

A frank discussion in favor of animals: France, the 'Civil Code' and the Constitution

Keywords: Animals and the French Civil Code; Animals as Things; Animals as Sentient Beings

Starting in the fall of 2013, the French Republic has undertaken a one-way path destined to put an end to the misery in the lives of its animals.

The initiative was started by, among others, the group “Ecolo-Ethik”, led by Senator Chantal Jouanno, a politician who has held positions of high responsibility of the French Government for many years. This new think-tank brought together the collaboration of prestigious and renowned professionals in order to work for the improvement of the legal situation of animals at various levels (political, legal, educational and philosophical) and with a guiding proposal. The proposal is to reform the Constitution and the Civil Code with regards to animals. Its intention is to legally recognize animals as what they are: sentient beings who deserve a distinct legal status and to receive better recognition than they currently do in the French legal system, which is that they are no more than owned things (property).

The French Code has been the example and model for Continental Law since its promulgation. The codifying effort undertaken by the French, under Napoleon’s orders, is the basis for the legal configuration of Continental Europe, all of Latin America, Japan and Turkey. The Code, as is well known, is based on a system of Law anchored in the Roman Legal Tradition, which considers animals as forces of work within a model of society that was preeminently agricultural. As such, and in coherence with the Roman system of property, animals are classified within the category of goods as assets belonging to humans.

As I have mentioned in other instances, that animals entered in the Roman legal system within the category of things was, in itself, a great advance in legal thought. That this categorization is repeated in the 19th Century in the Napoleonic Code did not require any alteration, given that society continued to be preeminently agricultural and, although there were already voices from thinkers who questioned the treatment of animals as things, the system’s inertia prevented the reconsideration of the classification of animals as something different than owned things (property). Today’s situation is distinct, and, once again, the French have responded with an initiative that we hope will have the same exemplifying and dynamic effect which the Civil Code had in its day.

The difference today comes from two aspects which should be noted. One is the social change with regards to animals; the other is the change in scientific knowledge that has allowed us to affirm that animals are sentient beings. Both vectors, previously separate, are inseparable today thanks to the European Legislation on Animal Welfare. In short, society now considers, in a very widespread way, that animals are beings which must be respected and whose life and protection are very important, in the same way as care for the environment. Contributing to this social change is a phenomenon, very widespread today, which is the incorporation of animals in the urban environment, which makes Companion Animals a part of the everyday life of millions of families around the world and in all levels of society. Together with this, science has demonstrated in an undeniable manner that animals are sensitive to pain, to suffering and to stress, but also feel peacefulness, welfare and positive emotions.

From these two aspects, the European Union has made an undeniable contribution to Animal Welfare, with legislation, still in need of improvement, that has signaled the common action parameters regarding

animals for all Member States. What is left then is for the legal systems of each State of the Union to adapt to these new demands and reform their legal systems.

From this perspective, the reform that France has initiated is to be understood, bluntly decisively and intelligently, as a way to change the political agenda and to put animals on the map. This initiative intends to convince the backbone of the French legal system, the Civil Code and the Constitution, to recognize animals as sentient beings.

I have attended and will be attending a series of Round Tables as a member of the Experts Commission nominated by the Senate. The “Round Table on the Legal Status of Animals” took place in Paris on November 5. On December 16, I will attend, in my capacity as Director of the Master in Animal Law and Society of the UAB, the “Round Table on Animal Law and Education”. In October a “Round Table on Animals and Policies” took place, a report of which will be on our website this month, and, in January, the last meeting, the “Round Table on Animals and Currents of Thought” will take place.

We are witnessing an important advance in favor of reforming the legal status of animals. What other countries such as Germany, Austria and Switzerland did in the 90’s cannot be ignored, but currently the French initiative seems decisive, as it openly reflects in favor of the animals. In other countries such as our own, we cannot wait long in following this example.

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