groups set up by an Ipsos-MORI project designed to ascertain public views on openness on the use of animals in science.<sup>17</sup>

All of these exercises involved the choosing of a representative sample of people who were invited to discuss, in small groups, the issue at hand. Crucial to the exercises was the provision of briefing information provided beforehand and exposure to experts during the deliberative period. The juries are then invited to reach agreement and come up with recommendations.

A review of these case studies reveals that the provision of factual information did have an impact on the participants:

- (a) Participants were generally already hostile to the use of animal organs prior to deliberation, preferring instead to recommend alternative means to increase the supply of transplantable organs such as schemes to encourage organ donation and health promotion campaigns to reduce the demand for organs. There is some evidence that opinion against xenotransplantation then hardened when participants were exposed to factual information about the consequences for animal welfare, as well as the health risks for humans. There was a ‘consistent lack of support’ for xenotransplantation in the Deliberative Mapping Project, and it was the worst performing option (out of nine) across all of the Citizens’ Panels.<sup>18</sup> Similarly, deliberative exercises in the Netherlands and Canada recommended a moratorium on xenotransplantation, whereas a significant minority in the Swiss study did so too (the majority opting for regulation).<sup>19</sup>
- (b) In the citizens’ juries on farm animal welfare, it was reported that some jurors were ‘quite shocked and surprised’ by the reality of intensive animal agriculture, with many participants revealing that they were not aware of the sheer extent of intensification. In particular, they were shocked



about the stocking densities in broiler sheds, and the short life-spans of broiler chickens. This, in turn, influenced their recommendations which were generally opposed to intensive animal agriculture and, if implemented, would lead to historically-unprecedented welfare improvements as ‘half of all European farms would be considered “unacceptable”’.<sup>20</sup>

- (c) In the Ipsos-MORI focus groups, opinions on the scrutiny that animal researchers should be exposed to hardened as a result of undercover video evidence showing the mistreatment of animals in laboratories. The pre-deliberative position of most participants was that the sector ought to subject itself to external scrutiny, and this remained throughout the proceedings. When presented with undercover footage of misdemeanours in laboratories, ‘participants became very angry about malpractice’<sup>21</sup> and ‘many reverted to an oppositional stance in relation to animal research.’<sup>22</sup> As a result, participants were much more willing to consider more rigorous scrutiny including insisting that licence applications be subject to external scrutiny, and even that CCTV be placed in labs to be screened in public, an idea that gained ‘much support’.<sup>23</sup>

This project also examined the workings of the Boyd Group, an informal grouping of stakeholders from both sides of the debate about animal experimentation. Although the refusal of anti-vivisection groups to participate fully in the Boyd Group diluted its deliberative credentials, it does appear to have had the effect of softening some of the participants’ views and facilitating compromises on certain issues.

*The more democratic the political system, the more conducive the environment is for the realisation of animal protection values*

The question of policy influence is more difficult to demonstrate. The near consensus reached by the Group on the need to maintain ethical consideration at animal research establishment level may have influenced the Home Office in its decision to retain this approach when transposing the relevant 2010 EU Directive.<sup>24</sup> On the other hand, positions reached on cosmetics testing and the use of Great Apes appear to have endorsed previous policy decisions, and the Group’s critical position on the severity banding of animal research projects in 2004 does not seem to have been acted on by the Home Office until the 2010 EU Directive forced a change in approach.

The debate about the moral status of animals is not, of course, entirely, or even mainly, dependent upon facts. The evidence does suggest, however, that whilst deliberative forums may not change participants’ perceptions about the moral status of animals, they definitely do have the capacity to reveal to them that the current treatment of animals is not consistent with their pre-existing perceptions of the moral worth of animals (demonstrating that even with the animal protection movement’s focus on education, the public are often poorly informed about the actual treatment of animals). Thus, deliberative democratic systems would appear to have the potential to change outcomes for animals positively on two levels:

1. By allowing policy-making to be led by public opinion, and then...
2. By strengthening public opinion in favour of animal protection

In conclusion, the propositions examined in this project appear to be confirmed. In the first instance, in practice, the more democratic the political system, the more conducive the environment is for the realisation of animal protection values. Secondly, the establishment of deliberative democracy is likely to be an effective means to achieve these goals.

## PART 4 - IMPLEMENTING DELIBERATIVE DEMOCRACY

With Professor Garner's research project establishing the positive potential of deliberative democracy to animal protection, in this part of the report the CASJ's Dan Lyons applies the empirical findings regarding animal protection policy-making discussed above in Part 2 to the question of how to implement deliberative democracy in practice.

It is noteworthy that the animal-related deliberative exercises referenced above have all been relatively peripheral to the actual policy-making arena where binding state decisions are made. The ultimate challenge for deliberative democracy is to become the mechanism used to inform and/or produce public policy decisions. The problem is that because deliberative democracy would be likely to abolish the dominance of powerful economic and producer interests (e.g. NFU/intensive farming, pharmaceutical industries and related professional animal science interests) over animal protection policy, it is inevitable that such traditional insider groups would continue to work closely with government to resist reform:

*... deliberative lawmaking makes it more difficult for powerful groups to serve their interests. Public discussion characterized by extensive reasoning is likely to expose the self-interest that powerful actors are anxious to hide and, given their power, would plausibly be able to serve if there were no deliberative lawmaking.<sup>25</sup>*

However, self-regulation and maximising economic growth have been, unlike animal welfare protection, institutionalised priorities across government for at least a generation, regardless of ruling party. Values such as animal welfare and environmental protection have, at best, a precarious status within the British state. Therefore animal protection appears to be faced with a Catch-22 scenario in that the establishment of deliberative democratic animal protection policy processes relies on action from a state which is institutionally opposed to such a reform. The EU has appeared more responsive to public concern – on farm animal welfare at least – which motivated it to fund the citizens' juries on the topic. Yet the recommendations of the juries were weakened by the Welfare Quality® project investigators on the grounds that the degree of change they implied – requiring half of European farms to improve their animal welfare standards – 'would certainly discourage most producers from adopting the assessment'.<sup>26</sup>

*Arguments for deliberative democracy have wide resonance*

But these political systems, with their entrenched anti-democratic and anti-animal welfare characteristics, are not immutable. It should be noted that deliberative democracy conforms to the government's idealised rhetoric about its decision-making intentions, if not its actuality.<sup>27</sup> Requirements for public consultations on government proposals comprise weak elements of deliberative politics. This indicates that arguments for deliberative democracy have wide resonance. Therefore, projects aiming at improving democracy through deliberative approaches offer opportunities to forge alliances with other groups representing marginalised, vulnerable interests, thereby sensitising those groups and individuals to the plight of animals as well as increasing the chances of success compared with narrower campaigns attempting to achieve discrete animal welfare goals.

It should also be pointed out that deliberative exercises outside government can still have value for animal protection and a potential impact on policy. As well as shifting the positions of participants, wider dissemination of their results can alter public, media and governmental perceptions, help to put an issue on the public agenda and alter the terms of debate. Importantly, they can provide more credible and detailed data than traditional ways of expressing public opinion such as petitions or polls.



## PART 5 - CASJ RESEARCH AGENDA

Professor Garner's research project has examined how to improve animal protection through the lens of democratic theory and practice. This focus on the promise of deliberate democracy complements other CASJ research themes within our broader agenda of seeking effective representation and protection of animal interests. Our ongoing research interests and projects include:

- Co-funding PhD researcher Lucy Parry (University of Sheffield) who is uncovering both the full range of viewpoints about hunting as well as the full depth of those positions in terms of nuances between their underlying positions on human-animal relationships and society. This more penetrating analysis beyond the pro/anti dichotomy can improve our understanding of how the different viewpoints manage to become more or less influential within the political system.
- Drawing up plans for potential deliberative democracy exercises to understand and measure public attitudes towards animal protection issues.
- Investigating options for a proposed new government body with an animal protection remit – e.g. an 'Animal Protection Commission' (APC). Such an institution is necessary for animal protection values to establish a firm foothold in public policy.
- Developing a methodology and collating data to assess animal welfare standards in the UK and other countries. We are also researching the way government and stakeholders measure animal welfare standards and the use of such measurements in political debate and policy-making.
- Examining the implications of the current exclusion of animal welfare as a direct factor in UK government policy impact assessments. What does this exclusion imply regarding the status of animal welfare in public policy and what are its impacts on animal welfare? How could animal welfare be incorporated effectively and fairly into policy impact assessments?

*A government Animal Protection Commission is necessary for animal protection values to establish a firm foothold in public policy*

The CASJ is keen to partner with NGOs who wish to support and benefit from these critical inquiries.

## Notes

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**Further reading**

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A number of manuscripts are currently in production for publication in peer-reviewed journals. Details of these will be provided in due course.

