

POUR UNE ÉVOLUTION DU RÉGIME JURIDIQUE DE L'ANIMAL DANS LE CODE CIVIL RECONNAISSANT SA NATURE D'ÊTRE SENSIBLE

Les animaux sont encore définis par le Code civil comme des choses, sur lesquelles l'homme peut par conséquent exercer un droit absolu.

Nous n'ignorons pas que toute tentative de faire évoluer cette classification se heurte à la force des habitudes et soulève invariablement des objections d'ordre économique. Nous l'ignorons d'autant moins que c'est le cas chaque fois qu'est réclamée la légitime considération due à un groupe exploité ou opprimé.

Certes, les animaux ne sont pas des êtres humains. Ce n'est pourtant pas la proclamation d'une dignité métaphysique, mais certains attributs - capacité à ressentir le plaisir et la douleur notamment - que les humains partagent avec au moins tous les vertébrés, qui entrainent les droits les plus fondamentaux. Et bien que dans diverses réglementations françaises et européennes les animaux soient reconnus pour leur qualité d'« êtres sensibles », encouragées en ce sens par les progrès de la connaissance scientifique, ils demeurent de manière de plus en plus contradictoire des biens meubles dans notre Code civil.

POUR QUE LES ANIMAUX BÉNÉFICIENT D'UN RÉGIME JURIDIQUE CONFORME À LEUR NATURE D'ÊTRES VIVANTS ET SENSIBLES ET QUE L'AMÉLIORATION DE LEUR CONDITION PUISSE SUIVRE SON JUSTE COURS, UNE CATÉGORIE PROPRE DOIT LEUR ÊTRE MÉNAGÉE DANS LE CODE CIVIL ENTRE LES PERSONNES ET LES BIENS


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Plaidoyer Pour Un Nouveau Statut Juridique De L'animal

Yicheng Fang



Plaidoyer Pour Un Nouveau Statut Juridique De L'animal:

Le droit malgré tout Yves Cartevuyts, Antoine Bailleux, Diane Bernard, Hugues Dumont, Isabelle Hachez, Delphine Misonne, 2018-10-22 Depuis Droit mythe et raison 1980 crit avec Jacques Lenoble jusqu'aux récents quoi sert le droit Usages fonctions et finalités 2016 ou Le droit objet de passions 2018 François Ost ne cesse de questionner les rapports de nos sociétés au droit et la place de celui-ci dans nos sociétés contemporaines Avec Le droit malgré tout il s'agit de rendre hommage à l'œuvre et la carrière d'une figure centrale de la théorie du droit contemporaine et aussi au fondateur avec le regret Michel van de Kerchove de ce que l'on appelle parfois l'école de Saint Louis Abordant les deux pôles de la dialectique laquelle François Ost est si attaché la critique et la reconstruction l'ouvrage propose un regard interdisciplinaire sur le droit travers les principaux thèmes qui ont nourri la pensée de l'auteur Du statut pistologique de la science du droit un questionnement sur les fondements et l'avenir du droit et de la justice des liens qui entretiennent le droit et la littérature jusqu'à l'environnement saisi par le droit en passant par les communs les approches de ses collègues et amis sont toutes réflexives et critiques En ce qu'elles sont soucieuses de soumettre le droit au regard des sciences sociales et inversement les normativités extra juridiques au regard du droit elles sont fidèles à la démarche de François Ost Ce Liber Amicorum propose aussi un retour réflexif sur son œuvre par l'auteur lui-même dans un entretien avec Manuel Atienza Contributeurs Yves CARTUYVELS Robert JACOB Mark VAN HOECKE Jacques COMMAILLE Isabelle HACHEZ Laurent VAN EYNDE Jacques LENOBLE Benoît FRYDMAN Alain PAPAUX Guillaume DE STEXHE Diane BERNARD Antoine GARAPON Jacques CHEVALLIER Alain SUPIOT Paul MARTENS Jérémie VAN MEERBEECK Sébastien VAN DROOGHENBROECK Nicolas BERNARD et Françoise TULKENS Pierre LEGRAND Annette RUELLE Isabelle OST Jeanne GAAKEER Massimo VOGLIOTTI Denis SALAS Pauline B GASSE DE DHAEM et Marie Sophie DE CLIPPELE Xavier DELGRANGE Delphine MISONNE Benoît JADOT Alain STROWEL Hugues DUMONT Jean Guy BELLEY Antoine BAILLEU

Une autre existence Florence Burgat, 2012-01-04 Les animaux sont-ils de simples vivants comme le ressent une tradition de pensée encore dominante L'opposition entre vie et existence les range avec les plantes dans un ensemble homogène le grand tout de la Nature pour mieux réserver à l'homme la tragédie de l'existence N'y a-t-il donc que lui pour vivre sa vie pour naître et mourir ressentir l'angoisse ou la joie Le dualisme entre vie animale et existence humaine ne persiste pourtant pas un examen sérieux Au terme d'un parcours critique travers les philosophies qui ont pensé l'animal Florence Burgat se demande quelles conditions une vie peut être qualifiée d'existence Chaque fois nous dit-elle qu'un être vivant est non seulement un centre à partir duquel s'organisent ses relations l'environnement mais aussi le sujet de ses propres expériences Tracé à partir des perspectives ouvertes par la phénoménologie la notion d'existence animale ne saurait être sans conséquences sur le débat philosophique Affirmer que les animaux existent en première personne constitue une réponse forte à un utilitarisme qui se borne à condamner la souffrance sans souci du caractère unique et irremplaçable de chaque existence L'interrogation philosophique sur ces autres existences doit être telle que celui qui questionne est lui-même mis en cause par la question Merleau-Ponty

Florence Burgat est philosophe directrice de recherche à l'INRA Elle a publié plusieurs ouvrages fondamentaux sur la question animale dont *Animal mon prochain* Odile Jacob 1997 et *Libert et inquiétude de la vie animale* Kim 2006 Repère, 2004

Stoïcisme antique et droit naturel moderne Valéry Laurand, Jean Terrel, 2003 Encore une revue dira-t-on Et une revue papier en outre Et l'on répondra deux fois oui sans confusion ni embarras Ce que nous voulons c'est une revue vivante une revue qui soit capable d'entendre des voix contradictoires qui ne recherche pas la polémique mais qui ne s'effraie pas du débat de la disputation de la remise en cause dès lors qu'elle est argumentée et qu'elle respecte les règles ordinaires de la courtoisie Nous voulons une revue qui dépasse les barrières disciplinaires Ce qui ne veut pas dire proposer tout moment du pluridisciplinaire mais en revanche avoir constamment le souci de l'ensemble des points de vue disciplinaires représentés dans notre centre de recherche le CIBEL Centre interdisciplinaire bordelais d'étude des Lumières dont elle est l'animation Cette revue aura comme son titre aussi l'indique les Lumières son programme Il nous a semblé que les Lumières avaient encore de beaux jours devant elles en tant qu'objets d'études mais pas seulement et ce malgré les soupçons que l'on fait peser sur elles ou les imputations et les accusations dont elles font souvent l'objet Sur tout cela nous reviendrons galement Il nous a semblé donc qu'il y avait encore beaucoup à dire et à écrire sur le sujet d'aujourd'hui C'est dans cet esprit et avec cette conviction que nous nous mettons à l'œuvre

Point de repère, 1998 Nouveau dictionnaire allemand-français et français-allemand à l'usage des deux nations, 1789 La condition animale Lauriane d'Este, 2006 Ce livre se veut une défense de l'animal par rapport à son actuel statut hérité du code Napoléon 1804 Malgré les conquêtes sur le plan législatif et juridique de ces dernières années jamais la condition animale n'a aussi malmené le transport, le trafic, la maltraitance, l'expérimentation et l'industrialisation de l'animal L'animal est resté ainsi alors que le traité d'Amsterdam le reconnaît comme très sensible Cette contradiction même rend la loi le plus souvent inapplicable en matière de justice Notre propos a été de montrer que l'anthropocentrisme et l'anthropomorphisme ont pendant des siècles pris le destin de l'animal que le rationalisme du XVIII^e siècle a imposé avec Descartes l'animal machine qui a permis tous les crimes commis l'encontre de la vie animale notamment l'expérimentation animale et certaines traditions d'une cruauté injustifiable Les recherches récentes de l'ethologie lui ont enfin restitué sa vraie place Différent de l'homme s'il ne possède pas le langage, organe social de communication, il possède ses codes qui sont aussi un langage comportemental dans un monde qui s'appréhende C'est au nom de cette différence qu'un véritable statut de l'animal s'impose aujourd'hui parce qu'il est notre semblable dans la chaîne de l'évolution autre et semblable il peut nous réconcilier avec le sens du sacré que nous avons perdu car le langage ne résume pas tout pas plus que le système juridico-social dans lequel nous vivons car pour les hommes pour une société d'hommes Aussi est-il peu lucide de tenter de lui appliquer notre système social et d'évoquer la personne animale Il nous faut inventer autre chose Nous proposons quelques pistes À l'heure où la biodiversité est en péril et où nous perdons de plus en plus nos liens avec la nature l'animal nous rappelle nos origines Il participe aussi de la vie et ce titre est respectable L'humanité ne peut que se grandir en reconnaissant

des devoirs envers ce compagnon de l'évolution dont Darwin a fait un frère. Cet ouvrage fait aussi le point juridique sur la condition animale et sur les propositions de révision du code civil proposées par le rapport Antoine **La Librairie française**, 1946 *Combat nature*, 1997 *Dictionnaire de la Bible*, 1981 *Génie rural et l'électricité rurale*, 1965 **Livres de France**, 1999 *Les Livres disponibles*, 1985 La liste exhaustive des ouvrages disponibles publiés en langue française dans le monde La liste des éditeurs et la liste des collections de langue française *Annuaire de jurisprudence et de doctrine du Québec*, 2007 *La condition humaine* Lauriane D'este, *Livres hebdo*, 1999 *Emancipation animale !* Charlotte Arnal, 2022-03-17 *Cosmopolis* Cédric Riot, Caroline Regad, 2024-12-19 L'écologie de l'évolution nous ne sommes rien ou pas grand chose et pourtant nous bouleversons tout L'heure des dérivés de l'Anthropocène a sonné La course folle et destructrice vers la sixième extinction massive d'espèces animales et végétales doit s'arrêter Plus que jamais notre relation au vivant mérite d'être repensée et le droit pourrait être le meilleur vecteur de changements Sous les yeux du juriste du vivant ce personnage symbolisant au fil des pages un nouveau rapport au monde les schémas de pensées dits actuels basculent Ce sont les fondements de nos liens avec le vivant qui sont analysés et revus dans cette œuvre L'objectif Forger une nouvelle alliance entre les humains les animaux et la nature pour garantir une planète pérenne partagée par tous Voir plus loin telle est l'ambition de *Cosmopolis* *La personnalité juridique de l'animal: II. Les animaux liés à un fonds (les animaux de rente, de divertissement, d'expérimentation)* Caroline Regad, Cédric Riot, Sylvie Schmitt, 2018 *La sensibilité animale en droit* Emeline Dore, 2025-01-23

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