Animal Abuse Linked to Perceptions of Non-Sentience/Speciesism Based Hate Crime?

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What is Speciesism?

• Coined by Richard Ryder in the 1970s:

  *Speciesism: the widely held belief that the human species is inherently superior to other species and so has rights or privileges that are denied to other sentient animals.*

• Cruelty to animals as a speciesist act is a hate crime, whether legal or not. Speciesism is still a factor as to how far animal welfare protection goes, particularly when considering the dedication of scientific research to certain species to argue for legislative reform, and within inclusion of laws and robust enforcement (Dunn and Jowitt 2024).
Recognising Sentience in the Law: What is Sentience?

• Various definitions over the years. Bentham: ‘The question is not, Can they reason? Nor, Can they talk? But Can they suffer?’ (Bentham 1789)

• It has since developed. The team at LSE led by Birch et al (2021) provide:

Sentience (from the Latin *sentire*, to feel) is the capacity to have feelings. Feelings may include, for example, feelings of pain, distress, anxiety, boredom, hunger, thirst, pleasure, warmth, joy, comfort, and excitement. We humans are sentient beings, and we are all familiar with such feelings from our own lives. A sentient being is “conscious” in the most elemental, basic sense of the word. It need not be able to consciously reflect on its feelings, as we do, or to understand the feelings of others: to be sentient is simply to have feelings.
Recognising Sentience in the Law: Why is it Important?

• It is used as a base in philosophy and law to argue for better protection for some animals. Browning (2022) argues it is the key component of animal welfare.

• Broom (2009) suggests that, the more the public knows and understands about animal sentience, welfare, and treatment, the more influence might be brought to bear on law reform.

• It means that animals we find most like ourselves, cute, or companions are not the only ones to receive protection (Blattner, 2024).
Recognising Sentience in the Law: A Brief History for the UK

• The Cruelty to Animals Act 1876 it was argued that experimentation on cats, dogs, horses, mules and asses should be prohibited as they ‘were the most intelligent, and consequently most sensitive to pain’.

• s 62(1) Animal Welfare Act 2006 brings both physical and mental suffering within the scope of the Act.

• Social use of specific animals is still a key determining factor with regards to the legal protection they are entitled to (Legge, 2022)
Recognising Sentience in the Law: The Animal Welfare (Sentience) Act 2022

• After we left the EU, the UK did not retain Article 13 of the TFEU, which recognised animal sentience and required the EU and Member States to ‘pay full regard to the welfare requirements of animals’.

• We then introduced to Animal Welfare (Sentience) Act 2022. This established the Animal Sentience Committee.

• Their role is to scrutinise and report on the extent to which the formulation or implementation of any government policy has paid ‘due regard to the ways in which the policy might have an adverse effect on the welfare of animals as sentient beings.’
Issues with Legally Recognising Sentience: An Issue of Speciesism

• Blattner (2019) suggests this difference in how legal systems treat different animals is due to ‘cognitive biases in society,’ which explains why the law allows the continued mistreatment of some animals despite acknowledging their sentience.

- Some countries refuse to recognise animals as sentient
- Persistent prejudices in society prevent animals from enjoying full protection under the law
- Scientific biases in assessing sentience
Case Study: Octopuses

• Have 9 brains – more than 2/3 of cognitive abilities are in their arms
• Can solve complex tasks
• Can use tools
• Can recognise people
• Disguise and escape techniques
• Modify behaviour depending on context

• A systematic review (Di Cosmo et al, 2021) found that from 1985 – 2010 there were less than 10 scientific papers published per year relating to octopuses.
• In 2020, this increased to more than 100. Mather (2022) argues that they could become the poster child for invertebrate welfare.
Case Study: Octopuses

• Popular food – 420,000 metric tonnes of octopuses caught wild each year
• There is no scientifically approved humane slaughter method for the slaughter of octopuses. Current practices include (with no pre-stunning):
  ▪ Clubbing
  ▪ Slicing their brains
  ▪ Asphyxiation in a net
  ▪ Frozen in cold water
  ▪ Sold live and boiled alive – called ‘scaring’
• Very little laws which protect octopuses in the UK, and none relate to farming and slaughter
Case Study: Octopuses

- No legislation relating to their farming, because they have never been farmed before
- Proposals for a new octopus intensive farm in Spain, producing at least 300,000 octopuses each year
- Kept in tanks with other octopuses and in constant light
- Slaughter method is freezing water called ‘ice slurry’

If the EU do not impose a ban on octopus farming, how does this coincide with Article 13?
Conclusion

• The recognition of sentience is, to some extent, important to legal animal protection

• But, is it just an example of “human washing” or “welfare washing” and a symbolic gesture?

• We can recognise sentience, but whether it actually provides further protection or promotes speciesism for some animals is still questionable.
References


