This seminar examines legal issues pertaining to non-human animals. It is concerned with how such entities have been conceptualized by the law and with how they should be. Should animals be viewed as objects (property), as legal subjects (rights holders) or as something else altogether? This debate will provide the context for examining animal protection legislation, both federal and provincial, and current issues relating to animals. These include animal cruelty (including such specific topics as experimentation on non-humans, treatment of farmed animals and hunting), endangered species legislation, standing in animal welfare/rights litigation and the impact of trade legislation on the welfare of animals.

The goals of the course are for you to analyze and engage conceptual questions about the place of animals in the legal framework, and become familiar with some of the key legal issues, doctrines and tools that you might encounter if you intend to incorporate animal law into your professional practice.

In the first few classes we will some of the more conceptual or philosophical questions that present themselves when we start looking at the legal situation of animals. For example, where does the legal system draw the line between “subjects” and “objects” of rights (or “persons” and “things”), and based on what rationale? Do animals deserve to have legal rights, and what would the implications be if they did? Should some animals have stronger legal protection than others? These discussions will introduce themes that we will continue to grapple with throughout the semester.

The main part of the course looks at Canadian federal and provincial law on a range of topics: criminal prohibitions on animal cruelty, wildlife law, food production, and scientific experimentation on animals.

**Instructor:** Vaughan Black, room 419, 494-1011, vaughan.black@dal.ca.

**Office Hours:** Wednesdays 12:30 to 1:30 or by appointment. Or just drop by.

**Meeting Times:** Wednesdays, 4:30 to 6:25 in Room 309

**Materials:** Lesli Bisgould, *Animals and the Law*.

**Evaluation:** There are three components to evaluation for this course: a class participation mark, an in-class presentation and of course the major paper.

**Class participation:** 10% You should do the readings and come to class prepared to discuss them and issues arising from them. The most important component of any seminar course is you, the students: the insights that you bring to class each week, and the
discussion that you create during our class meetings. Your contribution is essential for constructive, respectful and lively class discussion. The key guidelines for the class meetings are to come prepared, express your ideas, give courteous consideration to others’ points of view, and enjoy it!

You are permitted to bring your laptops or other internet-connected devices to class; I ask you, and will trust you, to use them only in ways that contribute to the educational experience. You are also very welcome to look up things that arise from our discussions in real time so that we can all learn more details. But please don’t use the Internet to pursue unrelated personal matters in class time; that would be unfair to your classmates and to yourself.

Oral presentation: 10%  Starting with our sixth class (Oct. 14) everyone will get a chance to deliver an oral presentation on their paper topic. You will have twenty minutes to do this and that will be followed by ten minutes of discussion and feedback. You should try to be informative and stimulating, but you can also raise difficulties and frustrations you are encountering with your paper. We will do one of these per class, starting about a half hour from the end. There will be a sign-up sheet made available in early October so you can select your date.

Major paper: 80%  You must submit a proposed paper topic to me for approval. The deadline for submission of papers is 3:30 p.m. on the last day of exams: Monday day, December 21. Major papers must be submitted in hard copy. Students should hand papers in to the reception desk and ensure they are date and time stamped.

The law school’s academic regulations make the following comments about major papers:

- Normally the paper will not be shorter than 25 pages.
- At the beginning of the course, the professor should give the class an indication of the expectations regarding length. The professor might say “the minimum page length is 25 pages; while there is no maximum length, my expectation is that most papers will between 25 and 40 pages long.”
- Normally a paper of a general descriptive nature will not meet the standards.
- Normally the topic undertaken will be suitable for in-depth research with legal emphasis in a limited field of inquiry.
- Normally the supervisor should approve the topic and the outline or draft of the paper.
- Faculty members should make themselves available to meet with students to discuss the graded papers.
- At each stage of the supervision of major papers, both the supervising faculty member and the student should pay explicit attention to each of the criteria relevant to the evaluation of the paper.
- Copies of the major paper guidelines should be made available to students.
The academic regulations also set out details on how major papers are to be assessed. You can find them at this link:

http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html

At the end of this syllabus is a list of possible essay topics. These are intended merely as illustrations as the sorts of things that might make a good essay topic for this course. You are, of course, welcome to select one of these topics, but you are encouraged to consider making up one of your own. I encourage you to meet with me at least once during the course of writing your paper so that we can discuss its progress. I also encourage you to give me a draft of the paper while it is a work in progress so that I can offer my comments on it.

All students in this course must read the University policies on plagiarism and academic honesty referenced in the Policies and Student Resources sections of the http://academicintegrity.dal.ca/ website, and the Law School policy on plagiarism, available online at http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html. Any paper or assignment submitted by a student at the Schulich School of Law may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.

Student Requests for Accommodation

Requests for special accommodation for reasons such as illness, injury or personal circumstances will require an application to the Law School Studies Committee. Such requests must be made to Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes as soon as possible, before a scheduled exam or a deadline for an assignment. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation as a result of barriers related to disability, religious obligation, or any characteristic under Nova Scotia’s Human Rights Act. Students who require academic accommodation for either classroom participation or the writing of tests and exams should make their request to the Advising and Access Services Center (AASC) prior to or at the outset of the regular academic year. Please visit www.dal.ca/access for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at
Dalhousie University is committed to a welcoming and respectful working and learning environment that is free from harassment and discrimination. We encourage open dialogue, however members of the class are expected to refrain from speaking or behaving in ways that are harmful to others, through racism, homophobia, sexism, or other derogatory treatment based on characteristics protected under the Nova Scotia Human Rights Act. Please do not hesitate to speak with me if you have questions or concerns, or see www.dalrespect.dal.ca for further information on resources and supports.

**Schedule of Topics and Readings**

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<thead>
<tr>
<th>Date</th>
<th>Subject</th>
<th>Readings</th>
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<td>Sept. 9</td>
<td>General introduction</td>
<td>Consider the Lobster</td>
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<td>16</td>
<td>Theories and History</td>
<td>Bisgould, 1-54 (but not 27-34)</td>
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<td>23</td>
<td>Animal Trials</td>
<td>Bisgould, 27-34 + Sykes handout</td>
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<td>Habeas Corpus</td>
<td>Handout</td>
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<td>30</td>
<td>Animals and the Constitution</td>
<td>Handout</td>
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<td><em>Xentel v Windsor</em>, 243 DLR (4th) 451; [2004] OJ No 3656</td>
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<td><em>Eng v Toronto (City)</em>, 2012 ONSC 6818</td>
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<td>Oct. 7</td>
<td>Federal Criminal Law</td>
<td>Bisgould 57-71</td>
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<td><em>R v. Ménard</em> (1978), 43 CCC (2d) 458 (Que CA)</td>
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<td>David J. Wolfson, “McLibel” (1999) 5 Animal L 21</td>
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<td>Handout</td>
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<td>14</td>
<td>Federal Law (con.t)</td>
<td>Bisgould 71-96, 267-77</td>
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<td><em>Criminal Code</em>, ss. 445.1-447.1, 160</td>
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<td>Provincial Law</td>
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<td><em>Animal Protection Act</em>, SNS 2008, c 33</td>
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Sample Essay Topics

Damages for loss of companion animals. The assessment of damages for loss of wrongfully killed pets raises interesting issues with respect to how such animals are conceived of and valued by the law. In addition, there are other possible paper topics related to tort malpractice claims against veterinarians.

No-pets provisions in condominiums and apartments: See Ontario case of Staib.

Research on animals. Around three million non-human animals are used and killed in research (medical, industrial, scientific) in Canada every year. Canada is one of few industrialized western countries that has no generally applicable legislation regulating the use of animals in research. There are many issues to be explored here, including those related to the administration of the current self-policing regime.

The right to hunt. In recent years three Canadian provinces have brought in legislation proclaiming a general “right to hunt”, and there is was a bill before the Parliament of
Canada to the same effect. The origins, explanations and implications for such statutes are worthy of examination.

Reform of the animal cruelty provisions in the Criminal Code. There has been a lot of activity on this front over the past decade. In 2008 Parliament finally amended the Code’s provision on animal cruelty, but only in a minor way and initiatives to undertake a more substantive alteration in the law remain.

Custody of companion animals in matrimonial breakdown. Should animals be treated purely as property, or is it appropriate to consider the best interests of the non-human, as is done for child custody? May support payments be ordered in favour of non-humans?

Chimeras. Federal legislation, the Assisted Human Reproduction Act outlaws attempts to create hybrids between human and non-human animals. That is, although it is legal to attempt to create a cross between a chimpanzee with a gorilla, it is now illegal to attempt to hybridize either with a human. The origins, justification and implications of such legislation are worthy of exploration.

Legal rights for non-humans. Canadian law has not been receptive to granting rights to non-human animals. Some other legal regimes, however, have taken tentative steps in that direction. What are the pros and cons of granting rights to non-human beings?

Product Labeling. The advantages and disadvantages of labeling (mandatory or otherwise) of “cruelty free” products. Note the dismissed false advertising complaint under the Competition Act against Kentucky Fried Chicken of Canada.

Canned hunts. In the 1990s a number of Canadian provinces witnessed the growth of “game farms”, confined areas of private land where persons could pay a fee for the right to enter and shoot an animal.

Will directives to kill companion animals. Wishart directed that when he died his horses should be shot, but in a case reported at (1992) 129 N.B.R. (2d) 397 the New Brunswick court held that enforcing such a provision would violate public policy.

Tort liability of owners of non-human animals.

Patenting of non-human life forms. The Supreme Court of Canada rejected an application to patent the so-called Harvard Mouse. Other legal systems, including that of the United States and Japan, have been prepared to grant such patents. (There is room for lots of twists here – for instance, an essay on the patentability of cloned extinct animals.)

Control and banning of certain breeds of dogs. Some Canadian municipalities have sought to limit the ownership of some kinds of canines (pit bull terriers, for example) on the grounds of dangerousness. (Another area in which municipalities have been active has been the banning of the use of animals – or at least of certain animals – in circuses.)
Domestic violence, child abuse and animal abuse. Studies have suggested links between abuse of non-human animals and abuse of humans. This raises a number of interesting legal questions that might be explored. For instance, should a person’s history of cruelty to animals count against him in a child custody dispute, or is such a history relevant to the question of whether child protection authorities should intervene to apprehend a child at risk?

Xenotransplantation.

History of provincial anti-animal-cruelty legislation in Nova Scotia (or any province, or the federal legislation).

Bestiality. Criminal prohibitions against sexual contact between humans and non-humans (interspecies rape) are widespread, longstanding but infrequently invoked. They raise a host of fascinating issues, especially since the crime itself is not defined.

The post 9/11 war on terror may encompass certain groups of animal activists; the implications of recent anti-terror legislation on the animal rights movement.

Vegan and vegetarian meal options in prisons, hospitals, mental institutions, etc. See *Maurice v. Canada* (Fed. Ct. 2002) dealing with freedom of conscience, and other proceedings under provincial human rights legislation.

Legal regulation of trapping. See the recent changes to the trapping regulations in Nova Scotia’s *Wildlife Act*.

Humane education: the right not to harm animals in the course of getting an education. E.g., should schools be permitted to give failing grades to students who refuse to dissect frogs in biology class, or must they (by law) provide a humane alternative?

Constitutional authority over non-humans. Is federalism good for animals?

Privacy rights of abattoirs: see the decision of the High Court of Australia in *Australian Broadcasting Corporation v. Lenah Game Meats Pty.* (2001), 185 A.L.R. 1.

Regulation of the practice of veterinary medicine, including sub-issues such as veterinarians’ obligations of confidentiality.

Pet trusts in wills. Leona Helmsley left her pet Maltese an inheritance of $US12 million, though legal proceedings reduced the final gift. The validity and administration of testamentary pet trusts raises a number of questions. There have been calls for legislation to address concerns arising from such provisions in wills.

Labelling of living animals. As far back as Hammurabi’s Code there is evidence of laws dealing with labelling of non-humans. Today animals are branded, tagged, tattooed,
collared, banded, rigged with transponders and implanted with chips – sometimes pursuant to legal requirements.

Animal welfare standards in fur farming. One of the few sectors of Nova Scotia’s agriculture industry that has flourished in recent years is the raising of minks and foxes. The passed government has passed a fur farming act that contains provisions for making regulations dealing with the welfare of those animals (case sizes, slaughter methods, etc), but has done nothing under it.