

# The ongoing health crisis shakes the foundations of the management of natural life

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## Abstract

A global crisis, that puts under threat the health of millions of beings all over the world, has shown how we ought to rethink the way in which we treat animals, particularly those belonging to wildlife. In this issue, and in global preview, we do this through the China case, where a reform of the law regarding wild animals is being discussed. This bridge between the East and the West, represented by the magazine, also deals with various forms of abuse on animals, a problem which is often overlooked in everyday life. Thus, we take under consideration once again the animal wellbeing of fish, that are always left in the background when discussing animals, and we refer particularly to the relation between interpersonal violence and animal abuse. The book reviews, which are always so important in our editorial outlook, show once again that the magazine attracts the interest of the readers with the critical review of certain books that have recently dealt with animal rights, or of others that continue to question the issue because they deal with particular themes that are always interesting to divulge.

**Keywords:** Coronavirus; COVID-19; China, Wildlife Protection Act; East-West; anthropocentrism; animal feeling; sentient beings; welfare in fish; animal abuse; link between interpersonal violence and animal abuse; bearskin.

## Resumen - *La crisis sanitaria sacude los cimientos de la gestión de la vida natural*

Una crisis mundial, que amenaza la salud de millones de seres repartidos por todo el planeta, ha puesto de manifiesto que debemos cuestionarnos el trato que damos a los animales, en particular a los integrantes de la fauna silvestre. En este número, como primicia mundial, lo hacemos a través del caso de China que está en trance de reformar la normativa relativa a los animales silvestres. Este puente tendido entre Oriente y Occidente que es la revista, se plantea por lo demás distintas formas de maltrato animal, que permanece tantas veces sesgado en medio de la realidad cotidiana. Así, volvemos a examinar el bienestar animal de los peces, que permanecen siempre en un segundo plano de atención cuando de animales se habla, para referirnos de manera particular al vínculo entre violencia interpersonal y maltrato. Las reseñas, siempre tan importantes en nuestro horizonte editorial, vuelven a mostrar cómo la revista atrae al interés de nuestros lectores la visión crítica de algunos libros que recientemente han tratado el Derecho Animal o de aquéllos que siguen suscitando nuestro interés, por tratarse de literatura singular y, por ello, siempre interesante de dar a conocer.

**Palabras clave:** Coronavirus; COVID-19; China, Ley de Protección de la vida silvestre; Oriente-Occidente; antropocentrismo; sentiencia animal; seres sentientes; bienestar en peces; maltrato animal; vínculo entre violencia interpersonal y maltrato animal; piel del oso.

An animal law journal must reflect the latest on a dynamic subject to the benefit of society – of which animals are an integral part, and not mere extras on the fringe – through our prism of none other than investigation. Consequently, we are publishing an article in this volume (11/1, 2020) - [China Needs to Establish a Directory System of Wildlife Prohibited from Hunting, Breeding, Transferring or Eating Urgently](https://revistes.uab.cat/da/article/view/v11-n1-chang-chang) (<https://revistes.uab.cat/da/article/view/v11-n1-chang-chang>) - on the Coronavirus (COVID-19) epidemic that has in recent months been marking the passing of time in the world, and is a sign of the predicament we face with animals and society in the 21<sup>st</sup> Century.

In effect, we are publishing, as the first of its kind, the first reflection made from an academic perspective on the possible causes and public policies that could elucidate the causes of this terrible illness, based on the experience of Dr. Jiwen Chang (Hunan University Law School and School of Humanities of the China University of Geosciences) and Jiezhong Chang (Wake Forest University. Research Assistant at the Institute of Resources and Environmental Policy, Development Research Center of the State Council of China). It is a paper that tries to uncover the connection between the origin of Coronavirus and the need for China to reform (by itself) the current laws on the prohibition of hunting, commerce, tenancy and consumption of wild fauna animals that traditionally form part of the species available to everybody, without controls, in Oriental markets.

For years our desire has been to break the traditional Oriental-Occidental dichotomy and bring two worlds closer together; two worlds that, overall, as well as on the topic of animal protection, cannot continue on diverging paths. Looking back over our knowledge, in light of the very ancient and respected oriental tradition and in relation to our treatment of animals, allows us to more incisively consider our own traditions - to criticize them and, where necessary, eliminate and forbid them, for leading to the abusive exploitation, rather than respect, of nature. Raising this voice against ignorance of the treatment afforded to animals in the Orient allows us to start building Animal Law bridges between the Orient and the Occident.

In this edition we also publish an article that addresses, from a different perspective, the obvious crisis of values that have until now governed the relationship of human beings with nature and the animals that inhabit it. The anthropocentric paradigm that has uniformly been adopted in both Common and Civil Law systems breaks down when call, with our own voices, for animals to be included in our own legal system not in the typical role of things of property, but as sentient beings. So the article [Hacia un eco-sensocentrismo como postura ética para el derecho animal](#), by Juan José García-Rebollo del Río (Autonomous University of Queretaro, Mexico) proposes a turn towards an *eco-sensocentrista*<sup>1</sup> ethic, meaning that legal systems adapt their regulations towards unquestionable scientific reality – hardly permeabilised in the Law until now – which puts an internal legal limit on abuse towards animals resulting from an accepted pre-eminence of human being interests over the legitimate interests of animals and nature.

One of the countries with the most openly protective legislation towards nature and the environment is Brazil. Not in vain, Brazil boasts the greatest biodiversity in the world - the greatest expanse of tropical forest and 12% of the planet's fresh water reserves. These natural characteristics make Brazil a reference in terms of the environment, and one of the main global actors determining the management of natural resources. However in managing this, Brazil offers many patent contradictions and a forgotten tendency to place animals in the preeminent position that corresponds to them, or that is at least comparable with, the place offered to Environmental Law by Brazilian legislation. The article '[Las contradicciones de la legislación animal en Brasil y el estado de San Pablo](#)' by authors Mônica Soares Padilha and Marcos Lopes Padilha (University of Sao Paulo, Brazil) specifically addresses this problem, centring it on environmental and fauna protection. The piece offers a critical vision of current animal mistreatment management, based on the lack of sufficient coercive measures, the reluctance of Brazilian judiciary to punish perpetrators of mistreatment, as well as the actions of the current Brazilian government, which has systematically dismantled the organisms responsible for the investigation and punishment of such illicit acts.

Animal mistreatment is social scourge expressed in many ways; for instance the repression of these expressions. Taking responsibility for the punishment of violent acts against the most vulnerable, among which we count animals, is a State competence. It is more difficult to reprimand animal mistreatment when it occurs in a familial environment, and the two extremes of respect for intimacy and punishment against interpersonal violence present points of friction, and are not always adequately resolved. In this area, ICALP, and by way of this, the journal that we publish, has always shown concern for standing up in defence of animals and promoting public policies that protect them, as well as beyond that which obviously and publicly occurs. It is clear that progress has been made in this field; there are many municipal bylaws prohibiting conduct that amounts to mistreatment, such as the case of abandonment, the prohibition of keeping companion

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<sup>1</sup> The author's own word

animals permanently tethered, not providing them with food, shelter or a place to rest, and keeping them out in the open without regard for weather conditions that, due to cold or heat, can be extreme and affect their physical integrity.

Despite the punitive measures, there is a vast of ignorance surrounding animal mistreatment, interpersonal violence and how to deal with it; this is what the article Maltrato animal: las víctimas ocultas de la violencia doméstica, by Andrea Herbert Garrido (Veracruzana University, Mexico) addresses. In this study the author focuses his attention on the victims of mistreatment in the domestic realm, based on an empirical study carried out in Xalapa, Veracruz (Mexico) with a group of 80 men and women belonging to support groups against domestic violence. One of the merits of this study is that it offers a sectorial radiography of a territory, an atmosphere and a situation, while another key merit is how it offers a method that can serve as a basis for similar studies that could be of interest to other countries, cities or regions. If these studies were carried out, we would no longer have the scientific vacuum that we currently have; while alluding to the problem facing us, they offer data from studies published almost exclusively in the USA, which, although being very necessary, does not allow accurate and precise translation of the results to other types of society.

Maltrato animal y muerte instantánea: apuntes sobre la Sentencia de la Audiencia Provincial (SAP) de Albacete núm. 30/2019, de 21 de enero, is also dedicated to animal mistreatment and its relation with interpersonal violence. This is a case commentary written by Alvaro de Juan (Autonomous University of Barcelona), referring to a case ruled in January 2019 in the Albacete Provincial Court, which dealt with the link between interpersonal domestic violence and animal mistreatment, regarding a case in which art. 337 of the Criminal Code was applied for the violent and instant death of a cat belonging to a woman whom the aggressor, by exercising such violence, was trying to intimidate. In his commentary, the author reasons not only through an analysis of the legally protected good mentioned in the Criminal Code article, but also through the comparative aspect of the application of a punishment, which resizes the threat to the physical integrity of a woman through the violent killing of her cat. The remark on the concomitant circumstances of the commission of the crime is particularly interesting, as the death of the cat, which was violently thrown at the bathtub, was instant and supposedly without pain, which does support the theory of the aggressors cruelty, and also that the legally protected good in this case was the integrity of the attacker through the morally lethal threat - the death of her own cat in her presence.

This volume also contains a collaborative work in which fish, again, return to the prominence that the Law has long denied them, as a continuation of the monographic dossier on fish that we published in our last volume (10/4) of 2010 (<https://revistes.uab.cat/da/issue/viewIssue/42/10-4-pdf-dossier-es>). I am referring to the document entitled The legal protection of farmed fish in Europe – analysing the range of EU legislation and the impact of international animal welfare standards for the fishes in European aquaculture (<https://revistes.uab.cat/da/article/view/v11-n1-gimenez-candela-saraiva-bauer>), whose authors are Marita Giménez-Candela, Joao Saraiva and Helena Bauer. The study provides an examined and original account of animal welfare treatment of fish, which starts with the verification that the Law has systematically relegated them for economic and sociological reasons, and for the difficulty in legislating in an area that literally escapes our natural perception (which doesn't happen with mammals, for example). The work offers arguments for reconsidering the disadvantageous position of legal regulations relating to aquaculture, given the abundance and precision of studies dedicated to them by Animal Welfare Science; an imbalance that we must try to eradicate, which the collaboration of different experts offer in this article, in a strong and verified way.

The mission of a scientific journal is to provide critical news of publications in its specialty, whether they are recent (which is always more common), or, even having been published years before, form part of the historical memory of a discipline or its close cultural surrounding. In our journal we give great importance to reviews; we are avid readers of the news and careful readers of the classic literature of Animal Law and of Animal Law Studies. Reviews are in no way lesser kinds of academic literature - it astonishes me that they could be considered this way. A review provides information to those interested in the subject and a courtesy to all those who have worked together for the publication of a book, from the author, the prolog writer, external evaluators, the publishing house, the department responsible for its dissemination, the cover designers and typographers. Together they form a conceptual unity – ‘the book makers’ – and they all deserve for a journal like ours to dedicate space and time (with *tempo*) to recognise their existence and contents. In this first volume (11/1) of 2020 we are publishing three very interesting reviews.

Adolfo Sansolini, Director of “Animal Welfare and Trade”, took on the analysis of Martina Pluda’s book ‘Animal Law in the Third Reich - Servei de Publicacions de la Universitat Autònoma de Barcelona (Cerdanyola del Vallès 2018) 169 pp.’, examining a piece that freely evaluates the contribution of the Third Reich towards constructing a structured State system of animal welfare, as well as its origins and sociological and cultural roots. We, the academy, are delighted when a book stands as an independent and well-argued study, especially when there is already a lot on this part of history, with so many reasons to forget and express

rejection. On top of this, the book begins a collection, backed by the work of ICALP and the Animal Law and Society Master at the UAB, and accommodated by the Publication Service of the UAB.

Laerte Levai (Doctor from the University of Sao Paulo and Public Environmental Public Prosecutor in San José dos Campos, Sao Paolo, Brazil) reviewed the book Direito da Saúde Animal - Juruá (Curitiba 2019) 160 pp. by Luciano Rocha Santana and Thiago Pires Oliveira - a genuine novelty for the Latin American and European Animal Law landscape. It addresses Animal Health Law, but the title does not give away the real subject of the book, which is the appropriateness, or not, of referring to animals through the concept of “responsible tenancy” (which evokes the sense of belonging, as ownership of animals) or through the concept of “responsible guardianship” (which is a lot more respectful and accurate with the true nature of animals, which is none other than “sentient beings”, as Animal Welfare Science continues to verify). It is a book that, as discovered by the author of the review, goes beyond what the title suggests at first glance.

Finally, Alex Peñaranda (Master in Animal Law, 9<sup>th</sup> Edition 2019-2020) took on the special literary piece that is Joy Sorman’s La peau de l’ours - Gallimard (Paris 2014) 160p., worthy of appearing among other works reviewed by this journal for its uniqueness and the interest it generates despite five years having passed since its publication. It deals with a text that is literarily very beautiful, which through a stylistically impeccable form, questions the difficulties of a creature born of the union of a woman and a bear, immersed in a society that rejects and objectifies it. This creature’s path, with its animal skin and half-animal, half-human appearance, questions our prejudices, our customs of purity and utility that enable us to mistreat and discriminate a being that not only looks at us, but sees us, because it is someone, and not something.