

# ANIMAL SENTIENCE

AN INTERDISCIPLINARY JOURNAL ON ANIMAL FEELING

Kotzmann, Jane (2022) [Legal recognition of animal sentience: the case for cautious optimism](#). *Animal Sentience* 31(7)

DOI: 10.51291/2377-7478.1706



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This article has appeared in the journal *Animal Sentience*, a peer-reviewed journal on animal cognition and feeling. It has been made open access, free for all, by WellBeing International and deposited in the WBI Studies Repository. For more information, please contact [wbisr-info@wellbeingintl.org](mailto:wbisr-info@wellbeingintl.org).

## Legal Recognition of Animal Sentience: The Case for Cautious Optimism

Commentary on [Rowan et al.](#) on *Sentience Politics*

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**Abstract:** Rowan et al.'s target article provides a valuable indication of the work that was required to reach the point where animals are recognised as sentient in various laws. To ensure this work was not in vain, the language of sentience needs to be used as a moral currency to demand further cultural change involving greater human respect for animals.

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**A Crossroads.** We appear to be at a significant crossroads in the way the law governs human-animal relations. We have come from a point in time in which animals were seriously considered by some well-respected people to be *automata* (Duncan, 2006), to a time in which numerous jurisdictions around the world have been prepared to recognise in the law that animals are sentient. While that sounds like a promising development for animals, both Rowan et al. (2022) and Bekoff (2022) correctly note that these legal developments have had very little discernible practical impact in terms of improving the lives of animals.

Legal recognition of animal sentience has had some minor legal consequences of note. In Oregon, for example, recognition of sentience has resulted in animals being considered as crime victims for the purposes of sentencing (*Nix*, 2014; *Crow*, 2018; Kotzmann and Stonebridge, 2021). In the European Union, sentience recognition required the Board of the European Chemicals Agency to pay full regard to animal welfare requirements when considering the requirement of a second species embryo-developmental study (*ECHA*, 2015). In Quebec, sentience recognition provided support for the Quebec Superior Court's interpretation of a power to issue a euthanasia order as requiring the City of Montreal to first consider the dog owner's point of view (*Trahan*, 2019).

Yet, by and large, legally recognising animal sentience has not changed much for animals. At law, animals are still broadly categorised as property and can be bought and sold, leased, and even destroyed, subject only to animal welfare laws (Bruce, 2018, 76-77). Animal welfare laws discriminate among animals based on their human use, so that farmed animals generally receive the lowest levels of legal protection while (human) companion animals receive the highest (Kotzmann and Nip, 2020, 250). Even some of the relevant legislating bodies themselves have observed that sentience recognition is essentially symbolic and will not actually change any aspect of the legal treatment of animals (Ministry for Primary Industries

(NZ), 2014), suggesting that there is at least some ‘humane-washing’ about the developments (Bekoff, 2022).

**Possible Directions.** A crossroads is nevertheless a crossroads. It is possible for the trend towards legal recognition of animal sentience to continue without any significant legal – or broader – consequences. On the other hand, recognition of animal sentience in the law might represent a stepping stone towards genuine cultural change in the way that humans view other animals. The law provides a language and moral currency through which we can make claims with a degree of entitlement. As is the case with human rights language, sentience recognition will enable advocates to make claims on behalf of animals with greater credibility, because the basis for those claims has been agreed in law (Kotzmann and Pendergrast, 2019). Moreover, the media attention that these legal changes receive means that sentience recognition is likely to increase public awareness of the situation of animals, potentially generating further change.

**Possible Pitfalls.** Rowan et al. argue that sentience recognition is unlikely to be a negative development. In some ways, however, it has the potential to be. If the time and effort devoted to achieving legal sentience recognition comes at the cost of more significant legal reform for animals, then it will constitute a net loss (Rodriguez Ferrere, 2022). If the humane-washing aspect of the reforms deceives the public into thinking that animals enjoy greater protection than they do, that too will be a loss for animals (Rodriguez Ferrere, 2022).

**Education and Advocacy.** Rowan et al.’s target article provides a valuable indication of the hard work carried out to convince legislators to recognise animal sentience in the law. Evidently this was no easy feat. To make sure that these efforts were not in vain, we need to ensure that legal animal sentience recognition is the first step towards a cultural change that involves greater human respect for animals. Humane education would be of great benefit in relation to this objective (Weil, 2004). Animal advocacy and research also has a significant role to play.

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