

Book Review

Gisele Kronhardt Scheffer (coord.)

Direito animal e ciências criminais¹

Canal Ciências Criminais (Porto Alegre/RS/Brazil, 2018) 160 p.

ISBN 978-85-92712-19-8

Vicente de Paula Ataíde Junior

Professor at Federal University of Paraná (UFPR) Law School (Brazil)

Federal Judge



Received: December 2018

Accepted: January 2019

Cita recomendada. KRONHARDT SCHEFFER, G. (coord.), *Direito animal e ciências criminais* (Porto Alegre/RS/Brazil 2018), rec. JUNIOR V. de P. A., dA. *Derecho Animal (Forum of Animal Law Studies)* 10/1 (2019) - DOI <https://doi.org/10.5565/rev/da.403>

Abstract

The book, coordinated by Gisele Kronhardt Scheffer, brings together fourteen chapters, written by different authors, dealing with various themes of Animal Law, with a multidisciplinary approach, especially focused on an ethical, legal and empirical reflection on the crime of animal cruelty, provided for in Article 32 of Brazilian Federal Law 9.605/1998.

Keywords: Brazilian animal law; cruelty to animals; crime of animal cruelty; speciesism; criminal protection of animals.

Resumen

El libro, coordinado por Gisele Kronhardt Scheffer, reúne catorce capítulos, de diferentes autores, tratando de diversos temas de Derecho Animal, con enfoque multidisciplinario, especialmente orientados a la reflexión ética, jurídica y empírica sobre el crimen de maltrato hacia los animales, esegun recoge el artículo 32 de la Ley Federal 9.605/1998.

Palabras clave: derecho animal brasileño; crueldad hacia los animales; crimen de maltrato hacia los animales; especismo; tutela penal de los animales.

Brazil may be the only country in the world to provide in its Constitution, enacted in 1988, an explicit rule prohibiting cruelty to animals (article 225, § 1st, VII). Based on this rule, jurists have been building the Brazilian Animal Law.

About ten years after the entry into force of the Brazilian Constitution, the government issued the Federal Law 9,605, of February 12th, 1998, criminalizing actions against the environment. Amongst the new crimes, article 32 of the Law establishes that it is a crime to “commit an act of abuse or mistreatment, injure or mutilate wild, domestic or domesticated, native or exotic animals,” incurring the same penalties “those who perform painful or cruel experience in a living animal, even if having educational or scientific

¹ [Animal Law and Criminal Sciences].

purposes, when there are alternative resources.” The penalty for the crime is detention, from three months to one year, and a fine, which is increased from one sixth to one third if the animal dies.

Within this context, Gisele Kronhardt Scheffer, who has a degree in Veterinary Medicine and a Master's Degree in Animal Law from the renowned Autonomous University of Barcelona, coordinates this collection of articles – fourteen articles, each of which composes a chapter – on the entanglements between Animal Law and Criminal Sciences.

In fact, it is a multidisciplinary collection on animal protection. As the coordinator of the work reveals, “authors from different areas address issues directly related to the rights of non-human animals. They present an often painful but true picture, causing a disturbance in the reader that arises from the awareness that something needs to be changed urgently. The gathering of all articles is therefore an authentic criminal/criminological approach to the topic.”²

The work begins with an important philosophical essay by Gabriel Garmendia da Trindade, entitled *Especismo, Linguagem e a Percepção Humana dos demais Animais*.³ Written in a clear and accessible manner, the essay is short but superbly constructed to draw attention to the unseen speculative vices of speciesist language that often appear not only in the discourses of animal cause activists, but even in academic texts on interspecies relations, as is the case, pointed out by the author, of the writings of the American jurist Gary L. Francione. Considering that Animal Law is a legal branch under construction in Brazil, reflections on an adequate *non-speciesist* legal terminology are indispensable, and the reason why the chapter by Gabriel Trindade is an excellent introduction.

Another important chapter is *Especismo e Esquizofrenia Moral na Tutela Jurisdicional do Crime de Maus-Tratos a Animais: uma Mirada Jurisdicional*,⁴ written by Rogério Santos Rammê, PhD in Public Law from the Pontifical Catholic University of Rio Grande do Sul (PUC-RS). Firstly, the chapter points out that the Brazilian legal system has many legal provisions that protect the interests of animals, including the criminalization of mistreatment. However, the author notes – analyzing the criminal jurisprudence of the Court of Justice of the State of Rio Grande do Sul over the past five years –, that the concrete application of animal protection standards is speciesist and selective – favoring the protection of some species to the detriment of others –, in addition to exposing the *moral schizophrenia* denounced by Gary L. Francione, in the sense that judicial decisions reveal a confusing and contradictory behavior regarding moral consideration of animals.

Of the fourteen chapters that make up the book, only two have dared specifically address the most poignant theme of Animal Law: the industrial exploitation of animals. Amanda Bellettini Munari and Flávio Gomes Ferreira focused on the contradictions of the so-called “humanitarian slaughter”, in *Abate Humanitário: o Ato de Maus-Tratos que Não Percebemos ou Não Queremos Ver?*,⁵ and Maria Leticia Benassi Filpi, in *As Excludentes de Ilicitude do Artigo 32 da Lei de Crimes Ambientais e os Crimes de Maus-Tratos na Indústria de Exploração Animal*,⁶ advocated for the absence of conditions for exclusions of illegality in the characterization of the crime of mistreatment involving the industrial slaughter of animals.

Methodologically, the chapter written by Maria Cândida Simon Azevedo Nascimento – *Animais em Práticas Socialmente Aceitas: o que as Pessoas que Participam entendem por maus-tratos?*⁷ – is the most interesting one because it introduces empirical data, from surveys (interviews), about the social perception of rodeos, even though the sample was rather limited.

The two final chapters of the collection are also of particular interest, whether due to the subject matter or to the consistent indication of foreign references: *A Maldade dentro de Casa: Maus-Tratos contra Animais de Estimação por Crianças como um Reflexo da Violência Familiar*, in which Vanessa Rocha Teixeira exposes the links between domestic violence and animal mistreatment,⁸ and *Aspectos Legislativos e Jurisprudenciais acerca da Concepção de Maus-Tratos no Direito Animal: contrastes entre Brasil e Áustria*, by means of which Yasmin Matarezi Pinheiro carries out a study of Comparative Animal Law, focusing on the legislation of Austria and Brazil.⁹

The *vaquejada*, as an alleged Brazilian cultural activity, and its (in)compatibility with the Brazilian

² KRONHARDT SCHEFFER, G., (coord.), *Direito Animal e Ciências Criminais* (Porto Alegre/RS/Brasil 2018) 7.

³ *Ibid.* 59 [Speciesism, Language and the Human Perception of Other Animals].

⁴ *Ibid.* 123 [Speciesism and Moral Schizophrenia in the Court Protection of the Crime of Animal Cruelty: a Jurisdictional Viewpoint].

⁵ *Ibid.* 23 [Humanitarian Slaughter: The act of mistreatment that we do not perceive or do not want to see?].

⁶ *Ibid.* 99 [The conditions for exclusion of illegality of article 32 of the law on environmental crimes and crimes of mistreatment in the animal exploitation industry].

⁷ *Ibid.* 87 [Animals in Socially Accepted Practices: What do people who participate understand by mistreatment?].

⁸ *Ibid.* 139 [Perversity in the House: Mistreatment of pets by children as a reflection of family violence].

⁹ *Ibid.* 149 [Legislative and Jurisprudential Aspects in the Understanding of Mistreatment in Animal Law: contrasts between Brazil and Austria].

Federal Constitution, is the object of the chapter named *Tutela Penal do Ambiente e Direito à Cultura: Análise a Partir da ADIn 4.893*,¹⁰ written by José Muniz Neto and Daniel de Lima Ferreira.

Very specific topics – and seldomly treated in Brazil – constitute the object of the chapters *Zoofilia: um Crime ainda não Tipificado no Código Penal*,¹¹ written by Juliana Wilhelms Dariva, with a Veterinary Medicine perspective, *Fogos de Artifício x Direitos dos Animais*,¹² by Simone Kremer, and *Animais Não-Humanos: o Uso como Instrumento de Tortura e como Forma de Disseminação da Violência*,¹³ written by Nivea Adriana da Silva Orso.

On the other hand, with a rather open perspective, drawing a panorama on the cruelty against animals and the characterization of the crime of mistreatment, are chapters *O Entendimento de Crueldade Contra os Animais e sua Aplicação no Direito Brasileiro*,¹⁴ by Aleska de Vargas Domingues, *Maus-Tratos*,¹⁵ by Letícia Rossi Righetto, and *Crueldade e Maus-Tratos Contra Animais – Nossa Realidade*,¹⁶ by Daniela Saul Friedrich.

As can be seen, Gisele Kronhardt Scheffer, by coordinating this collection with so many different, as some truly unique, aspects, has offered an important contribution to the animalistic literature, especially in Brazil, of the legal protection of animals.

¹⁰ Ibid. 33 [Criminal Protection of the Environment and the Right to Culture: Analysis based on ADIn 4,893].

¹¹ Ibid. 67 [Zoophilia: a crime not yet presente in the penal code].

¹² Ibid. 133 [Fireworks vs. Animal Rights].

¹³ Ibid. 113 [Non-human Animals: their usage as an instrument of torture and as a form of dissemination of violence].

¹⁴ Ibid. 9 [The Understanding of Animal Cruelty and its Application in Brazilian Law].

¹⁵ Ibid. 77 [Mistreatment].

¹⁶ Ibid. 45 [Cruelty and Mistreatment against Animals – Our Reality].