

## Book Review

### Olivier Le Bot Constitutional Animal Law

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## Abstract

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Olivier Le Bot’s *Constitutional Animal Law*, recently translated from French to English, is a pioneering contribution to the emerging field of constitutional animal law. The book offers the first systematic exploration of constitutional frameworks for animal protection, presented through a broad and comparative perspective. Situated against the backdrop of a growing global trend towards enshrining animal protection in constitutional texts, the book provides a much-needed foundation for future scholarship in this area.

**Keywords:** constitutional animal law; trends in animal law; comparative constitutionalism; strategic litigation

## Resumen

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La obra *Constitutional Animal Law* de Olivier Le Bot, recientemente traducida del francés al inglés, constituye una contribución pionera al emergente campo del derecho constitucional animal. El libro ofrece la primera exploración sistemática de los marcos constitucionales para la protección animal, presentada desde una perspectiva amplia y comparativa. En el contexto de una creciente tendencia global hacia la inclusión de la protección animal en los textos constitucionales, esta obra proporciona una base esencial para futuras investigaciones en este ámbito.

**Palabras clave:** Derecho constitucional animal; tendencias en derecho animal; constitucionalismo comparativo; litigación estratégica

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Olivier Le Bot's *Constitutional Animal Law*, recently translated from French to English, is a pioneering contribution to the emerging field of constitutional animal law. The book offers the first systematic exploration of constitutional frameworks for animal protection, presented through a broad and comparative perspective. Situated against the backdrop of a growing global trend towards enshrining animal protection in constitutional texts, the book provides a much-needed foundation for future scholarship in this area.

The book is structured into two main parts. The first, titled "Division 1", explores constitutions that explicitly address animals, while "Division 2" examines how broader constitutional norms can be interpreted and applied to advance animal protection, even in jurisdictions where animals are not explicitly mentioned. Le Bot begins by defining constitutional animal law as encompassing all constitutional norms—explicit or indirect—that relate to animals. This inclusive approach situates animal protection within a wider constitutional framework, incorporating norms related to environmental protection, the rights of nature, and the right to life. By adopting this expansive perspective, the book goes beyond conventional studies that focus solely on explicit animal protection provisions in national constitutions, offering innovative insights relevant to strategic litigation and advocacy.

While primarily descriptive and comparative in nature, the book excels in providing a systematic account of the historical, political, and practical dimensions of constitutional animal law. The author seeks to provide an overarching framework that captures all aspects of constitutional animal protection, and he delivers on this aim. Le Bot offers rich background and historical context, illustrating how constitutional norms for animal protection have emerged and evolved across different jurisdictions. Before delving into the analysis of the explicit provisions, the book first distinguishes between protections enshrined in national constitutions and other explicit forms of constitutional animal protection, such as provisions in federated constitutions or those with limited scopes of application. For instance, Florida includes a protection clause within its federated constitution, while the South Sudan national Constitution assigns the mandate to protect animals specifically to the wildlife service.

The remainder of Division 1 examines national constitutions that explicitly address animals with a broad scope of application, analysing the wording, nature, origin, and effects of each of these provisions within legal systems and society more broadly. There is no shortage of examples and practical applications for each of these categories. For instance, in explaining the different effects of constitutional protections, Le Bot cites Brazilian case law to highlight how Brazil is the only country

where the constitutional provision for animal protection has direct effect, allowing multiple actors to invoke it in litigation (p. 28). Similarly, in discussing the wording of explicit constitutional animal protection norms, the author mentions Luxembourg as a noteworthy example. He notes that following a constitutional revision in 2023, Luxembourg's provision now safeguards the welfare of animals and explicitly recognises them as "non-human living beings endowed with sentience". This section of the book is a compelling example of Le Bot's commitment to providing rich contextualisation, as he delves into the political processes leading to Luxembourg's constitutional reform. (Division 1, Part 2, Chapter 1, Section 2).

The majority of existing constitutional animal protection norms fall under the category of general objectives. Within this category, Le Bot distinguishes among general objectives on the protection of animals (as in Germany and Austria), the duty of compassion (India), and the mandate for kind treatment of animals (Egypt). In this context, the book analyses compelling examples from Germany and Austria that demonstrate how constitutional objectives on animal protection, while not directly enforceable, serve as crucial guiding principles for the formulation of laws and policies. These provisions have informed legislative priorities, administrative actions, and judicial interpretations, demonstrating some of the indirect but still significant impacts of these norms. Additionally, Le Bot cites India's constitutional duty of compassion towards animals (p. 40) and Egypt's mandate for kind treatment (p. 41) as examples of constitutional objectives capable of inspiring societal attitudes and governmental actions, even in the absence of robust enforcement mechanisms. He provides substantial background on the processes leading to the enactment or amendment of each of these constitutional objectives.

Switzerland's constitutional recognition of animal dignity, enshrined in Article 120 of the Swiss Constitution, is examined as a standalone category in Section 4. Le Bot notes that this recognition was initially introduced in the context of protecting humanity and the environment from the misuse of genetic engineering (p. 44). However, subsequent rulings, such as a 2009 decision by the Swiss Federal Supreme Court, clarified that the concept of animal dignity has a broader scope, presupposing its existence as a fundamental principle. Ordinary law has further refined and given practical meaning to this concept.

Another category discussed in the book is jurisdiction clauses, which encompass provisions that assign responsibility for animal protection to specific authorities or mandate legislative action on the subject of animal protection. Examples of jurisdiction clauses are presented in Section 5 and include the animal protection norms in the constitutions of

Italy, Slovenia, Russia, and Switzerland (with reference to its other animal-focused constitutional provision, Article 80).

Among the book's most significant contributions is its exploration of the practical effects of constitutional animal protection norms. In Chapter 2 of Division 1, *Le Bot* identifies several key functions of these provisions, supported by extensive case law examples. These include enabling conscientious objection, invalidating administrative acts, limiting fundamental rights, incentivising government action, guiding the interpretation of laws, and legitimising criminal offenses related to animal mistreatment.

On conscientious objection, the book examines German, French, and Indian concrete cases where constitutional norms have been invoked to protect individuals refusing to participate in practices harmful to animals, particularly in the context of education and scientific research. *Le Bot* notes that while conscientious objection in the context of animal protection can, in theory, be invoked even in jurisdictions without a constitutional mandate for animal protection, its recognition is more likely when animal protection is constitutionally enshrined. This is because freedom of conscience is often tied to values that society considers legitimate, and constitutional recognition of animal protection reinforces its ethical significance.

The invalidation of administrative acts is another critical function of constitutional animal protection norms discussed in the book. Section 2 analyses Brazilian case law to illustrate this effect. Subsequently, *Le Bot* explores the crucial role of constitutional animal protection norms in constraining fundamental human rights, thereby better balancing competing interests in favour of animals. Along these lines, section 3 delves into cases where explicit constitutional animal protection norms were responsible for restricting cultural practices such as bullfighting and other traditions harmful to animals. While such limitations are possible even in the absence of explicit constitutional clauses, formal recognition strengthens the legal framework and facilitates judicial decision-making.

*Le Bot* compiled a remarkable array of case law examples illustrating instances where constitutional provisions for animal protection have limited human rights in situations of conflicting interests. For instance, in a 2015 case, a German court addressed a challenge to the prohibition of zoophilia, ruling that the fundamental human right to sexual self-determination is not absolute and must be balanced against the need to protect animals. Several additional examples from Germany illustrate the restriction of human rights following the 2002 constitutional amendment that incorporated animal protection as a state objective. These include limitations on the right to artistic freedom, such as prohibitions

on the use of animals in art exhibitions when it causes stress or suffering, and restrictions on the freedom to work, exemplified by the ban on the use of electric collars on dogs.

Similarly, the Slovenian Constitutional Court upheld restrictions on religious freedom in the context of religious slaughter, a decision grounded in Slovenia's constitutional commitment to animal protection. However, as Le Bot notes, the ruling was not based solely on Slovenia's constitutional provision for animal protection but also on the Court's detailed application of a triple proportionality test (p. 70). The author goes through several additional cases from Germany, Switzerland, Austria, Slovenia, and Belgium to demonstrate the critical role of constitutional norms in managing the complex balance between the frequently conflicting interests of humans and animals.

The book further explores how constitutional norms incentivise government action. In Germany, for example, constitutional clauses have prompted authorities to enforce animal welfare laws more rigorously, strengthen existing regulations, and impose stricter penalties for violations. Subsequently, section 5 explores another significant effect of constitutional animal protections, which is the invalidation of administrative actions that blatantly disregard constitutional safeguards for animals. To illustrate this effect, Le Bot references a case from India, where a court overturned an administrative decision permitting the euthanasia of stray dogs, citing the constitutional duty of compassion towards animals as the basis for its ruling. Section 6 then analyses cases from Switzerland, India, Germany, and Luxembourg to demonstrate how constitutional animal protection provisions have influenced the application and interpretation of ordinary laws, leading to outcomes more favourable to animals than would otherwise have been possible.

The first half of the book concludes by examining a final effect of constitutional animal protection, namely the establishment of animal protection as a recognised legal good, thereby legitimising the punishment of violations as criminal offences. Concluding Division 1, Le Bot acknowledges that, despite these many positive effects, constitutional provisions for animal protection fall short of initiating the paradigm shift needed to fundamentally challenge animal exploitation or transform their legal status in a meaningful way. However, he emphasises that the nature and wording of these provisions are critical, as these have the potential to significantly influence their scope of application and practical impact.

The second half of the book shifts its focus to jurisdictions where animals are not explicitly recognised in constitutional texts (p. 91 onwards). Here, Le Bot explores how broader constitutional norms—such as those concerning environmental protection, human rights, and the rights of

nature—can be leveraged to promote animal protection. Environmental provisions are frequently a foundational source of constitutional safeguards for animals. Section 1 of Division 2 (p. 92) synthesises illustrative cases from Costa Rica and Colombia, where environmental clauses have been invoked to prohibit practices such as sport hunting and the use of wild animals in circuses. By examining these cases, the book underscores the adaptability of such norms in addressing animal welfare concerns and their potential to fill gaps when an explicit constitutional animal protection mandate is missing.

As the author notes, the concept of the rights of nature presents another innovative approach to advancing animal protection. Ecuador's Constitution, which enshrines the rights of nature, offers a distinctive context for examining the intersection of environmental and animal welfare concerns. Le Bot provides an in-depth analysis of the *Estrellita* case, which centred on the constitutional rights of a captive monkey, demonstrating the potential of rights-of-nature frameworks to extend legal protections to animals.

Additionally, human rights provisions have creatively been employed in jurisdictions lacking explicit constitutional clauses for animal protection. The author discusses a case from Pakistan, where the human right to life served as the legal basis for addressing the welfare of zoo animals. Though initially appearing far-fetched, the ruling drew on the interconnectedness of humans, animals, and the natural environment to achieve a positive outcome for animals. Similarly, a range of *habeas corpus* case law examples offer a comprehensive insight into how legal mechanisms originally designed for human beings have been ingeniously adapted for strategic animal advocacy. Collectively, these cases highlight the flexibility of constitutional norms and principles, even when direct provisions for animals are absent, bringing Division 2 of the book to a close.

In sum, Le Bot's work stands out for its meticulous documentation of case law and its insightful categorisation of the diverse constitutional approaches to animal protection norms. Through a vast compilation of concrete cases and comparative analysis, the book leaves readers with a comprehensive understanding of the current state of constitutional animal law, precisely and broadly speaking. The extensive range of examples in each section not only enhances the clarity of the subject matter but also underscores its practical relevance, establishing the book as a valuable resource for scholars, advocates, and practitioners alike.

It is important to note that, by its nature, the book leans heavily towards practical applications, offering only a limited exploration of the theoretical debates underpinning constitutional animal law. While it briefly touches on the philosophical foundations of rights and the nor-

mative implications of constitutional recognition, these aspects are not examined in depth, reflecting the book's emphasis on practical application over abstract theorisation. Although this approach increases the book's accessibility, it leaves scope for future scholarship to delve more deeply into the theoretical dimensions of constitutional animal law.

In conclusion, Le Bot's *Constitutional Animal Law* makes a significant contribution to the development of constitutional animal law scholarship. Its comprehensive case law examination and practical emphasis make it an important resource for understanding the constitutional dimensions of animal protection while offering significant value for strategic litigation advocacy on a global scale. By systematically categorising constitutional animal protection—both explicitly and indirectly—and demonstrating its practical applications, the book equips animal advocates and decisionmakers with an innovative framework for effectively leveraging constitutional norms to advance animal protection. As the field of constitutional animal law continues to evolve, Le Bot's work will undoubtedly remain a foundational reference, inspiring future research and advocacy efforts.

