

ADVANCING ANIMAL RIGHTS THROUGH  
EDUCATION IN EASTERN RELIGIOUS PHILOSOPHY

CYNTHIA HODGES, M.A.

INTRODUCTION .....	1
I. CURRENT VIEW: ANIMALS ARE PROPERTY WITHOUT RIGHTS .....	3
A. Case Law .....	4
1. Tort Damages .....	4
2. Contracts .....	6
a. Bailments .....	6
b. Marital Property .....	7
B. Legislation: Cruelty Statutes .....	7
II. CHANGING VIEWS: EDUCATION IN EASTERN RELIGIOUS PHILOSOPHY .....	9
A. Legal Shift: Animals Are Not Mere Property .....	9
1. Some Courts Recognize Animals Are Not Mere Property .....	9
a. Tort Damages: Emotional Distress and Loss of Companionship .....	11
b. Custody Disputes: Best Interest of Animal Considered .....	13
2. Legislation Recognizing Animals Are Not Mere Property .....	14
B. Changing Public Views by Education in Eastern Religious Philosophy .....	16
C. Eastern Religious Beliefs that Further an Animal Rights Agenda .....	19
1. The Sanctity of All Life .....	19
2. <i>Ahimsa</i> : To Do No Harm as a Moral Ideal .....	22
a. Animals Should Not Be Killed .....	24
b. Animals Should Not Be Eaten .....	25
3. <i>Karma</i> : Facing the Consequences of One’s Actions .....	26
4. Reincarnation: the Soul’s Eternal Journey .....	28
CONCLUSION .....	31

INTRODUCTION

Abraham Lincoln allegedly declared, “I am in favour of animal rights as well as human rights. That is the way of the whole human being.”<sup>1</sup> Unfortunately, current United States law denies animals any legal rights<sup>2</sup> because they are considered to be personal

---

<sup>1</sup> Stephanie J. Engelsman, “*World Leader*” -- *At What Price? A Look at Lagging American Animal Protection Laws*, 22 Pace Env'tl. L. Rev. 329, 329 (2005).

<sup>2</sup> Thomas G. Kelch, *Toward a Non-Property Status for Animals*, 6 N.Y.U. Env'tl. L.J. 531, 532 (1998).

property.<sup>3</sup> Therefore, to further an animal rights agenda, it is necessary to abolish animals' status as property.<sup>4</sup> This will require a shift in societal attitudes towards animals, because even the most basic legal rights will not be recognized by a society that views them as being inherently inferior.<sup>5</sup> Encouraging signs of a shift in legal attitude towards animals can be detected in that some courts and legislatures are beginning to recognize that animals are more than property. To further this legal trend of viewing animals as being more than property and towards viewing them as beings entitled to basic legal rights, it is necessary to change popular Western notions that animals are inferior property. Educating the public in Eastern religious philosophy, many tenets of which support an animal rights agenda, could serve to change popular views towards animals, and thereby help change animals' legal status. Eastern religions such as Hinduism support the idea that animals are entitled to basic legal rights in that they teach that all of nature is sacred,<sup>6</sup> and that animals have souls, just as humans do.<sup>7</sup> Therefore, animals have the right to be treated kindly and not be killed or eaten. A person who harms an animal will face karmic consequences, the effects of which may extend into subsequent incarnations.

This paper argues that animals should not be viewed as property, but rather as beings entitled to basic, fundamental rights, such as the right to live. To gain popular acceptance of this notion, current views must be changed through education. Exposure to Eastern religious philosophy, which sees all life as equal regardless of whether it is

---

<sup>3</sup> Fackler v. Genetzky, 257 Neb. 130, 139 (Neb. 1999).

<sup>4</sup> Robert Garner, *Political Ideology and the Legal Status of Animals*, 8 Animal L. 77, 78 (2002).

<sup>5</sup> Steven M. Wise, *The Legal Thinghood of Nonhuman Animals*, 23 B.C. Env'tl. Aff. L. Rev. 471, 543 (1996).

<sup>6</sup> Linda Johnson, *The Complete Idiot's Guide to Hinduism* 154 (Alpha Books 2002).

<sup>7</sup> See His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization* 140 (Bhaktivedanta Book Trust 1998) (1968).

human or animal, could form a part of this education. Part I of this paper sets out the current law in the United States, which classifies animals as property. It discusses this view in several legal contexts, such as torts, contracts, and legislation. Part II gives examples of how courts and legislatures are beginning to recognize that animals are more than property. It then argues that a basis for animal rights exists in Eastern religious philosophy, which could be used as a catalyst for change in United States law through education in its philosophy. Part II concludes with a discussion of the various elements of Eastern religion that support an animal rights agenda.

## I. CURRENT VIEW: ANIMALS ARE PROPERTY WITHOUT RIGHTS

Nonhuman animals are legally property in all fifty states,<sup>8</sup> the general rule being that they are personal property.<sup>9</sup> The common law view is that animals are property without rights.<sup>10</sup> For example, the “legal system views a chimpanzee and a chair as essentially the same.<sup>11</sup> Both are property; the law does not treat the chimpanzee as an individual who is capable of feeling pain or expressing thoughts.”<sup>12</sup> “The qualified exception to this statement is that state anti-cruelty laws are premised on the assumption that animals can feel pain and should be protected from unnecessary pain.”<sup>13</sup>

---

<sup>8</sup> Sonia S. Waisman, Pamela D. Frasch, & Bruce A. Wagman, *Animal Law: Cases and Materials* 63 (Carolina Academic Press) (3d ed. 2006).

<sup>9</sup> *Fackler*, 257 Neb. at 139.

<sup>10</sup> Thomas G. Kelch, *Toward a Non-Property Status for Animals*, 6 N.Y.U. Envtl. L.J. at 532.

<sup>11</sup> Waisman, *supra* at 692.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

## A. Case Law

### 1. Tort Damages

“As with personal property generally, the measure of damages for injury to, or destruction of, an animal is the amount which will compensate the owner for the loss and thus return him, monetarily, to the status he was in before the loss.”<sup>14</sup> This will usually amount to the fair market value of the animal.<sup>15</sup> *Heiligmann v. Rose*, 81 Tex. 222 (1891), which remains the law today,<sup>16</sup> stands for the principle that dogs are classified as personal property for damage purposes.<sup>17</sup> The opinion states that “dogs are property, and that an owner has his action and remedy against a trespasser for the damages resulting from injuries inflicted upon them.”<sup>18</sup>

The classification of pets as property means that types of damages available do not adequately address the injuries suffered by pets and their owners.<sup>19</sup> “In most jurisdictions, pet owners cannot recover for their emotional distress from the injury or death of their pet”<sup>20</sup> because damages for emotional distress are not allowed for the destruction or injury to personal property.<sup>21</sup> Neither can a pet owner recover for the mental and emotional distress suffered by the pet as a result of negligence.<sup>22</sup>

A number of cases illustrate the difficulties animal owners face when trying to recover non-economic damages. In *Johnson v. Douglas*, 723 N.Y.S.2d 627 (2001), the

---

<sup>14</sup> *Snyder v. Bio-Lab, Inc.*, 94 Misc. 2d 816, 818 (N.Y. Misc. 1978).

<sup>15</sup> Katie J. L. Scott, *Bailment and Veterinary Malpractice: Doctrinal Exclusivity, or Not?* 55 *Hastings L.J.* 1009, 1012-13 (2004).

<sup>16</sup> *Waisman, supra* at 122.

<sup>17</sup> *Id.*

<sup>18</sup> *Heiligmann*, 81 Tex. at 225.

<sup>19</sup> *Scott, supra* at 1015.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

court would not allow recovery for emotional distress due to negligent or malicious destruction of a dog, because the dog was merely personal property.

In *Gluckman v. American Airlines*, 844 F. Supp. 151 (D.N.Y. 1994), a dog died while being transported on a plane. The court did not allow damages for negligent or intentional infliction of emotional distress or for loss of companionship because the law did not recognize an action for emotional distress caused by the suffering of an animal or loss of companionship of a pet.<sup>23</sup> Pets are considered property and “New York law does not permit recovery for mental suffering and emotional disturbance as an element of damages for loss of a passenger’s property.”<sup>24</sup>

In *Fackler v. Genetzky*, 257 Neb. 130 (1999), horse owners could not recover for emotional damages after a veterinarian administered injections that killed the horses. This was because animals are personal property and emotional damages cannot be awarded for the negligent destruction of personal property.<sup>25</sup>

Similarly, in *Oberschlake v. Veterinary Assocs. Animal Hosp.*, 151 Ohio App. 3d 741 (Ohio Ct. App. 2003), the owners of a dog sought non-economic damages for injury to the dog resulting from veterinary malpractice. The appellate court found that dogs were personal property and that the damages were properly limited to costs connected to the improper surgery, and did not include emotional distress or the pain and suffering of either the dog or the owners.<sup>26</sup>

---

<sup>23</sup> *Gluckman*, 844 F. Supp. 151.

<sup>24</sup> *Id.* at 157.

<sup>25</sup> *Fackler*, 257 Neb. at 140.

<sup>26</sup> *Oberschlake*, 151 Ohio App. 3d 741.

## 2. Contracts

### a. Bailments

The context of bailments also illustrates animals' legal status as property. A bailment, which can only exist for personal property,<sup>27</sup> "is a legal relationship 'created by the delivery of personal property by one person to another in trust for a specific purpose, pursuant to an express or implied contract to fulfill that trust.'"<sup>28</sup> If the bailee (person receiving the property) must only care for the bailed property, such as boarding an animal in a kennel, the bailee is under a duty to use ordinary diligence in providing that care and would be liable for ordinary neglect.<sup>29</sup> The standard of ordinary diligence, or reasonable care, is best described as the same level of care that a person would provide to their own property under similar circumstances.<sup>30</sup> This standard of care applies to animals, as they are regarded as property.

The property status of a horse is illustrated in *David v. Lose*, 7 Ohio St. 2d 97 (1966), in which a breeding mare had to be destroyed after injuring herself at the bailees' breeding farm. The mare's owner was entitled to economic damages because the bailees did not meet their burden of establishing a legal excuse for breaching their bailment contract with the bailor (owner) when they failed to return the mare (bailed property) undamaged.<sup>31</sup>

---

<sup>27</sup> Scott, *supra* at 1017.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 1018.

<sup>30</sup> *Id.*

<sup>31</sup> *David*, 7 Ohio St. 2d 97.

## b. Marital Property

Most courts consider animals to be personal property in divorce proceedings. The courts do not usually consider the best interests of the pet when awarding custody of the pet.

In *Bennett v. Bennett*, 655 So. 2d 109 (Fla. 1<sup>st</sup> DCA 1995), the court reversed a judgment that awarded custody of the parties' dog to the husband and visitation rights to the wife. This was because animals are personal property under Florida law, and the trial court lacked authority to order visitation with personal property.<sup>32</sup>

In *Arrington v. Arrington*, 613 S.W.2d 565 (Tex. App. 1981), the court affirmed the judgment that made appellee managing conservator of the couple's dog. A dog is personal property and courts have a wide discretion in making a division of community and separate property.<sup>33</sup>

In *In re Marriage of Stewart*, 356 N.W.2d 611 (Iowa Ct. App. 1984), the wife appealed a judgment awarding the dog to her ex-husband. The court affirmed, saying a dog is personal property, and while a family pet should not be put in a position of being abused or neglected, its best interests do not have to be considered.<sup>34</sup>

## B. Legislation: Cruelty Statutes

Every state has an animal anti-cruelty statute which provides the principal legal protection for animals,<sup>35</sup> but these laws do not afford animals legal rights<sup>36</sup> All states

---

<sup>32</sup> *Bennett*, 655 So. 2d 109.

<sup>33</sup> *Arrington*, 613 S.W.2d at 569.

<sup>34</sup> *In re Marriage of Stewart*, 356 N.W.2d at 613.

<sup>35</sup> Waisman, *supra* at 472.

<sup>36</sup> *Id.*

prohibit cruelty to companion animals,<sup>37</sup> but a majority of jurisdictions limit “cruelty” to unnecessarily causing suffering to an animal, or the failure to provide food, water, and shelter.<sup>38</sup> Animal protection laws protect only a minor percentage of the animals exploited by society and industry.<sup>39</sup> “Most anti-cruelty laws...exempt animals raised for food or used in research and testing.”<sup>40</sup>

An example of an anti-cruelty statute is Texas Penal Code § 42.09. This statute makes it an offense to kill, injure, seriously injure, or administer poison to an animal, but only if the animal belongs to someone else and the person lacks legal authority or the owner’s consent.<sup>41</sup> Cattle, horses, sheep, swine, and goats are excluded from this protection.<sup>42</sup> In addition, “it is a defense to prosecution under this section that the actor was engaged in bona fide experimentation for scientific research.”<sup>43</sup>

The Texas Penal Code, therefore, makes it an offense for someone to kill another person’s animal, but not for the owner to kill his own animal. Animal owners have property rights in their animals under this statute. Animals do not have any rights of their own.

---

<sup>37</sup> Phyllis Coleman, *Man’s Best Friend Does Not Live By Bread Alone: Imposing a Duty to Provide Veterinary Care*, 12 *Animal L.* 7, 8 (2005).

<sup>38</sup> *Id.*

<sup>39</sup> Engelsman, *supra* at 329.

<sup>40</sup> Waisman, *supra* at 692.

<sup>41</sup> Tex. Penal Code § 42.09 (2006).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

## II. CHANGING VIEWS: EDUCATION IN EASTERN RELIGIOUS PHILOSOPHY

### A. Legal Shift: Animals Are Not Mere Property

#### 1. Some Courts Recognize Animals are Not Mere Property

While historically pets were considered property, a growing number of advocates insist that an animal is much different from an inanimate object.<sup>44</sup> In fact, “modern courts have recognized that pets generally do not fit neatly within traditional property law principles”<sup>45</sup> and have struggled with the notion that nonhumans are property.<sup>46</sup> Courts feel bound by precedent which explicitly classifies animals as personal property,<sup>47</sup> but at the same time, “courts must fashion and apply rules that recognize their [the animals’] unique status...”<sup>48</sup>

An example of this conflict between the old, established rule and the changing attitude towards animals is Judge Sabraw’s dissent in *Katsaris v. Cook*, 180 Cal. App. 3d 256 (Cal. Ct. App. 1986) (livestock owners had a qualified privilege to kill dogs trespassing on their property), in which the judge wrote:

Today we speak of but the killing of two dogs -- perhaps not a thing of great moment to some -- but to others the loss of a dog leaves memories of loyalty and devotion seldom equaled in any other relationship... We are called upon to interpret statutes which authorize one man to kill another man’s dog. We know that in any civilized society, the authority to kill any living being must be viewed with the greatest of caution. I submit under today’s rules we condone the killing of a dog only as a last resort. We have come a long way from the old common law concept of a dog not even being considered property. Not only is he more than property today, he is the subject of sonnets, the object of song, the symbol of loyalty. Indeed, he is man’s best friend.<sup>49</sup>

---

<sup>44</sup> Coleman, *supra* at 11.

<sup>45</sup> Morgan v. Kroupa, 167 Vt. 99, 103 (1997).

<sup>46</sup> Waisman, *supra* at 63.

<sup>47</sup> Scott, *supra* at 1016.

<sup>48</sup> Morgan, 167 Vt. at 103.

<sup>49</sup> Katsaris, 180 Cal. App. 3d at 269-70.

Another example of this conflict can be seen in *Bueckner v. Hamel*, 886 S.W.2d 368 (Tex. Ct. App. 1994) (plaintiff awarded actual and punitive damages after a hunter killed his dogs), in which Justice Andell notably wrote:

Because of the characteristics of animals in general and of domestic pets in particular, I consider them to belong to a unique category of “property” that neither statutory law nor caselaw has yet recognized.

Many people who love and admire dogs as family members do so because of the traits that dogs often embody. These represent some of the best of human traits, including loyalty, trust, courage, playfulness, and love. This cannot be said of inanimate property.

Scientific research has provided a wealth of understanding to us that we cannot rightly ignore. We now know that mammals share with us a great many emotive and cognitive characteristics, and that the higher primates are very similar to humans neurologically and genetically. It is not simplistic, ill-informed sentiment that has led our society to observe with compassion the occasionally televised plights of stranded whales and dolphins. It is, on the contrary, a recognition of a kinship that reaches across species boundaries.

The law must be informed by evolving knowledge and attitudes. Otherwise, it risks becoming irrelevant as a means of resolving conflicts. Society has long since moved beyond the untenable Cartesian view that animals are unfeeling automatons and, hence, mere property. The law should reflect society’s recognition that animals are sentient and emotive beings that are capable of providing companionship to the humans with whom they live. In doing so, courts should not hesitate to acknowledge that a great number of people in this country today treat their pets as family members. Indeed, for many people, pets are the only family members they have.

Losing a beloved pet is not the same as losing an inanimate object, however cherished it may be. Even an heirloom of great sentimental value, if lost, does not constitute a loss comparable to that of a living being. This distinction applies even though the deceased living being is a nonhuman.<sup>50</sup>

This shift in attitude away from viewing animals as property is a necessary first step towards a legal recognition of animals having rights.

---

<sup>50</sup> *Bueckner*, 886 S.W.2d at 377-78.

a. Tort Damages: Emotional Distress and Loss of Companionship

Courts struggle with the reality that there is an emotional injury rather than an economic, or property-type, loss when a pet is injured or killed.<sup>51</sup> They recognize that people “share enduring, intense, and deeply emotional relationships with their companion animals.”<sup>52</sup> Therefore, courts have begun to expand recovery for pet owners to include damages for emotional distress and loss of companionship, recognizing the relationship is not merely one of property and owner. Several cases illustrate this trend.

In *City of Garland v. White*, 368 S.W.2d 12 (Tex. Civ. App. 1963), a Texas Court awarded mental anguish damages where a police officer fatally shot a pet dog.<sup>53</sup>

In *La Porte v. Associated Independents, Inc.*, 163 So. 2d 267 (Fla. 1964), a dog owner was entitled to recover damages for mental distress, which arose from the malicious destruction of her dog by respondent’s employee, because the affection of a dog owner for her dog was a very real thing and was a proper element of damages.<sup>54</sup>

The court in *Corso v. Crawford Dog and Cat Hospital, Inc.*, 415 N.Y.S.2d 182 (1979) allowed damages for the negligent disposal of a dog’s body. It stated that “a pet is not just a thing but occupies a special place somewhere in between a person and a piece of personal property... To say it [a dog] is a piece of personal property and no more is a repudiation of our humaneness.”<sup>55</sup>

In *Banaszek v. Kowalski*, 10 Pa. D. & C. 3d 94 (Luzerne Cty. 1979), the court allowed recovery for emotional distress after defendant intentionally shot two of

---

<sup>51</sup> Scott, *supra* at 1016.

<sup>52</sup> Coleman, *supra* at 9.

<sup>53</sup> Waisman, *supra* at 123.

<sup>54</sup> *La Porte*, 163 So. 2d 267.

<sup>55</sup> *Corso*, 415 N.Y.S.2d at 531.

plaintiff's dogs, stating "we think [it is] the more enlightened view to allow recovery for emotional distress in the instance of malicious destruction of a pet."<sup>56</sup>

In *Brousseau v. Rosenthal*, 443 N.Y.S.2d 285 (1980), a dog owner could recover damages for loss of companionship for the negligent death of her dog while at a veterinarian's kennel. "[T]he court must consider [loss of companionship] as an element of the dog's actual value to this owner."<sup>57</sup>

In *Campbell v. Animal Quarantine Station*, 632 P.2d 1066 (1981), the owners of a dog were allowed to recover for emotional distress after its negligent death, albeit under a theory of negligent destruction of property.

In *Brock v. Rowe*, Civil Case No. C002535CV (Or. Cir. Ct., Washington County, filed Oct. 2000), a neighbor killed the plaintiff's dogs. The judge recognized the new tort under Oregon law of loss of companionship in a pet.<sup>58</sup>

The court in *Rabideau v. City of Racine*, 2001 WI 57 (Wis. 2001) allowed a complaint for damages for intentional infliction of emotional distress when a dog owner witnessed a police officer shoot her dog. The court was "uncomfortable with the law's cold characterization of a dog... as mere 'property.'"<sup>59</sup> It explained that a "companion dog is not a fungible item, equivalent to other items of personal property... This term inadequately and inaccurately describes the relationship between a human and a dog."<sup>60</sup>

The Third Circuit Court of Appeals allowed a claim of emotional distress in *Brown v. Muhlenberg Township*, 269 F.3d 205 (3d Cir. 2001) where a police officer shot and killed plaintiff's dogs.

---

<sup>56</sup> Waisman, *supra* at 119.

<sup>57</sup> *Brousseau*, 443 N.Y.S.2d at 1056.

<sup>58</sup> Waisman, *supra* at 117.

<sup>59</sup> *Rabideau*, 2001 WI 57 at P3.

<sup>60</sup> *Id.*

In *Burgess v. Taylor*, 44 S.W.3d 806 (Ky. Ct. App. 2001), a horse owner was awarded emotional distress damages for the wrongful conversion and slaughter of her pet horses.

In *McAdams v. Faulk*, 2002 Ark. App. LEXIS 258 (Ark. Ct. App. 2002), a pet owner sought damages for her dog's death against a veterinarian for malpractice and negligence. The court held that “[d]amages on a negligence claim are not limited to economic loss damages, and include compensation for mental anguish.”<sup>61</sup>

Most recently, a Washington appellate court announced in *Womack v. Rardon*, 133 Wn. App. 254 (Wash. Ct. App. 2006) “a new action and remedy for malicious injury to a pet,”<sup>62</sup> which “can support a claim for, and be considered a factor in measuring, a person’s emotional distress damages.”<sup>63</sup>

#### b. Custody Disputes: Best Interest of Animal Considered

Courts are beginning to consider an animal’s best interest when deciding possession in custody disputes.<sup>64</sup> For example, in *Raymond v. Lachmann*, 264 A.D.2d 340 (N.Y.App.Div. 1999), the court considered the best interests of a cat in a dispute between former roommates. The court reasoned:

Cognizant of the cherished status accorded to pets in our society, the strong emotions engendered by disputes of this nature, and the limited ability of the courts to resolve them satisfactorily... we think it best for all concerned that...Lovey [the cat]...remain where he has lived, prospered, loved and been loved for the last four years.<sup>65</sup>

---

<sup>61</sup> *McAdams*, 2002 Ark. App. LEXIS at \*13.

<sup>62</sup> *Womack*, 133 Wn. App. at 257.

<sup>63</sup> *Id.* at 263.

<sup>64</sup> *Waisman*, *supra* at 571. *See also* *Zovko v. Gregory*, Case No. CH 97-544 (Va. Cir. Ct., Arlington Cty., Oct. 17, 1997) (case decided based on cat’s best interests).

<sup>65</sup> *Raymond*, 264 A.D.2d at 341.

## 2. Legislation Recognizing Animals Are Not Mere Property

New legislation... has begun to shift the perception that animals are property.<sup>66</sup> Indeed, the very existence of anti-cruelty laws demonstrates that animals are not just property.<sup>67</sup> For example, a person can do whatever he wants to his couch, but he faces legal consequences if he mistreats his pet.<sup>68</sup>

Legislators are beginning to change the language of anti-cruelty legislation to suggest additional legal obligations on the people with whom animals live.<sup>69</sup> For example, in July 2000, Boulder, Colorado passed an ordinance that substituted “guardians” for all references to “owners.”<sup>70</sup> Soon thereafter, two California cities, Berkeley and West Hollywood, enacted similar municipal code sections.<sup>71</sup> In 2001, Rhode Island also amended its animal statutes to state that the term “owner” also means, and is interchangeable with, the term “guardian.”<sup>72</sup>

Some state legislatures have also begun to consider methods for expanding the types and amounts of damages for injuries to people’s pets.<sup>73</sup> Some of these proposals include allowing claims for damages for loss of companionship, emotional distress, and pain and suffering of animals and/or their owners, even though these are all contradictory

---

<sup>66</sup> Coleman, *supra* at 13.

<sup>67</sup> *Id.* at 11.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> Scott, *supra* at 1028.

to a classification of animals as property.<sup>74</sup> “This increased valuation recognizes that a companion animal’s value lies beyond that of mere property.”<sup>75</sup>

The Tennessee “General Patton Act of 2003,”<sup>76</sup> first enacted in 2001, was the first state statute to give a pet owner the right to recover damages for emotional distress and loss of companionship for tortious harm to a companion animal.<sup>77</sup> The act allows up to five thousand dollars (\$5,000) in non-economic damages [i]f a person’s pet [dog or cat] is killed by an unlawful and intentional, or negligent, act.<sup>78</sup> Non-economic damages are limited to compensation for the loss of the reasonably expected society, companionship, love and affection of the pet.<sup>79</sup>

Illinois followed suit in 2002 with its more comprehensive “Humane Care for Animals Act.”<sup>80</sup> This act allows an animal owner to bring an action for damages if that animal had been subjected to an act of aggravated cruelty or torture, or had been injured or killed as a result of bad faith actions by another person.<sup>81</sup> Damages may include any expenses incurred by the owner in rectifying the effects of the cruelty, pain, and suffering of the animal, and emotional distress suffered by the owner.<sup>82</sup> In addition, the owner is also entitled to punitive or exemplary damages of between \$500 and \$25,000 for each act of abuse or neglect to which the animal was subjected.<sup>83</sup> The court may also enter any

---

<sup>74</sup> *Id.*

<sup>75</sup> Derek W. St. Pierre, *The Transition From Property to People: The Road to the Recognition of Rights for Non-Human Animals*, 9 *Hastings Women's L.J.* 255, 270 (1998).

<sup>76</sup> Tenn. Code Ann. § 44-17-403 (2006).

<sup>77</sup> Waisman, *supra* at 77.

<sup>78</sup> Tenn. Code Ann. § 44-17-403a.

<sup>79</sup> *Id.* at § 44-17-403d.

<sup>80</sup> 510 ILCS 70/16.3 (2006).

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

injunction necessary to protect animals from any further acts of abuse, neglect, or harassment.<sup>84</sup>

## B. Changing Public Views through Education in Eastern Religious Philosophy

Abolishing the property status of animals is necessary to fulfill an animal rights agenda.<sup>85</sup> “The long history of classifying animals as property of their human ‘owners’ is important because this classification underlies many of the problems faced by animal rights advocates, pet owners, and other humans who seek to protect the interests of nonhumans.”<sup>86</sup> “[A]s long as animals are property, we will face severe limitations in our ability to protect them and their interests.”<sup>87</sup> “Animals’ classification as property is usually detrimental to their interests, resulting in low damage awards and difficulty obtaining judicial relief.”<sup>88</sup> Gary Francione explains that:

[U]nder the animal welfare paradigm that currently regulates the human/animal relationship, any animal interests that are recognized will almost always be subject to being sacrificed in the face of even trivial human interests. The only way this will change is if the characterization of animals as property changes and moves closer to personhood – which is another way of saying that animals cannot have any non-basic rights until they get the basic right of not being regarded exclusively as means to human ends.<sup>89</sup>

Steven Wise complains that legal thinghood “has cumbered nonhuman animals for so long because even the most fundamental legal rights of beings will go unrecognized by a society that accepts a hierarchical cosmology in which those beings are seen as inherently inferior...”<sup>90</sup> Derek W. St. Pierre elaborates on this idea:

---

<sup>84</sup> *Id.*

<sup>85</sup> Robert Garner, *Political Ideology and the Legal Status of Animals*, 8 *Animal L.* at 78.

<sup>86</sup> Scott, *supra* at 1011.

<sup>87</sup> Waisman, *supra* at 692.

<sup>88</sup> Scott, *supra* at 1009.

<sup>89</sup> Waisman, *supra* at 118-19.

<sup>90</sup> Steven M. Wise, *The Legal Thinghood of Nonhuman Animals*, 23 *B.C. Env'tl. Aff. L. Rev.* at 543.

Historically, Western culture has understood the universe as a linear hierarchical ascendancy. This concept, known as the Great Chain of Being, is one of the most powerful presuppositions in Western thought. The Great Chain of Being is the idea that there is a natural hierarchy, in essence a ladder, which designates a place for everything. Location on the ladder is ordained by a designed and ordered universe. Plants occupy the lower rungs, non-human animals are further up the ladder, humans are even higher up and the upper rungs are occupied by angelic forms with God atop the whole.

The Great Chain of Being has been central to the development of thought in Western systems; specifically, two reasons are given as the justification for the legal status of animals as property. The first has a theological basis, established in the Bible. In Genesis, man is given “dominion over the fish of the sea, and over the birds of the air, and over the cattle, and over all the earth, and over every creeping thing that creeps upon the earth.” A second justification rests in the “inferior” status of non-human animals. Historically, non-human animals were viewed as lacking a “soul,” a “mind,” a “will,” or whatever attribute it was thought makes humans uniquely human. The Great Chain of Being fed into and supported this idea because only those beings on the upper rungs, humans and angelic beings, were found capable of rational thought. This second reason is a classic creation of the concept of “other.” By focusing on differences, accentuating what separates human animals from non-human animals, our society has created yet another of its many dualisms by which animal exploitation is justified.<sup>91</sup>

The ingrained cultural view in the West that regards animals as property is a barrier to granting rights to animals. In order to further the notion that animals should have rights, it is necessary to educate the public that there is another way to view animals in which they are not property, but rather stand on more equal footing with humans. Since “theology [has] played a part in establishing modern relationships between human and nonhuman animals,”<sup>92</sup> education in a different theology, namely Eastern religion, could play a role in changing people’s views on animals. A change in social attitudes toward both humans and animals is required to ensure that the aim of according rights - to ensure that the recipients are treated with respect and as ends in themselves - is

---

<sup>91</sup> St. Pierre, *supra* at 260-61.

<sup>92</sup> Waisman, *supra* at 595.

achieved.<sup>93</sup> The property status of animals will only be abolished when social attitudes have changed.<sup>94</sup> Once this occurs, animals' legal status will change because "the common law ... has the liberty and...the duty to migrate to higher ground when facts and moral awareness dictate."<sup>95</sup>

The traditional view of animals as property can be combated by education in Eastern religious philosophy. The study of Eastern religious philosophy is "important because the Indian philosophical tradition is man's oldest as well as the longest continuous development of speculation about the nature of reality and man's place therein."<sup>96</sup> It offers "different emphases, unique approaches and methods, and unique solutions."<sup>97</sup> "[T]he Vedas<sup>98</sup> are the oldest known Indo-European religious and philosophical tradition... A study of the Vedas is therefore relevant for discovering the original spiritual impulses behind all Indo-European traditions. Thus, an examination of the Vedas remains central for anyone interested in the deeper spiritual inquiries of the human race."<sup>99</sup>

---

<sup>93</sup> Garner, *supra* at 80.

<sup>94</sup> *Id.*

<sup>95</sup> Kelch, *supra* at 532.

<sup>96</sup> A Sourcebook in Indian Philosophy xxx (Sarvepalli Radhakrishnan & Charles A. Moore eds., Princeton University Press 1989) (1957).

<sup>97</sup> *Id.* at xxxi.

<sup>98</sup> The four Vedas are the Rig Veda, Yajur Veda, Sama Veda, and Atharva Veda. Sacred Writings: The Rig Veda XI (Jaroslav Pelikan ed., Motilal Banarsidass Publishers PVT LTD 1992). "Veda" means "knowledge." The Uddhava Gita 15 (Swami Ambikananda Saraswati trans., Seastone 2002). The four Vedas taken together constitute the revealed literature, and they provide the basis of religious authority in Hindu orthodoxy. Sacred Writings: The Rig Veda, *supra* at XI. Henry David Thoreau wrote of the Vedas: "What extracts from the Veda I have read fall on me like the light of a higher and purer luminary, which describes a loftier course through a purer stratum." Johnson, *supra* at 42.

<sup>99</sup> J.C. Chatterji, *The Wisdom of the Vedas* 1 (Quest Books 1992).

Eastern religious beliefs share some commonalities with Western beliefs. “The North Indians and many European cultures are culturally... related.”<sup>100</sup> In addition, “American Transcendentalists were greatly inspired by Hindu scripture.”<sup>101</sup>

The next section will explain the particular tenets of Eastern religious beliefs that support an animal rights agenda, such as ideas that animals are not property and are entitled to rights of their own.

### C. Eastern Religious Beliefs that Further an Animal Rights Agenda

Eastern religious beliefs about the nature of life and the universe can be used to support a theory that animals should be granted at least fundamental rights, such as the right to live.<sup>102</sup>

#### 1. The Sanctity of All Life

A core belief of Hinduism is that all of nature is sacred.<sup>103</sup> “Many Hindus believe in a transcendent God, beyond the universe, who is yet within all living beings.”<sup>104</sup> The universe emanates from God, who is everything, both spirit and matter.<sup>105</sup> “Divine Being creates us out of itself,”<sup>106</sup> therefore, the universe is “an evolution out of the ultimate One.”<sup>107</sup> The Lord “is the source of all the universe.”<sup>108</sup> He is “the source of everything and everything proceeds from [Him].”<sup>109</sup> The *Upanisads*<sup>110</sup> explain that “Gods, celestial

---

<sup>100</sup> Johnson, *supra* at 29.

<sup>101</sup> *Id.* at 43.

<sup>102</sup> Srila Prabhupada unequivocally asserts that “animals also have the right to live.” His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization* 209 (Bhaktivedanta Book Trust 1998) (1968).

<sup>103</sup> Johnson, *supra* at 154.

<sup>104</sup> Gavin Flood, *An Introduction to Hinduism* 10 (Cambridge University Press 1996).

<sup>105</sup> His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization* 17 (Bhaktivedanta Book Trust 1997) (1968).

<sup>106</sup> Johnson, *supra* at 16.

<sup>107</sup> A Sourcebook in Indian Philosophy, *supra* at 4 (quoting *Rig Veda*).

<sup>108</sup> *The Bhagavad-Gita* 72 (Barbara Stoller Miller trans., Bantam Books 1986).

<sup>109</sup> *Id.* at 90.

beings, humans, beasts, and birds: from [H]im in diverse ways they spring.”<sup>111</sup> “From Him, too...are manifoldly produced...men, cattle, [and] birds.”<sup>112</sup>

Hindus believe that the Lord pervades every part of His creation, even animals. God is formless, yet pervades all forms.<sup>113</sup> “The whole universe is pervaded by [His] unmanifest form; all creatures exist in [Him].”<sup>114</sup> All living beings are parts and parcels of God.<sup>115</sup> “He is the Inner Self (*Atman*<sup>116</sup>) of all.”<sup>117</sup> “There is an eternal, all pervading intelligence in which all individual souls are rooted.”<sup>118</sup> Lord Krishna<sup>119</sup> (the Supreme Personality of Godhead<sup>120</sup>) explains: “the man of knowledge...is the rare great spirit who sees ‘Krishna is all that is.’”<sup>121</sup>

---

<sup>110</sup> “The *Upanisads*... represent some of the most important literary products in the history of Indian culture and religion, both because they played a critical role in the development of religious ideas in India and because they are valuable as sources for our understanding of the religious, social, and intellectual history of ancient India... Upanisads are the vedic scriptures par excellence of Hinduism.” Upanisads, *supra* at xxiii. Arthur Schopenhauer, 18<sup>th</sup> century German philosopher, said, “In the whole world there is no study so beneficial and so elevating as that of the Upanishads. It has been the solace of my life – it will be the solace of my death.” Johnson, *supra* at 358.

<sup>111</sup> Upanisads 272 (Patrick Olivelle trans., Oxford University Press 1996) (quoting *Mundaka Upanisad* 2.1.7).

<sup>112</sup> A Sourcebook in Indian Philosophy, *supra* at 53 (quoting *Mundaka Upanisad*).

<sup>113</sup> Johnson, *supra* at 352

<sup>114</sup> The Bhagavad-Gita, *supra* at 83.

<sup>115</sup> His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization 2* (Bhaktivedanta Book Trust 1997) (1968).

<sup>116</sup> *Atman* is a Sanskrit word that means “the Self; the eternal essence of all; the Supreme.” The Uddhava Gita, *supra* at 255. Atman is the Inner Self, the immortal spirit. Johnson, *supra* at 110.

<sup>117</sup> A Sourcebook in Indian Philosophy, *supra* at 52 (quoting *Mundaka Upanisad*).

<sup>118</sup> Johnson, *supra* at 108 (quoting the *Chandogya Upanishad*).

<sup>119</sup> “Krishna is the incarnation of cosmic power, who periodically descends to earth to accomplish the restoration of order in times of chaos.” The Bhagavad-Gita, *supra* at 7. He is considered to be the eighth avatar or incarnation of the god Vishnu. The Uddhava Gita, *supra* at 14. “One of the meanings given for the word ‘Krishna’ in the Hindu scriptures is ‘Omniscient Spirit.’ Thus, [it] is a spiritual title signifying the divine magnitude of the avatar – his oneness with God.” Paramahansa Yogananda, *Man’s Eternal Quest* 468 (Self Realization Fellowship 1982) (1975).

<sup>120</sup> His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization* 311 (Bhaktivedanta Book Trust 1997) (1968).

<sup>121</sup> The Bhagavad-Gita, *supra* at 73.

God is believed to have many forms, including animal forms. Lord Krishna tells his disciple, Arjuna,<sup>122</sup> to “see my forms in hundreds and thousands; diverse, divine, of many colors and shapes.”<sup>123</sup> “There are different features of the Supreme Personality of Godhead because He is the original root of the entire cosmic manifestation.”<sup>124</sup>

God is considered to be present in animals. “God is seated within the heart of everyone. Not only is He seated in the heart of the human being, He is also within the hearts of the cats and dogs.”<sup>125</sup> The “[L]ord resides in the heart of all creatures.”<sup>126</sup> He is the life in all living creatures,<sup>127</sup> the seed of all creatures,<sup>128</sup> the universal fire within the body of living beings,<sup>129</sup> and the consciousness of creatures.<sup>130</sup> Every living thing has a soul.<sup>131</sup> “In all species of life, the soul exists.”<sup>132</sup> Therefore, animals have souls, just as humans do.<sup>133</sup> “Every living entity is a spiritual spark, part and parcel of the Supreme Being...”<sup>134</sup> The *Srimad Bhagavatam*<sup>135</sup> tells a story that illustrates this point:

---

<sup>122</sup> “The exalted disciple to whom Bhagavan (Lord) Krishna imparted the immortal message of the Bhagavad-Gita...; one of the five Pandava princes in the great Hindu epic, the *Mahabharata*, in which he was a key figure.” Yogananda, *supra* at 466.

<sup>123</sup> The Bhagavad-Gita, *supra* at 98.

<sup>124</sup> His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization* 3 (Bhaktivedanta Book Trust 1997) (1968).

<sup>125</sup> His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization* 144 (Bhaktivedanta Book Trust 1998) (1968).

<sup>126</sup> The Bhagavad-Gita, *supra* at 151.

<sup>127</sup> *Id.* at 72.

<sup>128</sup> *Id.* at 94.

<sup>129</sup> *Id.* at 130.

<sup>130</sup> *Id.* at 92.

<sup>131</sup> His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization* 140 (Bhaktivedanta Book Trust 1998) (1968).

<sup>132</sup> *Id.*

<sup>133</sup> *See Id.*

<sup>134</sup> His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *Srimad-Bhagavatam: Second Canto-Part One* 277 (Bhaktivedanta Book Trust 1978) (1972).

<sup>135</sup> *Srimad Bhagavatam* is the “Book of God” or *bhâgavata purâna*. The Uddhava Gita, *supra* at 255. This “Spotless Purana” was written by Vyasadeva and deals exclusively with pure

Haridasa Thakura, a great devotee of Lord Sri Caitanya,<sup>136</sup> used to live in...a cave, and by chance, a great venomous snake was a copartner of the cave. Some admirer of Haridasa Thakura who had to visit [him] every day feared the snake and suggested that the Thakura leave that place. Because his devotees were afraid of the snake and they were regularly visiting the cave, Thakura Haridasa agreed... But as soon as this was settled, the snake actually crawled out of its hole...and left the cave for good... By the dictation of the Lord, who lived also within the heart of the snake, the snake gave preference to Haridasa and decided to leave the place and not disturb him.<sup>137</sup>

Because of the core divinity of all life, there is fundamental equality. “The Lord’s relation with the living entities is like that of the father with the sons. The sons and the father are qualitatively equal...”<sup>138</sup> “Learned men see with an equal eye a scholarly and dignified priest, a cow, an elephant, a dog, and even an outcast scavenger.”<sup>139</sup> A person who really sees “sees the highest [L]ord standing equal among all creatures.”<sup>140</sup>

## 2. *Ahimsa*: To Do No Harm as a Moral Ideal

An important element in Hinduism is *ahimsa*,<sup>141</sup> which is the concept of “not willfully inflicting any injury, suffering or pain on any living creature by word, thought, or action.”<sup>142</sup> A general *dharma*<sup>143</sup> (duty) incumbent on all human beings is to offer good

---

devotional service to the Supreme Lord. His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization* 363 (Bhaktivedanta Book Trust 1998) (1968). Vyasadeva was the person who originally compiled the Vedas and Puranas, and author of *Vedantasutra* and *Mahabharata*. *Id.* at 365.

<sup>136</sup> Caitanya Mahaprabhu was “the incarnation of the Supreme Lord disguised as His own devotee, who descended to teach love of God through the process of congregational chanting of the holy names of the Lord.” His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization* 309 (Bhaktivedanta Book Trust 1997) (1968).

<sup>137</sup> *Srimad Bhagavatam*, *supra* at 75.

<sup>138</sup> *Id.* at 279.

<sup>139</sup> *The Bhagavad-Gita*, *supra* at 59.

<sup>140</sup> *Id.* at 118.

<sup>141</sup> Flood, *supra* at 183.

<sup>142</sup> I. K. Taimni, *The Science of Yoga* 209 (The Theosophical Publishing House 1967) (1961).

<sup>143</sup> “Eternal principles of righteousness that uphold all creation; man’s inherent duty to live in harmony with these principles.” Yogananda, *supra* at 471.

will to all other living beings.<sup>144</sup> “A man’s duty is to do good to all things.”<sup>145</sup> One should be “compassionate to all living beings.”<sup>146</sup> “One who does not have compassion for others, including all life forms, is in some way harming them.”<sup>147</sup> To do so would be a violation of *ahimsa*.

“*Ahimsa* ...denotes an attitude and mode of behaviour towards all living creatures based on the recognition of the underlying unity of life.”<sup>148</sup> We are one with the Divine, and one with everything in the universe.<sup>149</sup> “The wise man sees himself in all beings and all beings in himself.”<sup>150</sup> “Everything in the universe is directly or indirectly related to everything else.”<sup>151</sup> “At the innermost level of our being, we are all intimately linked.”<sup>152</sup> “[T]he Self in you and the Self in me (and the Self in [a] dog...) are not really separate because they are linked in the Supreme Self, the consciousness of God.”<sup>153</sup> When a person “perceives the unity existing in separate creatures and how they expand from unity, he attains the infinite spirit.”<sup>154</sup>

Hinduism upholds *ahimsa* as a moral ideal.<sup>155</sup> Patanjali,<sup>156</sup> in his Ten Commitments, listed *ahimsa* as one element that defines what is meant to be an ethical

---

<sup>144</sup> Johnson, *supra* at 214.

<sup>145</sup> Shankara’s Crest – Jewel of Discrimination 155 (Swami Prabhavananda & Christopher Isherwood trans., Vedanta Press 1971).

<sup>146</sup> Flood, *supra* at 63 (quoting the Laws of Manu).

<sup>147</sup> Ram Dass, *Paths to God: Living the Bhagavad-Gita* 311 (Three Rivers Press 2004).

<sup>148</sup> Taimni, *supra* at 210.

<sup>149</sup> Johnson, *supra* at 16.

<sup>150</sup> *Id.* at 56 (quoting *Isha Upanishad*).

<sup>151</sup> *Id.* at 7.

<sup>152</sup> *Id.* at 113.

<sup>153</sup> *Id.* at 112.

<sup>154</sup> The Bhagavad-Gita, *supra* at 119.

<sup>155</sup> Johnson, *supra* at 226.

<sup>156</sup> Patanjali was a second century BCE sage. Johnson, *supra* at 222.

person.<sup>157</sup> “The purpose of *ahimsa* is to curtail behavior which is not conducive to spiritual growth.”<sup>158</sup> “Nonviolence and compassion for creatures characterize a man with divine traits.”<sup>159</sup> “When you harm someone else, you are literally harming your Self.”<sup>160</sup> When one sees “the [L]ord standing the same everywhere, the self cannot injure itself and goes the highest way.”<sup>161</sup>

a. Animals Should Not Be Killed

*Srimad Bhagavatam* condemns killing animals, either for food or for religious purposes.<sup>162</sup> The *Rig Veda*<sup>163</sup> pleads “Gods, to our living creatures, vouchsafe protection, both to bipeds and quadrupeds.”<sup>164</sup> *Svetasvetara Upanisad* asks that “[t]he arrow, O Mountain-dweller, that you hold in your hand to shoot – make it benign, O Mountain-protector; hurt not man or beast.”<sup>165</sup> According to Manu,<sup>166</sup> “even the killer of an animal is to be considered a murderer...”<sup>167</sup>

---

<sup>157</sup> Johnson, *supra* at 222.

<sup>158</sup> H.H. Swami Rama, *Swanmi Rama Lectures on Yoga 115* (Himalayan International Institute of Yoga Science and Philosophy of USA 1973).

<sup>159</sup> The *Bhagavad-Gita*, *supra* at 133.

<sup>160</sup> Johnson, *supra* at 113.

<sup>161</sup> The *Bhagavad-Gita*, *supra* at 118.

<sup>162</sup> *See Id.* at 255.

<sup>163</sup> The *Rig Veda* is the oldest of the four Vedas that comprise the central “canon” of the older Vedic religion and of the ... Hinduism that emerged from it, the other three are the Yajur Veda, Sama Veda, and Atharva Veda. *Sacred Writings: The Rig Veda XI* (Jaroslav Pelikan ed., Motilal Banarsidass Publishers PVT LTD 1992).

<sup>164</sup> The quote continues: “That they may eat and drink invigorating food. So grant us health and strength and perfect innocence.” *Id.* at 558.

<sup>165</sup> *Upanisads*, *supra* at 257 (quoting *Svetasvetara Upanisad* 3:6).

<sup>166</sup> Manu was the “first man and progenitor of all humans, he plays the central role in the Indian myth of the flood. Later legends make him also the first lawgiver, and an important collection of ancient Indian laws is ascribed to Manu.” *Id.* at 410.

<sup>167</sup> *Srimad Bhagavatam: First Canto-Part One*, *supra* at 379.

“[T]he religious human being is not meant to kill... animals.”<sup>168</sup> It is considered a vice to do so.<sup>169</sup> “A person who knows the principles of religion does not kill...a foolish creature.”<sup>170</sup> Srila Prabhupada<sup>171</sup> explains:

The animal-killers are dangerous elements on the path going back to Godhead... [O]nly the animal-killer cannot relish the transcendental message of the Supreme Lord. Therefore if people are to be educated to the path of Godhead, they must be taught... to stop the process of animal killing.<sup>172</sup>

#### b. Animals Should Not Be Eaten

Many Hindus are vegetarian because *ahimsa* is an important moral value.<sup>173</sup> “Animal food is never meant for the civilized man...”<sup>174</sup> “When man is uncivilized, he kills poor animals and eats them.”<sup>175</sup>

“[T]he religious human being is not meant to ... eat animals.”<sup>176</sup> “A person who eats these foods [meat, fish, and eggs] participates in a conspiracy of violence against helpless animals and thus stops his spiritual progress dead in its tracks.”<sup>177</sup> “The Veda says ‘food is God’ ... [F]ood is divine energy being offered back to the divine energy

---

<sup>168</sup> His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization* 131 (Bhaktivedanta Book Trust 1998) (1968).

<sup>169</sup> Prabhupada, His Divine Grace A. C. Bhaktivedanta Swami, *Srimad-Bhagavatam: First Canto-Part One*, *supra* at 65.

<sup>170</sup> *Id.* at 378.

<sup>171</sup> His Divine Grace A. C. Bhaktivedanta Swami Prabhupada was the founder and *acarya* [spiritual master] of the International Society for Krishna Consciousness. *See* His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization* xiv-xvi (Bhaktivedanta Book Trust 1998) (1968).

<sup>172</sup> *Srimad Bhagavatam: First Canto-Part One*, *supra* at 170.

<sup>173</sup> Johnson, *supra* at 226.

<sup>174</sup> *Srimad Bhagavatam: First Canto-Part One*, *supra* at 379-80.

<sup>175</sup> His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization* 13 (Bhaktivedanta Book Trust 1997) (1968).

<sup>176</sup> His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization* 131 (The Bhaktivedanta Book Trust 1998) (1968).

<sup>177</sup> Sri Isopanisad 156 (His Divine Grace A. C. Bhaktivedanta Swami Prabhupada trans., *The Bhaktivedanta Book Trust* 1996) (1969).

comprising our bodies.”<sup>178</sup> To achieve “the goal of human life – reawakening the soul’s original relationship with God,”<sup>179</sup> one must follow a diet of *prasadam*,<sup>180</sup> which is food that has become spiritualized by being prepared for and offered to [the Lord] with love and devotion.<sup>181</sup> This food must be vegetarian.<sup>182</sup> Lord Krishna states that “[t]he leaf or flower or fruit or water that he offers with devotion, I take from the man of self-restraint in response to his devotion.”<sup>183</sup> “From this verse it is understood that [one] can offer Krishna foods prepared from milk products, vegetables, fruits, nuts and grains.”<sup>184</sup> Meat, fish and eggs cannot be offered to the Lord<sup>185</sup> because they “are saturated with the modes of passion and ignorance.”<sup>186</sup>

### 3. *Karma*: Facing the Consequences of One’s Actions

*Karma*, the law of cause and effect, stipulates that what we have done to others will be done to us.<sup>187</sup> “The idea that every action has an effect which must be accounted for in this or future lifetimes, and that the experiences of the present lifetime are the consequences of past actions, is of central importance for Hindu soteriology.”<sup>188</sup> The Law of Karma is the expression of perfect justice.<sup>189</sup> What one sows, one must reap.<sup>190</sup> Paramahansa Yogananda<sup>191</sup> explains that

---

<sup>178</sup> Johnson, *supra* at 227.

<sup>179</sup> Sri Isopanisad, *supra* at 152.

<sup>180</sup> *Krishna prasadam* means “the mercy of Lord Krishna.” *Id.* at 151.

<sup>181</sup> *Id.* at 152.

<sup>182</sup> *See Id.* at 152.

<sup>183</sup> The Bhagavad-Gita, *supra* at 86.

<sup>184</sup> Sri Isopanisad, *supra* at 152.

<sup>185</sup> *Id.*

<sup>186</sup> *Id.* at 156.

<sup>187</sup> *See Taimni, supra* at 160-61.

<sup>188</sup> Flood, *supra* at 85-86.

<sup>189</sup> Taimni, *supra* at 161.

<sup>190</sup> A Sourcebook in Indian Philosophy, *supra* at xxix.

<sup>191</sup> Paramahansa Yogananda founded the international headquarters of the Self-Realization Fellowship in Los Angeles in 1925. Yogananda, *supra* at xvi.

The equilibrating law of karma...is that of action and reaction, cause and effect, sowing and reaping... [E]very human being by his thoughts and actions becomes the molder of his own destiny. Whatever energies he himself... has set in motion must return to him as their starting point, like a circle inexorably completing itself...<sup>192</sup>

Hindus are very conscious that actions lead to karmic consequences.<sup>193</sup> “[T]he karmic results of actions we performed in past lives will eventually and inevitably seek us out.”<sup>194</sup> Patanjali<sup>195</sup> described this karmic result as such:

The pleasurable or painful quality of experiences which come in our own life is determined by the nature of the causes which have produced them. The effect is always naturally related to the cause and its nature is determined by the cause. Now, those thoughts, feelings, and actions which are “virtuous” give rise to experiences which are pleasant while those which are “vicious” give rise to experiences which are unpleasant... In Nature, the effect is always related to the cause and corresponds exactly to the cause which has set it in motion. If we cause a little purely physical pain to somebody it is reasonable to suppose that the fruit of our action will be some experience causing a corresponding physical pain to us.<sup>196</sup>

There are karmic consequences for killing an animal. If a person kills an animal, he is responsible for breaking the laws of nature and will be punished.<sup>197</sup> “In the act of killing an animal, there is a regular conspiracy by the party of sinners, and all of them are liable to be punished as murderers exactly like a party of conspirators who kill a human being.”<sup>198</sup> *Rig Veda* demands that “[t]he fiend who smears himself with flesh of cattle,

---

<sup>192</sup> Yogananda, *supra* at 474.

<sup>193</sup> Johnson, *supra* at 93.

<sup>194</sup> *Id.* (quoting *Mahabharata*).

<sup>195</sup> Patanjali was an “[a]ncient exponent of yoga, whose *Yoga Sutras* outline the principles of the yogic path...” Yogananda, *supra* at 477.

<sup>196</sup> Taimni, *supra* at 161.

<sup>197</sup> Sri Isopanisad, *supra* at 21.. *Sri Isopanisad* is part of the *Yajur Veda*; it contains information concerning the Lord’s proprietorship over everything in the universe. *Id.* at 18.

<sup>198</sup> *Srimad Bhagavatam: First Canto-Part One*, *supra* at 380 (quoting the Laws of Manu).

with flesh of horses... O Agni,<sup>199</sup> - tear off the heads of such with fiery fury.”<sup>200</sup> “Most Brahmins<sup>201</sup> will not eat meat because they refuse to incur the bad karma of mercilessly killing a defenseless animal.”<sup>202</sup>

#### 4. Reincarnation: the Soul’s Eternal Journey

“Reincarnation is the progress of a soul through many lives on the earth plane... before it ‘graduates’ to the immortal perfection of oneness with God.”<sup>203</sup> The *atman*, or soul, “is the true and immortal nature of man, and of all living forms of life; it is cloaked only temporarily in the garments of ... physical bodies. The nature of the soul is Spirit: ever-existing [and] ever-conscious.”<sup>204</sup> “[T]he self (*atman*) moves from body to body.”<sup>205</sup> Everything that dies is recreated in another form.<sup>206</sup> The *Katha Upanisad* explains that

[t]he wise one [i.e., the Atman, the Self] is not born, nor dies... Unborn, constant, eternal, primeval, this one is not slain when the body is slain... More minute than the minute, greater than the great, is the Self that is set in the heart of a creature here.<sup>207</sup>

Lord Krishna expounds on the nature of the soul in the *Bhagavad-Gita*<sup>208</sup> as follows:

---

<sup>199</sup> Agni is the fire deity. See A Sourcebook in Indian Philosophy, *supra* at 4. He is the sacred fire, messenger between human and gods. *Id.* at 50.

<sup>200</sup> Sacred Writings: The Rig Veda, *supra* at 599.

<sup>201</sup> Brahmins are the priestly caste. Johnson, *supra* at 371.

<sup>202</sup> *Id.* at 227.

<sup>203</sup> Yogananda, *supra* at 216.

<sup>204</sup> *Id.* at 481.

<sup>205</sup> Flood, *supra* at 86.

<sup>206</sup> Johnson, *supra* at 7 (quoting *Brhadaranyaka Upanisad*).

<sup>207</sup> A Sourcebook in Indian Philosophy, *supra* at 45.

<sup>208</sup> “Song of the Lord.” Yogananda, *supra* at 467. It is “an ancient Indian scripture consisting of eighteen chapters from the Mahabharata epic. *Id.* “Presented in the form of a dialogue between the avatar Lord Krishna and the disciple Arjuna on the eve of the historic battle of Kurukshetra, the Gita is a profound treatise on the science of Yoga... and a timeless prescription for happiness and success in every day living.” *Id.* Ralph Waldo Emerson wrote of the *Gita*: “It was the first of books, it was as if an empire spake to us, nothing small or unworthy, but large, serene, consistent, the voice of an old intelligence which in another age and climate had pondered and thus disposed of the same questions that exercise us.” Johnson, *supra* at 42. Henry David Thoreau said of the *Gita*: “In the morning I bathe my intellect in the stupendous and cosmogonical philosophy of the *Bhagavad-Gita*, since whose composition, years of the gods

Our bodies are known to end, but the embodied self is enduring, indestructible, and immeasurable... It is not born, it does not die; having been, it will never not be; unborn, enduring, constant and primordial, it is not killed when the body is killed... The self embodied in the body of every being is indestructible.<sup>209</sup>

Al Biruni<sup>210</sup> explained reincarnation as such:

[U]ntil it reaches the highest state of consciousness, the soul is not able to experience all things at once, as if there were no space or time. Therefore, it has to experience the universe piecemeal, one thing at a time until it has been through all possible experiences... [I]mmortal souls range through the universe in mortal bodies, which have good or bad experiences depending on whether their behavior has been virtuous or evil...

The process of reincarnation begins at very low levels of consciousness, like minerals, plants or animals, and slowly winds its way upward toward very elevated states of awareness.

The process ends when the soul no longer desires to explore new worlds, but gains insight into the sublime nature of its own being, and rests content in itself. At that point, the soul turns away from matter and its links with physical existence are broken. It returns to its true home, carrying with it the knowledge it has gained during its many journeys.<sup>211</sup>

There is a belief that humans are souls that previously incarnated as animals.

“[T]his particular form of human life is attained after an evolution of many millions of years in the cycle of transmigration of the spirit soul.”<sup>212</sup> Rumi, the Persian mystic, said, “I died as stone, and rose again as plant, and became an animal. I died as animal, and was born again as man.”<sup>213</sup> Even deities reincarnate and can appear as animals. Lord Krishna

---

have elapsed and in comparison with which our modern world and its literature seem puny and trivial.” *Id.* at 43.

<sup>209</sup> The Bhagavad-Gita, *supra* at 32-33.

<sup>210</sup> Al Biruni was a Muslim astrologer and scholar born in 973 CE in present-day Uzbekistan. Johnson, *supra* at 39-40. He wrote *Indika*, the monumental study of Hindu culture and spirituality. *Id.*

<sup>211</sup> *Id.* at 40-41.

<sup>212</sup> His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization 3* (Bhaktivedanta Book Trust 1998) (1968).

<sup>213</sup> Dass, *supra* at 37.

tells Arjuna: “I have passed through many births and so have you.”<sup>214</sup> Krishna has appeared as such animals as a fish, a tortoise, a boar, and a man-lion.<sup>215</sup>

“The process of reincarnation is driven by karma.”<sup>216</sup> *Svetesvatara Upanisad* “clearly states that the subject, the ‘performer of action which bears fruit,’ wanders in the cycle of transmigration according to his actions (karma).”<sup>217</sup> “Where, when, and in what circumstances we next incarnate is due, in large measure, to our thoughts, words, and actions in the past and present.”<sup>218</sup> “Our desires drive our thoughts, which motivate our actions, which create more karma, which determines the circumstances of our next incarnation.”<sup>219</sup> “A person’s karma follows him from incarnation to incarnation until fulfilled or spiritually transcended.”<sup>220</sup>

It is possible for a soul that is now in human form to reincarnate in an animal form. “If a man fails to discharge his duties as a human being, he is forced to transmigrate to the lower species of life by the laws of nature.”<sup>221</sup> “The Buddha told stories about people sinning and coming back as animals and insects.”<sup>222</sup> “Particularly

---

<sup>214</sup> The Bhagavad-Gita, *supra* at 49.

<sup>215</sup> See *Srimad Bhagavatam: First Canto-Part One*, *supra* at 152, 160-63. The fish avatar, Matsya, saved Vaisvata Manu from a global flood. *Id.* at 160. The tortoise avatar was Kurma, the eleventh incarnation of the Lord. *Id.* at 161. The Lord’s second incarnation was that of the boar, Varaha, who lifted the earth from the nether regions of the universe. *Id.* at 152. The fourteenth incarnation of the Lord was the Man-Lion, Nrisimha, who killed the atheist, Hiranyakasipu. *Id.* at 162-63.

<sup>216</sup> Johnson, *supra* at 91.

<sup>217</sup> Flood, *supra* at 86.

<sup>218</sup> Johnson, *supra* at 91.

<sup>219</sup> Dass, *supra* at 47.

<sup>220</sup> Yogananda, *supra* at 474.

<sup>221</sup> His Divine Grace A. C. Bhaktivedanta Swami Prabhupada, *The Science of Self-Realization 4* (Bhaktivedanta Book Trust 1997) (1968).

<sup>222</sup> Dass, *supra* at 41.

pernicious people...could even be reborn as ‘flies, gnats, and biting insects.’”<sup>223</sup>

*Chandogya Upanisad* warns that “those who are of pleasant conduct here – the prospect is, indeed, that they will enter a pleasant womb... But those who are of stinking conduct here – the prospect is, indeed, that they will enter a stinking womb, either the womb of a dog, or the womb of a swine, or the womb of an outcast.”<sup>224</sup>

## CONCLUSION

Animals are denied even the most basic legal rights,<sup>225</sup> such as the right to live, because current United States law considers them to be property.<sup>226</sup> In order to establish legal rights for animals, it is necessary to abolish their status as property.<sup>227</sup> A shift in societal attitude towards animals is required before any notion that animals have legal rights will gain popular acceptance. Animals will not be granted even the most basic legal rights as long as they are considered to be inferior.<sup>228</sup> There are encouraging signs that a shift in attitude is occurring on the legal front in that some courts and legislatures are beginning to recognize that animals are more than property. To further this trend away from viewing animals as property and towards viewing them as beings entitled to basic legal rights, it is necessary to change popular attitudes that animals are property and inferior. Educating the public in Eastern religions such as Hinduism could help change these views towards animals because of the view that all life is sacred, and animals have souls just as humans do. According to the tenets of Hinduism, harming an animal violates

---

<sup>223</sup> Johnson, *supra* at 91.

<sup>224</sup> A Sourcebook in Indian Philosophy, *supra* at 66-67.

<sup>225</sup> Thomas G. Kelch, *Toward a Non-Property Status for Animals*, 6 N.Y.U. Envtl. L.J. at 532.

<sup>226</sup> *Fackler v. Genetzky*, 257 Neb. at 139.

<sup>227</sup> Robert Garner, *Political Ideology and the Legal Status of Animals*, 8 Animal L. at 78.

<sup>228</sup> Steven M. Wise, *The Legal Thinghood of Nonhuman Animals*, 23 B.C. Envtl. Aff. L. Rev. at 543.

the moral ideal of doing no harm (*ahimsa*), and will result in negative karma. The effects of this negative karma can extend into subsequent incarnations. Changing public perception in this way could serve as a catalyst for change in the law, and thereby further an animal rights agenda.