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Citations:

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Kevin Gibbs, *Animal Law in Nazi Germany: Protection for the Animals or Just Another Advancement of Social Agenda?*, 19 Rutgers J. L. & RELIGION 111 (2018).

ALWD 7th ed.

Kevin Gibbs, *Animal Law in Nazi Germany: Protection for the Animals or Just Another Advancement of Social Agenda?*, 19 Rutgers J. L. & Religion 111 (2018).

APA 7th ed.

Gibbs, K. (2018). *Animal law in nazi germany: protection for the animals or just another advancement of social agenda?*. Rutgers Journal of Law and Religion, 19(1), 111-119.

Chicago 17th ed.

Kevin Gibbs, "Animal Law in Nazi Germany: Protection for the Animals or Just Another Advancement of Social Agenda?," Rutgers Journal of Law and Religion 19, no. 1 (2018): 111-119

McGill Guide 9th ed.

Kevin Gibbs, "Animal Law in Nazi Germany: Protection for the Animals or Just Another Advancement of Social Agenda?" (2018) 19:1 Rutgers J L & Religion 111.

AGLC 4th ed.

Kevin Gibbs, 'Animal Law in Nazi Germany: Protection for the Animals or Just Another Advancement of Social Agenda?' (2018) 19(1) Rutgers Journal of Law and Religion 111

MLA 9th ed.

Gibbs, Kevin. "Animal Law in Nazi Germany: Protection for the Animals or Just Another Advancement of Social Agenda?." Rutgers Journal of Law and Religion, vol. 19, no. 1, 2018, pp. 111-119. HeinOnline.

OSCOLA 4th ed.

Kevin Gibbs, 'Animal Law in Nazi Germany: Protection for the Animals or Just Another Advancement of Social Agenda?' (2018) 19 Rutgers J L & Religion 111

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ANIMAL LAW IN NAZI GERMANY: PROTECTION FOR THE ANIMALS OR JUST ANOTHER ADVANCEMENT OF SOCIAL AGENDA?

Kevin Gibbs*

I. INTRODUCTION

The animal laws in Nazi Germany were very strict in support of the animals, so much so that animals were treated as part of the German community.¹ The German government made a constitutional amendment declaring animal protection as one of its goals.² Despite the strong protections put in place for animals' health and safety, many suggest the well-being of animals had nothing to do with the lawmakers' purpose for enacting the legislation.³ The suggestion is that the increase in animal welfare laws had an ulterior motive and were put in place as an attempt to help mask the horrendous social injustices being committed by Nazi Germany.⁴ This paper will examine the animal laws that were used in Germany under Nazi control, animal laws used elsewhere during the same time-period, and evaluate how these laws led to the current animal protection laws used today.

¹ Associate Nuremberg Editor; Rutgers Journal of Law and Religion; Juris Doctorate Candidate May 2018. Rutgers Law School.

² Kate M. Natrass, Comment, ". . . Und Die Tiere" Constitutional Protection for Germany's Animals, 10 *Animal L.* 283, 287 (2004).

³ The name for the constitutional amendment declaring animal protection as a goal for the German Government is Staatszielbestimmung Tierschutz. Staatszielbestimmung meaning a statement of a goal or responsibility of the federal government and Tierschutzgesetz meaning Animal Protection Law. The constitutional amendments created in German law have increased so much over the years starting around the Nazi Regime that the entire 20-plus page comment by Kate M. Natrass was dedicated to the subject. *Id.* at 285.

⁴ It's hard to determine the exact motive of the enacted laws but there is no denying that there was an increase in the numbers of animal protection laws from the start of Nazi control until the present. It is likely that the motives for the increase was a combination of all the different suggestions provided, including compassion for the animals and a way to advance a social agenda and try to mask what else was going on with the Holocaust.

⁵ *Id.* at 286-87. Suggesting the Nazis were aware that animal protection was a way to gain the popular vote and because it was a solid platform, increased at a rapid pace and became a "legitimate issue" in the 1930s.

II. HISTORY OF ANIMAL PROTECTION LAWS

Although there are many more animal laws in place now than in the past, animals are still not treated well all across the world. Humans continue to use, abuse, and torture animals:⁵ in a variety of ways. Animals are used by humans in any way to please us, disregarding the effect on the animals. This is true of more than just the culinary and agriculture industries and also includes entertainment, transportation, scientific experimentations, and much more.⁶ Animals are often kept in captivity for human entertainment in the form of the circus, zoo, and killer whale exhibits.⁷ Additionally, as many as 115 to 127 million animals are used annually in experiments that use cruelty and torture to complete.⁸ There are plenty of people making significant lifestyle changes to address the human relationship towards animals but it is a slow-moving change and one that relatively little has happened over the past 4,000 years.⁹

In the changes to animal laws that have been made over the years, the true purpose and motivations of creating the laws have been for different reasons; older laws were primarily incentivized by economic and religious reasons and more recently, the changes have started to focus on human social changes and beliefs.¹⁰ The motivations for change are different in every instance and usually involve multiple factors, but the most prevalent reasons continue to be religious, economic, social, animal protection, and scientific

⁵ Thomas G. Kelch, Article, A Short History Of (Mostly) Western Animal Law: Part I, 19 Animal L. 23, 25 (2012).

⁶ Id. Many of these examples of ways that animals are "used and abused" are activities that humans are involved with every day and may have no intentions of being cruel to animals. Many take the "out of sight, out of mind" approach or do not take the time to think about the entire process that is involved for something to be completed. The spread of technology is also helping to spread knowledge on the subject as there have been more and more documentaries over the recent years about how animals are treated in different industries, especially the culinary industry.

⁷ Id. at 25-26.

⁸ Id.

⁹ Id. at 25. There may not be animals being used as they were in the Roman Coliseum but there are still national stories about dog fighting rings, kill shelters, and animals being "put down" after they were injured in an athletic competition. There have been many changes and there will continue to be more over the next few years, but in the grand scheme of things, little has been done over the 4,000-year period as suggested in this article.

¹⁰ Thomas G. Kelch, Article, A Short History Of (Mostly) Western Animal Law: Part II, 19 Animal L. 347, 348 (2013).

animal welfare.¹¹ Just because a change has been made to animal law does not mean that animal welfare is improving, and some argue that it continues to get worse.¹² In many cases, the law is created to benefit humans at the detriment of the animals involved.¹³

Animals have been around since the beginning of time, and the exact way they have been treated by humans and the specific laws in place has varied depending on the time-period (i.e. beginning of the universe, medieval period, renaissance and enlightenment, etc.) and the location.¹⁴

III. NAZI GERMANY ANIMAL LAWS AND EFFECT ON OTHER COUNTRIES

One specific location and time-period that saw the adoption of strict animal-protection laws was Nazi Germany.¹⁵ During the period of Nazi control in Germany, humanitarian rights were stripped from humans and millions of people were murdered.¹⁶ During the same time, a paradox occurred and animal-protection was increased to focus on animal welfare.¹⁷ The motive behind the German animal laws during this time is debated, but no matter what the actual purpose was, these laws had a lasting impact on how animals have been treated ever since.¹⁸

¹¹ A Short History Of (Mostly) Western Animal Law: Part I, *supra*, at 27.

¹² *Id.* This author defines this period as a "science of animal welfare" because we are currently moving towards a time where we are defining the direction of human regulation of animal use.

¹³ *Id.* at 25.

¹⁴ *Id.* at 26. Not an exact measure but for this purpose the years were broken down to Ancient- Beginning of universe to 600 C.E., Medieval ´ 600 to 1500 C.E., Renaissance and Enlightenment ´ 1500 to 1800 C.E., Recent Modern ´ 1800-1970, and Modern ´ 1970 ´ present.

¹⁵ A Short History Of (Mostly) Western Animal Law: Part II, *supra*, at 363.

¹⁶ Holocaust Encyclopedia, Introduction to the Holocaust, UNITED STATES HOLOCAUST MEMORIAL MUSEUM, www.ushmm.org/wlc/en/article.php?ModuleId=10005143 (last visited October 13, 2017). Along with the people that were murdered, there were so many families that were displaced from loved ones and had to endure years of suffering in concentration camps.

¹⁷ A Short History Of (Mostly) Western Animal Law: Part II, *supra*, at 363. The question is posed multiple times throughout this paper but it is the essential question that is so puzzling, how were the Nazis willing to protect animals and not humans? Although this question is so puzzling, many people may pose the same questions to many humans that are cruel to animals by stating, how are you willing to kill innocent animals?

¹⁸ A Short History Of (Mostly) Western Animal Law: Part II, *supra*, at 364-65.

Germany's animal protection laws existed well before Nazi control, and the first formal law for animal protection came shortly after England passed an anti-cruelty statute in 1838, known as Martin's Law.¹⁹ Both Martin's Law and the German law that closely followed were created due to a view that humankind is the most important element of existence, and witnessing animal abuse would be *imprudent and unseemly*.²⁰ Remaining consistent with that view, the German's first national law in 1871 made it punishable when someone *publicly or offensively beats or plainly mishandles an animal*.²¹ This provides evidence that the motive behind this law was not to protect animal well-being, but was concerned with humankind having to witness this behavior. The original animal laws were reserved for animals that were *usuallie [sic] kept for man's use*.²² This supports the position that the purpose of animal protection law was actually to protect human property rather than animal welfare.²³

In 1933 and 1934, the German government passed animal-protection legislation.²⁴ A year later, in 1935, the German government continued this trend and expanded protections for plants and animals, nature monuments, and national parks.²⁵ Also during the twentieth century, other countries, such as the United States and Britain, were passing stricter animal-protection laws.²⁶ The United States enacted the Humane Slaughter Act of 1958, which focused on the animals themselves and issues about human health or moral salvation.²⁷

¹⁹ Natrass, *supra*, at 286. Martin's Law was the first animal protection law in England and was one of the first ones followed by many others around the world. This law reflected the humane attitudes that were developing and spreading throughout all of Europe.

²⁰ *Id.* The reason for the law was to protect the humans from having to see the behavior, not because it was not fair to the animals to have to experience the behavior.

²¹ *Id.* In line with the previous sentence and note, this was only punishable when it was "in public." There was no prohibition against the cruel and violent behavior towards animals when you were in private. Good indication that the animals themselves were not a concern.

²² A Short History Of (Mostly) Western Animal Law: Part II, *supra* note 5, at 350.

²³ *Id.*

²⁴ *Id.* at 363. This law originated in 1920 but took another 13 years to become enacted.

²⁵ Bradley C. Bobertz, Of Nature and Nazis, 22 *Colum. J. Env'tl. L.* 353, 353 (1997) (reviewing Luc Ferry, *The New Ecological Order* (1995)).

²⁶ A Short History Of (Mostly) Western Animal Law: Part II, *supra*, at 363.

²⁷ *Id.* This is the idea that many believe as the true animal protection laws. There were many laws enacted throughout history, like Martin's law, but many of

In a book written by Luc Ferry, the author describes the mindset of the Nazis that led to stricter animal and environmental laws stating that, "Nazi ecology essentially preestablishes a link between the aesthetics of sentiment and what would later become the central theme of deep ecology: the idea that the natural world is worthy of respect in and of itself, independent of all human considerations."²⁸ This is similar to, and actually predates, the United States reasoning for enacting the Humane Slaughter Act of 1958. Prior to this mindset, majority of animal laws had some motive or purpose that benefited humans.²⁹ In a book review of Ferry's *Of Nature and Nazis*, not only is it suggested that the Nazis enacted laws to protect the welfare of animals, it goes on to state under the Nazi Animal Protection Law, "for the first time in history, the animal, as a natural being, is protected in its own right, and not with respect to men."³⁰

The paradoxical question that arises and which no good answer is available is, why would Nazi Germany put such an emphasis on the proper treatment of animals while at the same time hold such a negative view on the value of certain human races? That question becomes even more puzzling when considering the many quotes and rumors from the leaders of the Nazi party who were responsible for the murders of so many humans.³¹ Heinrich Himmler once asked his doctor, who was a hunter, "How can you find pleasure, Herr Kerstein, in shooting from behind at poor creatures browsing on the edge of a wood...It is really murder."³² Hermann Gøring announced he would "commit

these were done for some type of human benefit. That even includes that humans should not have had to witness such offensive behavior as an animal being beat in public, rather than stopping the abusive behavior because it was cruel to the animal and the right thing to do.

²⁸ Bobertz, *supra*, at 385.

²⁹ A Short History Of (Mostly) Western Animal Law: Part I, *supra* at 27.

³⁰ Bobertz, *supra*, at 386 n.134.

³¹ Many of the rumors surrounding the leaders of the Nazi party were that they were pro-animal rights and had a soft spot for all animals.

³² Hal Herzog, Was Hitler a Vegetarian? The Paradox of the Nazi Animal Protection Movement, *PSYCHOLOGY TODAY*. <https://www.psychologytoday.com/blog/animals-and-us/201111/was-hitler-vegetarian-the-paradox-the-nazi-animal-protection-movement> (last visited October 12, 2017). This is Himmler questioning how a hunter could commit murder when the Nazis were murdering millions of humans. The mindset of humans and animals has always been very confusing and the mindsets remain vastly different today.

to concentration camps those who still think they can treat animals as property."³³

The 1933 and 1934 animal-protection legislation passed by the German government included provisions that made needlessly tormenting an animal a crime, punishable by fines and prison sentences up to two-and-a-half-years.³⁴ For example, these provisions included the prohibition of slaughtering of animals without anesthesia or stunning, and banning the use of dogs in hunting chase.³⁵ Although all of these provisions seem to be strictly for the good of the animals, Jews that adhered to kosher practices would be in violation of the new animal slaughter rule and the provision was added as another reason to persecute Jews.³⁶ The law effectively banned the kosher slaughter of animals and provided a strong penalty for any violation.³⁷ Although some suggest these laws were the first that protected the animal itself, others make a strong argument that the Nazis were using animal laws to promote their own unethical social agenda.³⁸

The reasons behind the German's 1933 and 1934 animal-protection laws came at a high cost to many Jewish people, but it also created the foundation for some much needed laws that protected the animals without regard to human benefit.³⁹ Because

³³ Id. This would be considered a large stretch for today's standards because keeping an animal as property would be the same as domesticating one for a pet. Getting locked in a concentration camp for having a pet is extreme but this was the belief that some of the top officials were said to have about their desires for animals to be absolutely free and treated well. This is also interesting because it seems to be a contradiction to Hitler who had a pet dog for some years.

³⁴ A Short History Of (Mostly) Western Animal Law: Part II, *supra*, at 363-64. There was also the punishment of being placed in a concentration camp for similar violations. It is also likely that during this time, a lot of punishments and fines were not properly recorded and there could have been many more violators of these laws compared to what is expected.

³⁵ Id. The ban of slaughtering animals without stunning or anesthesia was put in place to disrupt Kosher practices. Although there was no exact explanation for the motive of banning hunting dogs, one could venture a guess that it was to take away pleasure, jobs, or the likelihood of receiving food.

³⁶ Id.

³⁷ Natrass, *supra* note 2, at 286.

³⁸ Id. Compare this with Ferry's ideas that proceed. There is some evidence that the animal laws in Nazi Germany were the first of its kind to create animal-protection laws for the good of the animals, but after hearing that the laws were made to punish Kosher eaters changes that mindset. At the end of WWII, Kosher slaughter laws were put back into place and there was no more punishment for this practice.

³⁹ Id. at 286-87. The laws were still being passed to protect animal welfare. It would be a nice thought to think that it was done for the animal's benefits and not the good of mankind, but the laws were needed regardless.

the Nazis realized that they could push animal protection as a platform to win over the popular approval, the German people experienced a widespread acceptance of animal-protection laws as being an actual main concern in the 1930s.⁴⁰ This attitude led to an article being published that claimed animals enjoyed the same protection as a member of the German community.⁴¹ No matter what the actual motive was behind the initial animal-protection laws, the view of animals as a member of the German community remained unchanged, and strong protection carried over past the Nazis control and into the new Federal Republic of Germany in 1949.⁴² Post World War II and Nazi Germany has continued to see trends in the right direction for animal laws and in the 1950s and 1960s there were more amendments to the Animal Protection Law, or *Tierschutzgesetz*, as defined above.⁴³ The focus shifted in Germany and the laws "evolved from a set of restrictions into a law centered on regulation and control of permissible activities."⁴⁴

Before, humans suffered as a result of strengthened animal laws, but it is hopeful that this time around, changes are made that "protect[s] environmental values without rejecting human ones."⁴⁵ This is a real possibility moving forward especially considering that there has been a visible positive attitude towards animals in the German society and a 2002 study was released stating over 80% of German citizens have supported the addition of animal protection to the national constitution.⁴⁶ The support of animal protection is likely to continue to grow in Germany and has been more than just giving approval for a survey. Increased participation in proactive

⁴⁰ *Id.*

⁴¹ *Id.* at 287.

⁴² *Id.*

⁴³ Nattrass, *supra*, at 287. There were so many changes that eventually the old Animal Protection Law was rescinded and replaced with a completely new law.

⁴⁴ *Id.* This was another word for the constitutional amendments that were created for the protection of animals.

⁴⁵ Bobertz, *supra*, at 354. This is taking the same view and hoping that what happened in Nazi Germany does not need to happen again to see a large increase in the animal protection laws, or in this specific example environmental laws. There, humans suffered so much that the government enacted the laws to mask the problems. This quote raises awareness to that problem and is addressing the possibility that next time around, changes can be made without such a harm to humans. This is exactly the point that most people would agree with, but many might find the irony because it is what humans have been doing to animals for so long. Humans have been holding back on establishing animal rights if humans gained some sort of benefit in return, despite whatever toll it took on the animals.

⁴⁶ Nattrass, *supra*, at 287. This study was a German government press release and was calculating the support since 1993. It is expected that this number has raised to greater than 80% since the time of the study.

organizations and the presence of pro-animal rights groups has spread into almost every German city and political organization.⁴⁷ There are also signs of humans and animals beginning to work together and each receiving a benefit from the other, rather than the humans old use of the animals for strictly science or labor.⁴⁸ There still needs to be caution moving forward and as Ferry argues, the Nazis environmental laws were used to glorify ethnicity and nationalism and not trees and ecosystems.⁴⁹ Ferry goes into details about how the Nazi ideology of the "superior type of people" and natural selection are alike to their ideas of environmental laws.⁵⁰ Essentially, his argument and warning stems from the idea that the Nazis felt like the "superior human" needed to be protected and held above the rest and that is where the course of animal protection laws and nature laws could be taking us if we provide too much protection.⁵¹

V. CONCLUSION

Stronger animal-protection laws would be hard to ever classify as a bad result. No matter what the actual motive was behind the heavy increase of animal-protection legislation under Nazi Germany, the animals are still benefiting from the results to this day. During what most people would consider one of the worst time-periods in human history because of the millions of innocent lives taken and the unmeasurable social injustices faced, animals started to be considered part of the communities. There is still a long way to go before animals are treated as well as they should be and the reason is not somehow related to the benefit of the human race. Despite the unfortunate cause of the rise of animal-protection

⁴⁷ Id. This goes to support the last point made that the numbers are likely to continue to grow in support of animal protection and the number of laws enacted. With high numbers of actual participants in organizations, it is likely to keep the pressure on the lawmakers to make actual changes for the benefit of animals.

⁴⁸ Id. Animals are being used for therapy and there is a rise in centers dedicated on working for human-animal relations.

⁴⁹ Bobertz, *supra*, at 359. He is using the same idea for nature as applied to animals. He goes back and forth throughout his book on nature and animals and generally is including the animals in his overall discussion of the ecosystem. He is warning against getting caught up in the distraction of wishing so much for the perfect nature scene and criticizing everything that we have now that it will create a "perfect" to try to achieve as seen in Nazi Germany.

⁵⁰ Id.

⁵¹ Id. This is a difficult idea to wrap your head around and it seems like a big stretch, but it is a good contrast to every other idea that the more animal protection and nature laws the better.

laws in Germany, it appears they are here to stay and continue to grow into some of the most animal-friendly laws worldwide.