THE DARK AGES REVISITED?

On November 4, 1992, the Supreme Court of the United States heard oral arguments on the issue of whether sacrificing animals in religious ceremonies is protected by the Constitution's guarantee of free exercise of religion (see the Fall 1992 HSUS News).

The HSUS and four other national animal-protection organizations, in a brief filed with the Court, argued that state and local governments should be constitutionally able to outlaw the killing of animals for religious purposes. Americans, of course, each year lawfully uses—and kills—millions of animals for food, clothing, biomedical research, protection of people and property, and sport. Why, in such a context, should animals not be killed in the name of religion?

The answer lies both in the substantial changes in the moral and legal culture of this country since the founding of the organized humane movement in the last century and in the underlying reasons for protecting religious freedom in the first place.

Prior to the passage of New York State's anticyrueity statute in 1867, animals anywhere could be killed or abused with impunity for any reason or for no reason at all. Over the succeeding forty years, the humane movement engineered the adoption of anticyrueity statutes, most of which were modeled on the New York law, in all states and, through public education and general activism, worked substantial changes in the moral and legal climate of the country. The unnecessary killing of animals was, by and large, outlawed (although law enforcement was, and remains, imperfect). Courts not only affirmed the constitutionality of the anticyrueity statutes but also recognized them as hallmarks of progress and of a shift in public standards of behavior toward nonhuman life. More specialized structures striking at customs and practices once considered reputable, such as animal-fighting events, followed. A battery of federal protective statutes complemented state law. The result, over the course of a century, was a steadily enhanced protection afforded to animals and a concomitant narrowing of the acceptable justifications for killing or exploiting animals (justifications that were grounded in tangible, objectively established human needs such as food, clothing, and preservation of public health and safety, or in the prevention of suffering in animals themselves). Even sport hunting is now commonly justified, albeit speciously, as a food-gathering activity or as a humane measure to prevent crowding, disease, and malnutrition in wild-animal populations.

Permitting the killing of animals to satisfy subjective religious beliefs—a purported justification disconnected from both a standard of necessity, in the sense of tangible, objective human needs, and from humane considerations—would be, then, a giant step backward to the time when animals could be abused at the whim of their immediate custodians without legal consequences. Like human sacrifice, animal sacrifice is a relic of another time, place, and prevailing morality. In Florida two bound sheep await their death in the backyard of a practitioner of Santeria.

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