

Snail Tickling

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Snails are often considered to be a plague for gardens and flowerbeds, especially at this time of the year; this is why plant lovers stock up on various tools used to get rid of them, sometimes in very unpleasant ways.

Snails are neither a form of plague, nor an invasive species, [1] and I must admit that I really do have a soft spot for them. They move slowly, carrying everything with them (*sub parvo sed meo*) and they seem to manage easily with what they have; for example, in case of not having water, they seal the opening of their shell with mucus that, once dry, forms a solid membrane called the epiphragm, so they may survive periods of drought or shortage. The complexity of gastropods has been widely covered by science. It is interesting to be reminded that they have a heart, kidneys, lungs, a stomach... all the way to cerebral ganglions, which can be found in the fringe of animals that experience feelings, such as snails. I have plenty of anecdotes – far too many to tell – of the qualities and curiosity of snails. What I find particularly interesting is that, while being so appreciated by gastronomers but so distained by other mortals (“to move at a snail’s pace”, one sometimes hears), they are also sentient beings and they form part of the world that we share with other animal species, including humans.

When we think of sentient beings, Animal Welfare Science excludes no animal. Sentience and the recognition of their protection is, in the majority of cases, related to the economic capacity yielded by the animal, but the respect for animals and for their interests, which form the nucleus of Animal Law, should from the outset not be limited by size, beauty, the use afforded to them, or by their greater or lesser involvement in our daily lives. Another question is how this triple aspect should be articulated these days; social respect for animals; public policies for making them effective; and legal protection of animals as sentient beings capable of feeling pain and pleasure, fear, as well as tickles, and curiosity, as is the case with snails.

Regarding the legal protection of animals as sentient beings, recognised as such by art. 13 of the TFEU, good legal literature has begun to appear, which I would advise reading. [2] But I would like to refer to a certain legal application of the term “sentient beings” that is gradually finding a stronger position in legal texts. An important announcement that should be highlighted for this purpose is the recent declaration of animals as sentient beings by New Zealand in a reform of the pre-existing Animal Welfare Law of 1999, which was passed by the Parliament and sanctioned on 9th May 2015.[3]

Essentially, the Animal Welfare Amendment Bill[4] introduces an amendment in its programmatic title of the law Part 1 (Amendments to principal Act) that obliges and implements the changing of many specific aspects of the legal text. Paragraph 3^a (long Title amended), states:

- “to recognise that animals are sentient beings”, to then introduce the first result of

establishing this principle:

- “ to require owners of animals, and persons in charge of animals, to properly attend to the welfare of those animals”.^[5]

This observation sets out a very interesting turn toward what could be a new form of human-animal relationship, based in the sentience of animals that, in spite of maintaining the structure of ownership, is essentially based in responsibility - a legal nuance not exempt of important practical consequences.

The legal text recognises in detail the ways it must now address animals as sentient beings. The text refers to aspects such as handling, the definition of the physical welfare and behavioural needs of animals, the conditions and limits of the study of animals and of the tests that can be carried out (New Zealand, of course, prohibited testing on animals in the cosmetic industry and, moreover, the sale of cosmetic products tested on animals), while establishing an obligation to alleviate animals pain, stress, fear and illness, as well as establishing severe punishments for cases of animal abuse and mistreatment. In my opinion, this is an example of animal legislation that constitutes a model of good legal technique, as it defines what animal sentience means, and affirms it for all animal species to then calculate the consequences of behaviour and the limits that must be observed, in light of the responsibility of human beings toward animals. Treating animals as “sentient beings” is a criterion of responsibility to which I will dedicate my attention in the following months and that, from now on, I consider to be an important turn in the legal, social and public policy realm.

In this sense, the declaration of Animals as sentient beings is firmly anchored in the Cambridge Declaration of Consciousness; a document prepared and put together by a group of respected scientists in July 2012^[6] that consistently affirms that capacity for conscience and feeling are not limited to humans, but that neural structures of many animals makes them, as with humans, conscious of their situation and capable of feeling and carrying out intentional behaviours.^[7]

This is the scheme for a lot of countries, including our own; scientific recognition; legislative changes; a political agenda that includes animals as sentient beings; and a social attitude that overcomes the fear of showing kindness and compassion for animals (even snails!), as recently affirmed by Matthieu Ricard in a Conference that took place in Paris: "Il nous incombe a tous de continuer à favoriser l'avènement d'une justice et d'une compassion impartiales envers l'ensemble des êtres sensibles. La bonté n'est pas une obligation: elle est la plus noble expression de la nature humaine".^[8]

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[1] Vid. An article coming son on this topic, GIMÉNEZ-CANDELA, T. and SOUTHER, C.E., Invasive Animal Species: International Impacts and Inadequate Interventions, in What Can Animal Law Learn from Environmental Law? (ELI Books Press, Washington 2015).

[2] Vid. ALONSO, E., El art. 13 del Tratado de Funcionamiento de la Unión Europea: Los animales como "seres

sensibles [sentientes] a la luz de la Jurisprudencia del Tribunal de Justicia de la Unión Europea, in GIMÉNEZ-CANDELA, T. - D. FAVRE (Eds.), *Animals and the Law* (Valencia 2015) 17ss.; LACHANCE, M., *Animal as Sentient Being, Are we Concerned by Animal Suffering in Canada?*, *ibidem* 275ss.; WARTENBERG, M., *Art. 13 Lisbon Treaty/TFUE. Historical, Constitutional and And Legal Aspects*, *ibidem* 353ss.

[3] [Vid. the complete reference of the processing of the law](#)

[4] [Vid. the integrated text](#)

[5] Long Title amended. Replace paragraph (a)(i) of the Long Title with: "(i) to recognise that animals are sentient". "(ia) to require owners of animals, and persons in charge of animals, to attend properly to the welfare of those animals:".

[6] [Vid. the complete text](#)

[7] Cf. A particularly interesting paragraph of the Cambridge Declaration: "The neural substrates of emotions do not appear to be confined to cortical structures. In fact, subcortical neural networks aroused during affective states in humans are also critically important for generating emotional behaviours in animals. Artificial arousal of the same brain regions generates corresponding behaviour and feeling states in both humans and non-human animals. Wherever in the brain one evokes instinctual emotional behaviours in non-human animals, many of the ensuing behaviours are consistent with experienced feeling states, including those internal states that are rewarding and punishing. Deep brain stimulation of these systems in humans can also generate similar affective states. Systems associated with affect are concentrated in

subcortical regions where neural homologies abound. Young human and nonhuman animals without neocortices retain these brain-mind functions. Furthermore, neural circuits supporting behavioural/electrophysiological states of attentiveness, sleep and decision making appear to have arisen in evolution as early as the invertebrate radiation, being evident in insects and cephalopod mollusks (e.g., octopus).

[8] [Vid. Conference \(30th May 2015.\): La Libération Animale et après: inventer une société sans exploitation des animaux](#) . An event organised with the following purpose: "The non-profit organisation L214 has decided to gather those three specialists of animal ethics in order to ask them what would be a society in which animals would be included as sensitive beings".