

Muzzling a Movement: The Effects of Anti-terrorism Law, Money & Politics on Animal Activism

Dara Lovitz (2010) *Muzzling a Movement: The Effects of Anti-terrorism Law, Money & Politics on Animal Activism*. Lantern Books.

Reviewed by Melanie Wellsmith¹

In a world changed by the dramatic events of 9/11, *Muzzling A Movement* seeks to critically analyze recent U.S. ‘eco-terror’ laws, most notably the Animal Enterprise Terrorism Act 2006 (AETA), in light of the rights and freedoms of individuals enshrined in the U.S. Constitution. The author’s aim is to demonstrate that such legislation has quite unnecessarily labeled a predominantly peaceful movement as ‘terrorist’ and subjected animal rights activists to investigation, legal intervention and control to such an extent that their ability to raise awareness of their cause has been significantly curtailed. The book is constructed around an analysis of U.S. legislation; that which purports, but fails, to protect nonhuman animals (e.g. the Humane Slaughter Act; The Animal Welfare Act) and that which criminalizes those who actively seek an end to nonhuman animal exploitation and abuse. In addition, the passing of the AETA is critically assessed, through a consideration of its key political supporters and their economic and organisational interests in the industries the Act seeks to ‘protect’, such as vivisection and farming.

Dara Lovitz is an Adjunct Professor of animal law and practising lawyer. She brings, therefore, the legal expertise necessary to systematically and critically deconstruct both the legislation and its application. In particular she provides a detailed recounting of *Commonwealth v Esbenshade* (in which she served as a special prosecutor), a case involving the unsuccessful prosecution for animal cruelty of the owner and supervisor of a battery-egg facility; the successful prosecution of the SHAC-7 (Stop Huntingdon Animal Cruelty) under the Animal Enterprise Protection Act 1992; and the construction and passage of the AETA. Through this analysis she provides convincing support for her claims that the legislation *as specifically targeted at animal rights activists* presents an indefensible and disproportionate interference in the constitutional rights of such individuals and the groups and organisations they form.

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The book is split into six chapters and three appendices; the latter of which reproduce the AEPA (Appendix A) and the AETA (Appendix B) and summarise State animal enterprise protection laws (Appendix C). The six chapters proceed in an quasi-chronological manner, starting with an indictment of animal ‘protection’ laws (Chapter one). In this chapter, Lovitz considers the inability of legislation drafted within a speciesist framework to truly afford protection to those perceived as other than (read: lesser than) human; reminding us that the legal status of nonhuman animals is one of property. The scene is set in this chapter for what is to follow when Lovitz discusses the reluctance of the (elected) judiciary in *Esbenshade* to “create “new law”” (p29), thus set a precedent in a case where battery hens were clearly “suffering immensely” in conditions that were “not part of normal agricultural operations” (p29). Indeed the Magistrate would not even commit the opinion in writing, which could have been presented to State lawmakers as evidence that existing legislation was not ‘fit for purpose’. The chapter is completed with a relatively brief, but evocative, consideration of the range of industries that ‘use and abuse’ nonhuman animals, and the ineffectual nature of the associated ‘animal protection’ laws.

Chapter two follows naturally from this critique by considering the reaction of U.S. Congress to a developing animal liberation movement. This consideration is brief but does provide context for later chapters, particularly through an illustration of the reactive and ever more draconian legislative measures introduced in an effort to curtail the activities of organisations such as the Animal Liberation Front (ALF); thus protecting the interests of those (economically and politically powerful) organisations and enterprises that were being targeted because of their exploitation of nonhuman animals, including vivisection laboratories, university facilities and fur farms. The chapter provides further context by detailing the formation, by a group of U.K. activists, of Stop Huntingdon Animal Cruelty (SHAC), which aimed to shut down Huntingdon Life Sciences (an animal-testing lab). The activities of SHAC members, notably the ‘SHAC-7’, are considered in greater detail later in the book, thus this overview is welcome, particularly for those readers who may be unfamiliar with the organisations involved and their actions.

Chapter three summarizes the investigation, arrest and successful prosecution for inchoate offenses (conspiracy, across a number of charges) of the SHAC-7 under the AEPA. Lovitz presents a convincing argument that *legally* there were not sufficient grounds for findings of guilt against any of the defendants. Further she describes how the case was used, through an appeal to the U.S. Court of Appeals, to challenge the AEPA on the grounds that it was unconstitutional, being incompatible with the First Amendment right to free speech (the

appeal was also brought on additional grounds). Again, the argument in support of such claims is clearly articulated and, based on the evidence presented, Lovitz's claim that:

The only thing that the SHAC defendants conspired to do, however, was to shut down HLS; the government did not prove that they conspired to commit any illegal acts in furtherance of that goal. (pp74-5)

is hard to discount. The appeal, however, failed on all counts, with only one Judge dissenting in relation to one charge.

Continuing with the chronology of events and legislative developments, chapter four details the Senate and House hearings that led to the replacement of the AEPA with the AETA. This chapter is perhaps the most critical, but in some ways also the weakest. One of the key issues considered in this chapter is the inclusion of the word *terrorism*, not least into the title of the legislation itself. The appropriateness and impact of the terrorist label is revisited in chapter six. Lovitz continues to make her point by highlighting the unrepresentative nature of those invited to speak to the House of Representatives Subcommittee on Crime, Terrorism, and Homeland Security as it considered the proposed AETA. Next she discusses the "Money and Politics Behind the Animal Enterprise Terrorism Act" (p84). The argument presented is a valid one, and it is one which is clearly not without foundation. It is widely acknowledged that legislation is, by and large, *created* by those with power and influence to *protect* those with power and influence. The AETA is no exception to this. Therefore, Lovitz's detailing of the economic and company interests of those politicians who supported the AETA is unsurprising. Further, the existence of such interests, whilst possibly persuasive, cannot be read as evidence of nepotism or corruption. There is an important argument here, but I believe it would be better made, or at least supported, through a consideration of the wider socio-political literature on the role of power and influence in governance and law making.

Chapter five contains the most detailed legal critique, considering the ways in which the AETA violates the U.S. constitution and the impact of federalizing such 'offences'. Again, Lovitz's analysis cannot be faulted, albeit it feels a little brief. It is worthy of note, that the differential treatment of animal (and environmental) activists, is particularly highlighted in this chapter, and one wonders why such groups have been targeted in this way. I suspect Lovitz's argument relates back to that presented in the previous chapter: that the power to influence legislation is vested heavily in enterprises that most abuse and harm nonhuman animals and the environment. This could have been revisited more explicitly here.

The final chapter summarises the issues that have gone before through a consideration of the impact of the material presented (the legislation, investigatory techniques and cases) on the wider animal rights, or advocacy, movement. The fluid and contentious nature of the terrorist label is firstly presented, though this consideration is extremely limited. A more complete discussion is realistically beyond the scope of the text, but it is so important that more weight should have been attached to it here. Lovitz then considers the ‘activities’ of animal rights activists and how these do not fit those of terrorist organisations. The picture painted of groups such as the ALF supports her assertions, though a similarly convincing counter-argument could possibly be produced. Indeed, many groups labeled as *terrorist* would, I suspect, be keen to argue that not only do they not carry-out such activities, but that their actions are in desperate response to their lack of access and control over ‘democratic processes’ such as law making, which animal rights activists’ may also argue has resulted in their recourse to illegal activities (such as trespass, damage and theft).

However, what is clear is that regardless of the illegal actions of some individuals involved in these organisations, the label of terrorist has been used to (1) curtail the rights of such offenders to a greater extent than others committing similar crimes with different motivations and (2) control the *legal* activities and associations (thus freedoms) of those connected to the wider animal rights movement, through fear of unwarranted interference by authorities and law enforcement. It is this latter point which, I believe, to be the most significant as it involves internalised self-regulation and censorship, thus is the most damning indictment of the inappropriate construction of animal rights activists as terrorists.

Overall, the book is well written, clearly presented and achieves its aims. The book is very much focused on U.S. legislation and its use. An international comparative analysis, particularly with the U.K., would have been of great interest, especially for the non-American reader. The text is clearly focused on the role of law, as would be expected given the author’s academic expertise. As such it provides a succinct consideration of a number of relevant issues. With this focus on legal analysis, I was left feeling, however, that the story was only ‘half told’. There is a wealth of writing on the topic of constructing terrorism, and the wider issue of capitalist influence in the erosion of democracy and freedom. It would be nice to see some of this applied more specifically to animal rights activism. This may well have fallen beyond the scope of such a concise text, albeit the role of money and politics is included alongside law in the subtitle. As such, I would suggest this book is particularly suitable for legal scholars and students. Further, I hope this book will inspire the reader to engage in a deeper exploration of the socio-political considerations and to question the extent to which

anti-terror legislation in particular has been used to curtail the very freedoms that it purports to protect.