

ACT's new animal sentience law recognises an animal's psychological pain and pleasure

October 3 2019, by Jane Kotzmann



Credit: AI-generated image ([disclaimer](#))

After a chimpanzee named Flint recently lost his mother, renowned primatologist [Dr. Jane Goodall wrote](#): "The last short journey he made, pausing to rest every few feet, was to the very place where Flo's body had lain. There he stayed for several hours, sometimes staring and staring into the water. He struggled on a little further, then curled

up—and never moved again."

Dr. Goodall's anecdote of Flint's grief illustrates the concept of animal [sentience](#)—that animals have their own subjective experiences and feelings, including positive feelings like happiness and pleasure, as well as negative feelings like pain and suffering.

In this respect, scientific research is clear that most animals are sentient. In particular, many animals are able to experience physical and psychological pain in a similar manner to humans.

In fact, the concept of animals' sentience has become increasingly important and was recently [enshrined in law](#) in the Australian Capital Territory, an Australian first. Here's what that means for animals, and for future legislation.

What the law says

After the [amendments](#) to the [Animal Welfare Act](#) 1992 (ACT) come into effect, its purposes will include to: "recognize that animals are sentient beings that are able to subjectively feel and perceive the world around them."

The Act will also recognize the "intrinsic value" of animals and impose a "duty of care" on people to ensure good animal welfare.

But while the legislation will acknowledge animal sentience, it's really only likely to impact our pets. The term "animal" is defined in the legislation to broadly include vertebrates such as mammals (excluding human beings), birds, fish and reptiles.

However, the animal welfare offenses created by the act don't apply where the relevant conduct is in accordance with a code of practice. In

other words, animal industry practices that might otherwise be considered animal cruelty are exempted from the requirements of the legislation.

The ACT is the first Australian jurisdiction to recognize animal sentience, but many other countries have already done so.

The European Union first recognized animal sentience in 1997 in the Treaty of Amsterdam. And it was recognized by New Zealand in 2015 in its Animal Welfare Act 1999, and by Quebec in a 2015 amendment to its Civil Code.

The international organization World Animal Protection views animal sentience recognition as so important it's the first indicator in its [Animal Protection Index](#), which ranks 50 countries on the basis of their legal and policy commitments to animals.

Animals as property

For animals in Australia, legal recognition of their sentience is a small but important step forward because it indicates a shift in thinking about the relationships between humans and animals.

Although animals' ability to feel emotions may seem self-evident, historically the law has categorized animals as property. In other words, a dog is no more a legal person than the bed she is lying on.

While recognizing animal sentience does not mean animals are persons under the law, it does represent a shift away from categorizing them as property.

Legally recognizing animals as sentient is primarily a [symbolic gesture](#). Nevertheless, this does not mean such recognition will have no real

consequences.

Analysis of the European Union provision, for example, indicates it has played a role in assisting [legislative interpretation](#) and in motivating further legislative protections for animals.

And New Zealand jurisprudence suggests the purpose of the New Zealand Act, including recognition of animal sentience, will have some influence on interpretation of the Act's provisions. This may also be the case with the ACT legislation.

Will other states follow the ACT?

It seems likely other Australian states will follow the ACT's lead in this area. Both the ACT and Victoria have already recognized animal sentience in their policy, although the ACT amendments are the first time it will be recognized in Australian law.

In the Northern Territory, a number of submissions were made to the Social Policy Scrutiny Committee when undertaking an [Inquiry into the Animal Protection Bill 2018](#) to legally recognize animal sentience.

Those making submissions in favor of legal recognition of animal sentience included the Animal Law Institute, RSPCA, Australian Veterinary Association and Lawyers for Animals. Ultimately, however, the committee declined to recommend recognition of animal sentience in the bill, because: "[the committee was] of the view that recognition of such is implicit in the Bill and does not need to be explicitly stated. "

The committee's view, unfortunately, overlooks the deeper meaning of recognizing animal sentience. Anti-cruelty legislation tends to focus on preventing physical harm to animals. Acknowledging sentience, however, recognizes that animals feel emotions too, which should be

taken into account in regulating human conduct towards animals.

Still, following the ACT's lead may be attractive given the view recognition is largely symbolic. It means states and territories would be able to boast of their animal welfare credentials without putting animal-related industries offside.

We can hope the international trend towards legal recognition of animal sentience is continued in other Australian states and territories. But what's more important will be the extent to which the scientific consensus that most animals are sentient can actually change human relations with animals.

In this respect, we are long overdue to rethink the manner in which humans use [animals](#) that have their "[own rich, complex emotional and social lives](#)."

This article is republished from [The Conversation](#) under a Creative Commons license. Read the [original article](#).

Provided by The Conversation

Citation: ACT's new animal sentience law recognises an animal's psychological pain and pleasure (2019, October 3) retrieved 21 June 2024 from <https://phys.org/news/2019-10-animal-sentience-law-recognises-psychological.html>

<p>This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.</p>
--