

Book Reviews

ANIMAL WELFARE LAW

Animal Welfare Law in Britain: Regulation and Responsibility, by Mike Radford. Oxford: Oxford University Press, 2001. Pp.441, £45.00 (hb), £16.99 (pb), ISBN 0 19 826251 5.

A text on animal law is greatly welcomed in an area largely overlooked by writers with only a few exceptions. In the current climate of increasing public awareness of animal welfare issues following BSE, foot and mouth disease and numerous animal welfare based television programmes, it seems sensible to assume there must be a growing market for a readable text aimed not only at lawyers, but also at those who either work in an animal welfare area or who just have an interest in animal welfare in Britain.

The author states that his work seeks to trace the evolution of animal protection legislation in Britain; to place that legislation in its legal, political and scientific context; to provide a detailed analysis of the substantive law and its application; to evaluate its effectiveness; and to suggest possible avenues for further reform. With these aims in mind the book has been divided into five parts after an introduction: historical development; legal and political context; cruelty; welfare; and effectiveness.

Mike Radford first looks at the traditional attitudes towards animals, starting from the religious viewpoint that animals were made for the sake of man to treat how they saw fit. Throughout the various developments, which ends with the call for animal welfare legislation, the author provides many interesting early quotations regarding man's attitude to animals which give a fascinating, and sometimes an appalling, insight into the early attitudes of man towards animals.

Radford then looks at the first attempts at legislating for the protection of animal welfare, starting in the early 1800s. It is interesting to note that opposition to the Bills against Bull Baiting ranged from the view that such legislation was 'frivolous and vexatious', would deprive the poor of one of the few enjoyments left to them, and that the Commons would be applying double standards by outlawing bull baiting when hunting, shooting, fishing and horse racing could be judged by similar standards. The latter echoes some sentiments expressed in the recent debate on hunting with hounds.

With the protection towards animals at this time extending only so far as the protection of them as property and the prevention of social disorder, Radford takes us through the various Bills proposed to protect animals from actual cruelty, most of which failed to pass into legislation. The chapter concludes with the reasons for the introduction of early animal protection legislation being due not only to beginning of an awareness of animals as sentient beings, but also to a complex mix of factors such as 'the development of a secular morality, the increasing influence of urban middle-class values, concern for social discipline and stability, a political and legislative system which was responsive, the individual campaigners to carry the cause forward, and the endorsement of the higher ranks of society' (p.590).

The chapter on extending the protection of animal welfare looks at the early animal protection legislation and regulation, including areas such as the introduction of and the problems posed by vivisection, the veterinary profession, animal health and wildlife, bringing us up to the present day. Radford states that 'the form of animal protection legislation at the beginning of the twenty-first century remains rooted in

that of the nineteenth. As with so many areas of law, it is only possible to comprehend the present if one has some knowledge of the past' (p.95).

The chapter on the 'Continuing Need for Regulation' discusses the legal status of animals and comes to the conclusion that the question of the legal status of an animal as property is 'something of a distraction' as far as Britain is concerned. Regulation should recognise the needs and capacities of animals and have adequate means of enforcement to ensure that those responsible for animals have a duty to abide by the standards prescribed by law.

Radford also covers the relationship between Britain and other organisations and developments, such as the World Trade Organisation, the EC, the Council of Europe, pressure groups, the Human Rights Act and devolution in Scotland and Wales, all of which have an impact on our domestic animal protection laws. He makes the point that we need to look further than Westminster to understand fully the law in this area. The law's reform and development may now take place outside of Westminster, dependant on the area of competence of these bodies. This is especially true regarding reform of the law concerning animals in commercial undertakings.

After a comprehensive analysis of cruelty offences, Radford calls for animal protection laws in Britain to be consolidated and puts forward various proposals to reform certain aspects of them. Emphasis is placed on securing a level of regulation that creates a positive duty on those who supervise or care for animals to prevent unnecessary suffering which encompasses not only cruelty, but also the welfare of the animal. Throughout his work he makes, in my view, a strong case for the need to reform the law in this area to reflect the change in attitudes towards animals by society and scientists over the last few decades.

I found this book a fascinating insight into the early treatment of animals but I must admit, as an animal lover, to finding some of the examples of animal abuse difficult to read, solely because of the extent of cruelty inflicted on such creatures. Radford is right to include examples of man's barbaric treatment of animals because it helps the reader to understand not only the accepted attitudes of society towards animals at that time, but also the reluctance of the judiciary to convict for customary practices of abuse against animals and why there was a only a minority calling for animal welfare protection in the early 1800s.

The chapters on cruelty offences are easily 'dipped' into for reference by the lawyer and layperson alike, whilst other areas such as the influences on the development of the law since the 1800s need to be read fully to do them justice. Throughout the book the author writes in a style which is clear and informative and succeeds in providing a broad overview of animal protection law and highlighting the areas of weakness. As a Scot, I must also applaud Radford for his consistent appreciation of and reference to Scottish law and devolution where applicable, so often overlooked by authors south of the border.

I thoroughly recommend this book which has something for everyone interested in animal welfare.

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FOOTBALL AND RACISM – ITS HISTORY AND FUTURE

Racism and Anti-Racism in Football, by Jon Garland and Michael Rowe. Basingstoke: Palgrave, 2001. Pp.232, £14.99 (pb), ISBN 0 333 96422 5.

This excellent book by Jon Garland and Michael Rowe approaches the potentially explosive topic of racism in football in a thought-provoking, yet accessible, manner. It combines historical contextualisation of the subject with a theoretical overview of the issues involved and original research with discussion and evaluation.

Extracts from interviews conducted with those connected with football and quotes from past and present players about instances of racism that they have witnessed, or been the subject of, appear throughout the text. This lends the book an added level of relevance, demonstrating that this is not merely an academic problem of minor interest but a phenomenon that is ongoing despite the best efforts of those involved with the various anti-racism campaigns.

The book begins with an historical review of black footballers in Britain. It traces the careers of the first black players and the changes in attitude towards them that have occurred over the years. Of particular note is that their treatment reflected not just overt racism, or that which is specifically designed to be abusive, but also that which is often considered by those doing it to be just a bit of fun. Thus, everything from Cyrille Regis's description of monkey chants, banana throwing and threatening letters (p.1), to the chanting of 'He's got a pineapple on his head' at Jason Lee on (p.187), are covered. This last point also highlights a recurrent theme of the book: the role of the media in the construction of race, identity and racism. For example, the Jason Lee chant was started on the popular TV programme 'Fantasy Football' as what the presenters thought would be a bit of harmless fun.

This leads into one of the other main themes of the book, that there is a lot more to race and racism than what 'everyone' knows about it – that it's only done by skin-headed thugs. They discuss institutional racism, elusive racism and the racism of stereotypes. The important point that the writers make is that it is not just the abusive chanting of the few that needs to be addressed. Racism extends to include ideas that Asians cannot play football, Africans are tactically inept and all foreigners are at best poor sports and at worst cheats. The writers highlight how these misconceptions add to the problems faced by many players who are either denied access to the sport, as both players and spectators, or whose participation in sport is not taken seriously because of their ethnicity.

From a lawyer's point of view, I would have liked to have seen a greater degree of criticism of the existing legal provisions in this area, many of which are merely window dressing. The lack of use of, for example, section 3 of the Football (Offences) Act 1991, which is supposed to outlaw racist chanting at football matches, is disturbing and leaves the provision vastly overvalued as an anti-racism tool. If it does not work, then it should be replaced. Simply not using it to control racist chanting should not be an option. In contrast to this, the discussion of the successful anti-racism schemes implemented by a number of clubs is both interesting and heartening. That racism is accepted as a problem that first exists and second can and should be beaten should lead to these schemes being held up as models of how all clubs should operate.

My only minor criticism of the book is that at times it mixes discussions of football hooliganism in general with the discussions of racism in football. Although the authors themselves acknowledge this as a necessary evil, sometimes it can detract from the issues at hand. Some wider context of 'hooligan' behaviour is important, however, and

this is more than adequately provided by the authors. Perhaps instead they could have contrasted the racist and race-related behaviour of football fans with that of cricket and other sports' fans in more detail. This would be particularly relevant in the light of the Cricket Disorder Report of the Department for Culture, Media and Sport.

This book would be ideal for students of sport in any of its disciplines – law, sociology, history, politics and media. Its easy and informative style would also make it an interesting book for any football fan interested in the game at large. It is well set out and the conclusion sections at the end of each chapter are particularly useful.

The final chapter brings all of the previous discussions together, dispelling some of the myths associated with racism and anti-racism in football and proposing a way forward for the future. It also highlights that this needs to be done throughout society and not just in football. One of the best sports books I have read recently, it ends with a warning against any complacency that racism is a thing of the past:

In an era in which many sections of British society are reflecting on the notion of institutional racism there seems little sign that football clubs or the football authorities are interested in considering the extent of unwitting racism that may arise from the policies, practices and cultures of the game. It is to these questions that those engaged in antiracist work must now turn (p.195).

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THE STATE AND THE CONTROL OF MORALITY

Governing Morals: A Social History of Moral Regulation, by Alan Hunt. Cambridge: Cambridge University Press, 1999. Pp.273, £15.95 (pb), ISBN 0 521 64689 8.

The state has a long history of involvement in moral regulation. Even recently, within the context of the 'New Labour' administration in the United Kingdom, we have seen moves to alter the way that both licensing – 'Time for Reform: Proposals for the Modernisation of our Licensing Law' (2000) Cm.4696 – and gambling – *Gambling Review Report* (2001) Cm.5206, and D. Miers, 'OFGAM? OFBET? The Regulation of Commercial Gambling as Leisure Industry', *Entertainment Law* 1/1 (2002), 20–51 – are regulated and the role that the state plays within this process. Even the ability to dance in a commercial space on a Sunday was abrogated by an adherence to an ancient piece of legislation, the Sunday Observance Act 1780, until the advent of the Deregulation (Sunday Dancing) Order 2000, which seemed patently absurd in the third millennium, let alone the second. Alan Hunt's book is a history of moral regulation projects, movements that have as their chief concern 'a desire to regulate everyday life'.

Hunt's approach in the book is to examine historical examples of moral regulation in order that they might provide critical distance from current controversies while hopefully adding to the debate on current issues from a different perspective. As he notes in his 'Preface', 'There seemed little point in adding another contentious voice to the babble of current controversy over any of these moral conflicts. Instead I decided that it might be possible to throw some light on contemporary conflicts by undertaking a study of earlier moral reform campaigns' (p.x). Having set out the theoretical backdrop in the 'Introduction', Hunt selects a number of moral regulation

movements for analysis. In selecting these areas, recognition was made of the difficulties of focusing upon certain areas – for example, the consumption of alcohol does not form part of this analysis, at least explicitly, because of the restrictions this would place on the book as a whole, given the inherent complexities of the area and the sheer size of such an undertaking. The chapters cover various areas or movements. For example, Chapter 1 deals with Societies for Reformation of Manners, and Chapter 2 details 'Moral Regulation from Above: The Vice Society'. Other chapters include case studies on 'Sexual Purity and Social Hygiene in Victorian Britain and the USA' (ch.3), and look at the impact of 'feminism dominated' movements (ch.5).

The case studies themselves are well chosen and thoughtful. For example, Hunt illustrates in Chapter 1 how movements such as this should be understood as part of, or linked to, social movement theory, and his analysis makes use of contemporary examples to illustrate this. These Societies 'projected a generalised fear of a profound national crisis whose origin lay in the immorality of the people' (p.34), with the sins they decried including such everyday sins as neglect of public worship and failing to set a good example at home. An excellent table details the range and type of relevant prosecutions under this broad umbrella during the period 1694–1738, citing examples such as sodomy, drunkenness and Sabbath-breaking.

Prosecutions for 'lewd and disorderly behaviour' are by far the most prevalent, very possibly as a result of this covering the activity of street prostitutes. The chapter details the propaganda machine that underpinned the movement and provides a detailed historical excavation of the roots and rationale for the movement, including critiques such as that of Daniel Defoe, who castigated such movements for their working-class bias; the upper classes were seemingly absolved from censure, notwithstanding their own 'corrupt appetites', on the basis that their transgressions were more likely to be behind closed doors and therefore deemed less pernicious.

Such a class-based distinction can be seen in approaches to a number of other areas in which the activities or proclivities of society have been regulated. Perhaps the area of blood sports provides a neat analogy here, with widely differing approaches to the high culture (fox hunting) rather than the low (badger baiting). Again interestingly, this also provides a link into current thinking and prevailing attitudes, with the current moves towards banning or at least restricting fox hunting and the responses of bodies such as the Countryside Alliance with their claims of interference with their livelihood and rights. Here, Defoe's point concerning who becomes the focus of the law – 'These are all Cobweb laws, in which small flies are catch'd, and the great ones break through ... 'Tis hard, Gentlemen, to be punished for a Crime by a man as guilty as ourselves' (p.52) – seems particularly apposite, notwithstanding any moral reprehensibility at such activities that society might have about all such forms of 'sport'.

As Hunt had noted in his 'Introduction', he hoped that his analysis might cast some light on recent developments and movements. Hunt succeeds in this with ease. His final chapter begins to look at the developments within moral politics and regulation towards the present day, via new social campaigns and political valorisation of family values. Interestingly, at the time of writing this review, one such campaign, the Conservative Party 'Back to Basics' policy formulated under John Major in the early 1990s, is coming under the spotlight a decade later because of the affair between the then Prime Minister and Edwina Currie. It is almost trite to note that an understanding of the past helps develop our understanding of the present and how we might engage with issues in the future, but this well written and superbly constructed book does just that and illustrates the value of adapting a theoretical standpoint with which to interrogate future developments. As Hunt

himself concludes: 'Contests over projects of moral regulation will continue to provide a significant part of the social and political agenda; the best that we can hope is to restrain the worst excesses while we continue to grapple with the intractable conditions of social life that generate the impulse to subject the conduct of conduct to moral governance'.

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CYBERSPACE AND ITS SOCIO-LEGAL IMPLICATIONS

The Internet, Law and Society, by Yaman Akdeniz, Clive Walker and David S. Wall (eds.). Harlow: Longman, 2000. Pp.388, £32.99 (pb), ISBN 0 582 35656 3.

The Internet represents the greatest technological development of recent times, breaking down communication boundaries, presenting opportunities for commercial and economic growth while creating an ever-changing medium open to abuse and criminal activity. Alongside the thundering development of technology, established legal frameworks need to adapt and develop in order to accommodate the blurring of international jurisdictions, the empowerment of the individual and the expansion of commercial activities. This book does not focus upon 'case materials' for the study of Internet law but it is an accessible investigation into how the Internet, the law and our society co-exist and how they can and should interact and develop together.

The Internet, Law and Society encompasses contributions from experts in the field covering the areas of: the governance of cyberspace; the Internet's impact on legal institutions and professions; and 'legal controversies' surrounding the Internet, such as defamation and the dissemination of child pornography. This examination of the social and political implications of the Internet is drawn together by Yaman Akdeniz, member of the Cyberlaw Research Unit at the University of Leeds, Professor Clive Walker and David Wall, both also of the Department of Law at the University of Leeds.

In its treatment of the issues surrounding the governance of the Internet, the book presents a clear, concise examination of how public and private institutions stand side by side in any attempt to regulate this media, breaking away from the traditional strata of governance and moving towards a multi-layered approach. A similar stance is taken in the investigation of how the Internet can be policed, with the need for many agencies to work together whilst also promoting a system of accountability.

The book professes to be a study of 'law in action' and lives up to this remit by paying attention to how the development of technology has impacted upon the legal profession. It is argued that the modern lawyer has a continuing need to adapt and keep ahead of the opportunities and threats created by the information technology boom. Although this section cannot be treated as a 'how to' manual, it does give the legal practitioner an excellent overview of developments and pitfalls in this area. In a separate chapter strong argument is advanced for the greater use of IT within the criminal justice system to simplify and demystify processes and to create a broader base for citizen participation.

Walker's investigation of the issues surrounding 'cyber-constitutionalism and digital democracy' offers a thought-provoking, in-depth analysis of the impact that our ever-expanding ability to communicate through IT could have on democracy and

democratic institutions, the attitudes of governments and the drawbacks and advantages of the citizen's relatively new-found voice. The discussion touches upon many different facets of this ever-changing situation. The difficulties posed to authoritarian nation-states of control of new technologies can lead to the promotion of democracy through the global sharing of information and the empowerment of the citizen in the face of repression. A further democratising effect of new technology is the ability to provide vast amounts of governmental information in a relatively easily accessible format. This should lead to an increase in governmental accountability but, as the author holds, the UK's opportunity to increase accountability has been diluted as the use of new technology has been advocated in the name of modernisation, not the transformation of the nature of democracy.

The author of this chapter presents new technology as a method for increasing informed engagement and participation in political issues. In the current climate of disenchantment with the political process and the recent low election turnouts, enhancing the link between the citizen and the government, or political parties, could reinforce waning popular involvement in the democratic process. While advocating this increased popular involvement the author does signal some drawbacks, such as the tendency for political debate through new media, as a sphere dominated by leisure services, to be provided as a kind of 'entertainment', a mere distraction with its real message and importance being lost.

This is an excellent, broad-based introduction to the main issues surrounding cyber-constitutionalism. However, the whole notion of enabling the citizen by providing a voice can be expanded to examine democratic theory and the tension between equality and rationality. By engaging each citizen in informed political discussion through the Internet, there is the possibility that in place of a democratic consensus, a sphere is fostered in which increased political debate leads to increased polarisation and social fragmentation.

The main issues surrounding the policing of the Internet are examined by David Wall, beginning with an examination of the various 'harmful behaviours' which have developed with the expansion of the Internet, such as 'cybertheft' and 'cyberviolence', the latter seen to encompass activities ranging from harassment to hate speech. The chapter covers responses to the need to impose order in such a shifting environment, showing a multi-layered approach, encompassing input from individual users, user groups, interest groups, service providers and public sector organisations. It is suggested that Internet Service Providers (ISPs) will increase in their legal accountability due mainly to their profit making status, thereby providing the most likely starting point from which order could be imposed. The discussion of the main issues here is measured and very well researched and although the situation is ever-changing, this chapter stands as an excellent general introduction to the increasingly complex area of policing the Internet.

Akdeniz has produced or collaborated upon the majority of the chapters in the final section, entitled 'Legal Controversies in Cyberspace'. As the founder and director of the civil liberties organisation Cyber-Rights & Cyber-Liberties (UK), it is unsurprising that he presents a strong case for the protection of the right to free speech on the Internet, criticising, for example, governmental attempts to impose controls on sexually explicit material. Other chapters discuss issues such as whether the often hysterical, media-fuelled reaction to the Internet as a medium for the dissemination of child pornography merely serves to enhance a rationalisation of Internet censorship while detracting from the 'real world' problem of child abuse. The book also covers subjects such as defamation, hate speech, privacy rights and e-commerce.

The work contains extensive footnotes, many with links to the relevant material on the web, and it is also supported by its own website. The fast moving evolution of the Internet presents a problem for anyone seeking to publish work in this area. However, *The Internet, Law and Society* admits to being a 'snap-shot of work on the subject', and as such is an essential, accessible handbook for anyone, student, law professional or interested party, seeking a critical discussion of the socio-legal situation surrounding the development of cyberspace and an examination of the main policy issues.

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SPORTS LAW

Sport, Physical Activity and the Law, by Neil Dougherty, Alan Goldberger and Linda Jean Carpenter. Champaign, IL: Sagamore Publishing, 2002. Pp.260, \$49.95 (pb), ISBN 1 571 67492 6.

To most non-lawyers, the thought of reading a legal text is enough to make their minds go numb and put them to sleep. This is because most legal textbooks are geared either to the practising attorney or to the law student. Therefore, in order to understand the material in the book, the reader already has to have a sound understanding of the law and how the legal system works. Another problem with most legal textbooks is that some authors, in an effort to demonstrate to the reader how smart they are, use so much legal jargon that the reader is quickly lost. It was, therefore, really refreshing to read *Sport, Physical Activity and the Law* by Neil Dougherty, Alan Goldberger and Linda Jean Carpenter. The authors, three widely acknowledged legal experts in their fields, are able to present the material in a simple format that is well organized and easy to read.

One of the reasons *Sport, Physical Activity and the Law* is so easy to read is that the common organisational pattern of the chapters facilitates study and review of the material. First, the text is divided into five distinct and separate areas: the legal system; constitutional guarantees; personal rights and expectations; programme management and contract; and legal responsibility for participant safety. The authors then divide the five areas into 16 chapters, ranging from an overview of the US legal system and risk management all the way to contract and constitutional issues. Each of the chapters begins by presenting a brief scenario to illustrate the nature of the chapter's main topic area. The authors follow each scenario by listing the objectives and key elements found in the chapter. In an effort to assist the reader, the authors also highlight each new concept and term as it is introduced.

Many chapters contain management sections that show sport administrators how to turn the legal concepts and requirements discussed into proactive tools that build better programmes. At the end of the each chapter is a summary of the key concepts followed by several case studies that demonstrate real-world applications of the legal concepts addressed. The case studies are presented in a simple and easy to understand narrative, rather than a more technical legal format, that makes it easy for the non-lawyer to follow and comprehend. The case studies are followed by a list of key terms and several questions to aid the reader in reviewing the key points of each chapter. Finally, in the reference section that follows each chapter, the authors include in many

of them the citations for suggested additional readings for anyone who would like to research the particular area in more detail.

While enjoyable and certainly educational, the book also has some faults. For example, in most chapters the resource material used is rather dated. While all the material presented is legally sound and correct, because the law, especially in the areas of constitutional law and even risk management, has changed over the past few years the authors could have used more up-to-date references. Most of the resources used, even in the new chapters, are over ten years old. In addition, people in the United Kingdom or outside the United States should also know that the book deals almost exclusively with the US legal system and laws. The only reason I mention this fact, since neither the book nor the authors ever pretend to cover European law, is because *Entertainment Law* is published in the United Kingdom.

Overall, I would recommend *Sport, Physical Activity and the Law* to anyone interested in the legal issues surrounding sport and physical activity in the United States. The book is well written and provides some very helpful information. In addition, the book should prove very useful to any athletic administrators interested in developing a safe and legally sound sport and physical activity programme. If however you are more interested in the legal issues of sport outside the United States, there are a number of other sport law books available that would prove much more useful.

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