MARTINA PLUDA

Animal Law in the Third Reich
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Homo homini lupus est.

Plautus
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Foreword

It is with great pleasure that I am writing this prologue. For me, it represents the culmination of two important developments. Firstly, this book is the starting point of a new intellectual journey, where animals are the backbone of the research. Secondly, it represents the result of a pragmatic approach to a topic that has not been widely explored.¹

This volume marks the beginning of a new collection of books. They are repositories of knowledge that can be passed down for generations. For this particular subject matter, I believe it is a necessity. We must dedicate more of our intellectual pursuits to those creatures we have neglected. This is especially true from a legal science perspective. The lack of understanding for the law related to the animal world has changed a lot in Spain in the past ten years. Indeed, this series is born as a testament to the continued research in the field of Animal Law and related sciences that has been promoted by the Master in Animal Law and Society, which I created and have coordinated since 2009, at the Autonomous University of Barcelona (UAB).

The Servei de Publicacions of the UAB is a pioneer in this new area of study. Few were able to anticipate the ripple effect that Animal Law has had on the world, at academic, social and political level. Not to mention the part our country would have in the «animal turn»². In fact, this university has continued to innovate, launching over the years the pioneer Master in Animal Law and Society; the elective course on Animal Law and Welfare for law students; a specialised journal;³ a le-

The aim of this series is to collect all the research done in the frame of the Master in Animal Law and the ICALP. Other works of proven quality and interest may also be published. We intend to present and stimulate the talent of the young generations of Animal Law experts. They will be the ones to promote the necessary legal changes in response to the demands of a society that is increasingly sensitive to the needs of animals.

When the so-called «animal turn» began to manifest itself in Spain, few expected it to last. They thought that it was a passing fad, a cause destined to decay and sink into oblivion. But events have not unfolded this way. It is hard to deny the increasing acceptance in the world – and in Spain – that animals are the object of attention and respect. This silent revolution is here to stay. It has not asked for permission to settle among us, nonetheless it is contributing to build a more inclusive and more positive reality for all.

The animal cause is one of the greatest of the 21st century. The legal discipline can no longer ignore it. It is part of our European history, rooted in classical antiquity, imbued with respect and veneration for the animal realm. Despite centuries of obliviousness for these roots, when animals were “rediscovered” – in the last decade in an exponential way – this produced a profound effect.

We are witnessing the rise of an unstoppable and unimaginable social movement in which we have been surrounded by scepticism and faced with a hint of mockery from our fellow jurists. Nonetheless, this movement has obtained the right to remain and has promoted tangible legislative efforts to address the issue of animals as beings, not things, that feel, interact, have consciousness and emotions (sentient beings). In short, creatures like us, whose existence is not just a mere transition from the farm to the slaughterhouse.

Currently, there are very few Spanish bar associations left that do not have a section or commission on Animal Law or Animal Protec-

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4 https://www.derechanimal.info
5 https://www.derechoanimalinfo/es/icalp
Most recognise that, among the ethical principles on which the law is based, the principle of respect is universal and encompasses all living creatures. Today, it is not that unusual to consult a lawyer on the custody of an animal in case of divorce, or to make arrangements regarding the subsistence of a family animal after a death.

The new social conscience that drives legal changes is inclusive of all animals. Banning wildlife from the entertainment industry; intervening against the disappearance of species of incalculable value; responding to consumers’ demands regarding the keeping conditions of farm animals; offering animals a life worth living – all this has now reached the administrative structures of the State. We now have a rich (and messy!) autonomic animal protection legislation and better animal keeping standards that reflect EU dispositions on farm and laboratory animals. The decisions of judges, prone to adequately punish animal abuse, are now evolving past previous standards to embrace new horizons, such as the recognition of moral damages.

In short, we can and must improve our relationship with animals. The law has all the instruments to make this possible, without diminishing the attention that other causes require. I do not know of any cause as widely accepted in society that has harmed others in the pursuit and attainment of its goals. For that is what is happening – and will happen – with the animal cause.

This collection is born with the desire to continue contributing to this revolution, to this animal transition, through one of the most suitable instruments - books. Reading promotes self-reflection. The weight of print paper in the right hand can illuminate the minds of attentive readers. They are our audience.

This first volume in this series is both a risk and a courageous bet. The references we have about the Nazi regime characterise it as one of the most devastating periods of our recent history. The figure of Adolf Hitler recalls the imaginary of a figure associated with unfettered horror that leaves no room for indulgence or understanding. However, upon close examination, some aspects of his personal life and the policies he promoted, raise important questions regarding his ability to cover an aspect of reality that, until his intervention, had been in the background. These observations, by no means, promote sympathy for the crimes his regime undertook under the veil of an ideology. Rather, they illuminate a unique period of the legal history of Europe related
to the treatment of animals. The book that I present has the merit of presenting this with independence and rigor.

This book focuses on the animal protection legislation enacted during the National Socialist period. The approach taken is worth mentioning as, unlike other publications on the topic, this work adopts an exclusively legal perspective to easily understand the legal protection of animals promoted by Hitler and the traces it left in the current German and Austrian legal systems. The presence of technical-juridical aspects does not exclude the investigation of the contextual facets that substantiate the emanation of said legislation, which, unlike other contemporary provisions, covered all aspects of the life of animals and of nature and not exclusively the protection of pets. The book must be praised for sticking to the subject matter, without drawing comparisons between the horrors of the Holocaust and the special attention the regime drew to animal welfare. On these aspects, there is enough literature.

The reasons that led to the legislative efforts of Hitler’s regime range from the influence of Romanticism and its exaltation of nature, ubiquitous in German culture, to the rejection of anthropocentrism as a constant element of all undertakings, also of legislative nature, of the National Socialist regime. Other factors, such as the threat posed by the rampant industrialization of Germany to the preservation of the rural model of life, so revered by the German tradition, played an important role as well. Notable is the wide scope of the enacted protection measures, the promptness with which they were implemented, as well as the systematic and organic character of the animal and nature protection laws. These served subsequently as a model for the development of the animalist legislative movements in the countries that adhered to the «totalitarian modernity» model, following the German example. These are, for example Mussolini’s Italy, or even Japan. The latter stands out among the countries of the Far East for its legislation in this field which, although post-war, already in 1973, passed a general state law for the protection of animals.7

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Germany and the United Kingdom are the two European countries where animal protection has undoubtedly had an earlier development. In the German case, though, the animal protection and nature conservation provisions, at the centre of the first legislative measures taken by the Nazi regime, were characterised by a non-negligible degree of detail and systematization. Indeed, the animal protection and nature conservation agenda was first developed in 1933, with Adolf Hitler’s ascension to power and the institution of the Reich’s Association for Animal Protection (Reichstierschutzbund). Undeniably, the resulting laws covered aspects that were only touched upon much later by similar EU legislation, such as welfare measures during transport or at the time of slaughter. This shows the validity and scientific character with which the Nazi animal legislation was planned.

Whilst Nazi symbology disappeared, dragged along by the damnatio memoriae of a regime that imposed a heavy burden on Germany’s international reputation, the animal protection legislation, although repealed like the rest of the laws enacted during the Nazi period, have proven as a foundation for the current animal protection laws of Austria and Germany. This constitutes a good proof that said laws were a faithful reflection of a mentality deeply rooted in the Germanic spirit. It should not be forgotten that the current “dereification” movement of animals began precisely in Austria with the reform of the Austrian Civil Code in 1988 (AGBG), which changed the legal status of animals from things to non-things (Nicht-Sachen), an example quickly followed by Germany (1990) and Switzerland (2000).

The author is educated as a jurist and a journalist. Her style makes the following pages an easy and interesting read. She delivers technical information in a manner that is easily digestible, as required by the topic dealt with. It is a must-read for anyone wishing to have an independent opinion on the origins of legal animal protection, even during a period of history that we would have preferred had not occurred.

Marita Giménez-Candela

Abstract

Animal Law in the Third Reich offers a dual analysis – both of contextualised and extrapolated nature – of the animal welfare and protection laws and the related nature conservation provisions that originated from the period of National Socialism in Germany. These will be observed in their socio-political and historical context, as well as from an unbiased legal point of view. After a short historical excursus on the main events that led to the establishment of Hitler’s dictatorship, the author covers the main legal acts regarding animal protection and welfare and their features as part of the nature conservation provisions. These are examined purely for their legal content. Following, the author describes a variety of interrelated themes including: (1) the complex, and often paradoxical, attitudes of Nazi Germany towards animals; (2) the roots of these attitudes in German Romanticism and the rejection of anthropocentrism; (3) their strong bond with nature and environmental awareness; and finally, (4) their political exploitation to cover or even justify the crimes committed against humans. Continuing, the author exposes the influence these laws had after the end of World War II until today, and to what extent these provisions remained applicable after the fall of the National Socialist regime both in Germany and in Austria. In conclusion, the results of the analysis on the parallelisms and the paradoxes in Nazi Germany, of the justifications and the motivations, on the means and the ends, and of the supposed intentions are thoroughly presented.

Key words: Animal law; animal welfare; animal protection; conservation; National Socialism; Third Reich; Germany; Austria
Resumen

*Derecho Animal en el Tercer Reich* ofrece un doble análisis –de carácter contextual y extrapolado– de las leyes de bienestar y protección animal y las disposiciones de conservación de la naturaleza relacionadas, emanadas en el período del nacionalsocialismo en Alemania. Estas se observan tanto en su contexto sociopolítico e histórico, como desde un punto de vista legal imparcial. Después de un breve excursus histórico sobre los principales eventos que llevaron al establecimiento de la dictadura de Hitler, la autora cubre la legislación de mayor impacto en materia de protección y bienestar animal y sus aspectos en el marco de las disposiciones de conservación ambiental. Estas son examinadas únicamente por sus contenidos jurídicos. A continuación, la autora describe una serie de temas interconectados: 1) las actitudes complejas y muchas veces paradójicas de la Alemania nazi hacia los animales; 2) las raíces de estas actitudes en el romanticismo alemán y el rechazo del antropocentrismo; 3) su fuerte vínculo con la naturaleza y la conciencia ambiental; y 4) su explotación política para cubrir o justificar los crímenes cometidos en contra de los seres humanos. La autora también expone los impulsos que estas leyes han determinado después de la Segunda Guerra Mundial hasta la actualidad, y en qué medida quedaron aplicables después de la caída del régimen nacionalsocialista, tanto en Alemania como en Austria. Por último, la autora expone sus conclusiones sobre los paralelismos y las paradojas, sobre los medios y los fines, y sobre las intenciones verdaderas y falsas que caracterizan este tema.

**Palabras clave:** derecho animal; bienestar animal; protección animal; conservación de la naturaleza; nacionalsocialismo; Tercer Reich; Alemania; Austria