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Ewa Oronowicz-Kida<sup>1</sup> Justyna Mika<sup>2</sup> Agnieszka Myszka<sup>3</sup>

# Relativism in the Language of Law (on the Example of Legal Texts Concerning the Constitutionally Unregulated Human-Animal Relationship)

**Keywords**: relativism, language of law, statute, law, act, constitution, human-animal relationship

Słowa kluczowe: relatywizm, język prawa, ustawa, konstytucja, relacja człowiek – zwierzę

#### **Abstract**

The article covers the issue of anthropocentrically conditioned relativism characterizing the attitude of humans toward animals. The relativity of good and evil in this respect was viewed through the prism of selected legal texts. Linguistic examples were indicated (various parts of speech, expressions, substitutions, collocations) attesting to cases of normative consent to the violation of animal welfare, resulting, as it may be assumed, from the subject approach to them and subordinating human welfare to them. The need to give the issue of animal protection a constitutional rank was also expressed.

<sup>&</sup>lt;sup>1</sup> ORCID ID: 0000-0001-7646-2023, Assoc. Prof., Department of Onomastics, Institute of Polish Studies and Journalism, College of Humanities, University of Rzeszów. E-mail: eoronowicz@ur.edu.pl.

<sup>&</sup>lt;sup>2</sup> ORCID ID: 0000-0002-8866-4738, M.A., Doctoral School, University of Rzeszów. E-mail: justyna.mika@poczta.fm.

<sup>&</sup>lt;sup>3</sup> ORCID ID: 0000-0002-1324-7948, Assoc. Prof., Department of Onomastics, Institute of Polish Studies and Journalism, College of Humanities, University of Rzeszów. E-mail: agmyszka@ur.edu.pl.

#### Streszczenie

## Relatywizm w języku prawa (na przykładzie tekstów prawnych dotyczących konstytucyjnie nieuregulowanej relacji człowiek – zwierzę)

W artykule omówione zostało zagadnienie uwarunkowanego antropocentrycznie relatywizmu charakteryzującego stosunek ludzi do zwierząt. Na względność dobra i zła w tym zakresie spojrzano przez pryzmat wybranych tekstów prawnych. Wskazano na językowe egzemplifikacje (różne części mowy, wyrażenia, substytucje, kolokacje) poświadczające przypadki normatywnego przyzwolenia na naruszanie dobrostanu zwierząt, wynikającego, jak można sądzić, z przedmiotowego podejścia do nich i podporządkowania postępowania względem nich dobru ludzi. Wyrażono także potrzebę nadania kwestii ochrony zwierząt rangi konstytucyjnej.

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#### I. Introduction

The term *relativism* in the title is commonly associated with the vague and ambiguous statement that good and evil are relative. Also, in encyclopedic and dictionary definitions, the relative nature of cognitive, ethical, and aesthetic values, as well as the norms and assessments related to them, are emphasized<sup>4</sup>. In the theory of cognition, relativism is the view that human cognition is subjective due to the inability to reach the truth or the essence of things. In ethics, it comes down to the belief that ethical values, rules of conduct, and moral judgments are historically and socially conditioned, while in aesthetics – to negating the existence of constant, unchanging, universally recognized aesthetic values<sup>5</sup>.

Regarding ethical relativism, the most interesting for us in the context of the material basis of the article<sup>6</sup>, we can speak of its axiological variant (equal-

<sup>&</sup>lt;sup>4</sup> See the term relativism in: Encyklopedia PWN w trzech tomach, vol. 3, ed. A. Krupa, Warsaw 2003; Uniwersalny słownik języka polskiego, vol. 3, ed. S. Dubisz, Warsaw 2003.

https://encyklopedia.pwn.pl/haslo/relatywizm;3966978.html (6.04.2021).

<sup>&</sup>lt;sup>6</sup> It consists of selected Polish generally applicable legal acts (laws and regulations), EU legal acts and international conventions that raise the issue of dealing with animals. Naturally,

ization in terms of the value of all moral opinions), methodological (recognition of the relativity of justifications of moral norms), situational (dependence of moral norms on the situation) and cultural (making the validity of individual norms or entire moral systems dependent on culture)7. All these varieties are united by the belief that "ethical judgments, value judgments, moral norms and the subject of these judgments and norms, i.e., good, values and moral obligations, are relative, dependent either on the subjects expressing these judgments (...) or on customs, culture or social behavior in a given historical period"8. The basis of ethical relativism in contacts between humans and animals is anthropocentrism, which has for centuries characterized the coexistence of animals and humans in a culture that grew out of the Judeo-Christian tradition, where the world order is based on a hierarchical order of beings, and people's belief in their superiority over animals is further enhanced by the biblical "command" To subdue the Earth9. Anthropocentrism is an attitude resulting from the human perception of the world, manifested in the approach to all phenomena from man's point of view, his practical good<sup>10</sup>. This approach implies a flexible understanding of animal welfare. The Code of Animal Welfare developed by the British Animal Welfare Council lists the so-called "Five Freedoms": 1) from hunger, thirst, and malnutrition; 2) from psychological trauma and pain; 3) from pain, wounds, and disease; 4) to express natural behavior; 5) from fear and stress11. Understanding the concept of welfare in the anthropocentric version comes down to interpreting the needs of animals through the prism of human needs and *de facto* leads to the rationing of the mentioned freedoms<sup>12</sup>.

in the case of texts whose author is not the Polish legislator, their official Polish language versions were used; M. Bartoszewicz, *Język polski i jego ochrona prawna w porządku konstytucyjnym Rzeczypospolitej Polskiej*, Warsaw 2017, pp. 246–263.

<sup>&</sup>lt;sup>7</sup> I. Lazari-Pawłowska, Relatywizm etyczny, "Etyka" 1984, No. 21, pp. 8–14.

<sup>&</sup>lt;sup>8</sup> T. Biesaga, *Relatywizm etyczny*, [in:] *Powszechna encyklopedia filozofii, vol. 8*, ed. M.A. Krąpiec, Lublin 2007, p. 718.

<sup>9</sup> A. Pajdzińska, Śmiercią jakby płytszą nie umierają, ale zdychają zwierzęta (obraz zwierząt w polszczyźnie na tle ustaleń nauk przyrodniczych), "Etnolingwistyka" 2017, No. 29, pp. 146–147.

<sup>&</sup>lt;sup>10</sup> J. Lejman, *Człowiek a zwierzę. Biologiczne i kulturowe źródła antropocentryzmu*, "Wschodni Rocznik Humanistyczny" 2015, vol. XI, p. 284.

<sup>&</sup>lt;sup>11</sup> H. Mamzer, *Pojęcie dobrostanu zwierząt jako kategoria transgraniczna*, "Poznańskie Zeszyty Humanistyczne" 2016, vol. XXIX, pp. 10–13.

<sup>12</sup> Ibidem.

The relativity of what is good and evil, moral and immoral in human contact with animals, resulting from anthropocentric relativism, is confirmed not only in non-verbal social behavior but also in various varieties of contemporary Polish language, including in the language of the law. Due to its synthetic nature, the term "language of law" is semantically quite broad<sup>13</sup>. Therefore, for the sake of precision and after Bronisław Wróblewski, the fundamental distinction between the "language of law" and the "legal language"14 should be mentioned. Generally speaking, the "language of law" should be understood as the language of statutes, regulations, i.e., the language of normative acts, and "legal language", in turn, should be considered a superstructure of the legal language - the language used by lawyers when formulating statements about the law<sup>15</sup>. Therefore, we deal with legal language both in the case of texts of court judgments or administrative decisions resulting from the actions of entities applying the law, as well as texts of legal science<sup>16</sup>. Considering the variety of manifestations of legal language, the collective term "legal like languages" sometimes is used to refer to them<sup>17</sup>.

The nature of the texts used as research material for this study places them unequivocally within the language of the law. Therefore, the most distinctive features of this language are worth mentioning here. Above all, the performative nature of the language of law statements is noteworthy. Legal provisions formulated to establish appropriate norms of behavior result in their

<sup>13</sup> It should be mentioned that in the scientific investigations of researchers focused on this issue, sometimes there is also a combination of *legal discourse*, constituting, similarly to the *language of law*, a comprehensive expression. In this case, this complexity results from the location of the discourse as such on the top "floor" within the *parole* structure – somewhat above the texts – and understanding it as an intertextual space conditioned by various socio-cultural factors. Relating *legal discourse* to the broadly understood sphere of law, there are also specific subcategories: legislative, judicial and administrative discourses as well as legal like discourses; I. Szczepankowska, *Dyskurs prawny. Języki, teksty i konteksty*, Białystok 2016, pp. 14–15; E. Malinowska, *Konstytucja jako gatunek tekstu prawnego*, Opole 2012, pp. 25–38.

<sup>&</sup>lt;sup>14</sup> B. Wróblewski, Język prawny i prawniczy, Kraków 1948.

<sup>&</sup>lt;sup>15</sup> J. Pieńkos, *Podstawy juryslingwistyki*. Język w prawie – Prawo w języku, Warsaw 1999, pp. 13–17.

<sup>&</sup>lt;sup>16</sup> T. Gizbert-Studnicki, *Język prawny z perspektywy socjolingwistycznej*, Warsaw-Kraków 1986, pp. 33–34.

<sup>&</sup>lt;sup>17</sup> M. Zieliński, Języki prawne i prawnicze, [in:] Polszczyzna 2000. Orędzie o stanie języka na przełomie tysiącleci, ed. W. Pisarek, Kraków 1999, p. 64.

addressees being obliged to act under these norms. They are supposed to influence the behavior of the addressees<sup>18</sup>. It usually manifests itself in the directivity of speech. In addition, it is possible to point to the impersonal nature of the utterance resulting from the existence of a formal bond between the participants of the act of communication, the lack of emotionally marked words, and the standardization manifested by the presence of a specific textual "frame" including certain fixed elements<sup>19</sup>. The literature on the subject also mentions the pursuit of precision and unambiguity. However, as evidenced by numerous interpretive worries of the courts, it is different in practice<sup>20</sup>. Finally, the distinguishing feature of the language of law is a specific lexicon of numerous terms and, therefore, the functioning of legal definitions in it, intended to determine the way of understanding words/expressions appearing in legal texts<sup>21</sup>.

### II. Linguistic Exemplification of Relativism

The relativistic approach to animal welfare in the analyzed legal texts has a different linguistic exemplification. Interestingly, the word "animal" does not appear once in the Polish Constitution, so it does not mention the legal protection of animals. These issues are regulated only by the regulations of a lower order.

The relativity and subjectivism conditioned by human welfare in understanding the issue of humane treatment of animals are lexically represented primarily in terms that connote conditionality and selectivity such as: "provided; except; only when; is acceptable if; only if; excluding, in exceptional cases", "It is forbidden to kill animals except" "European citizens expect that the slaughter of animals will comply with minimum welfare rules... in the interest of the animals and provided that it does not interfere with

A. Malinowski, Polski język prawny. Wybrane zagadnienia, Warsaw 2006, pp. 100–101.

<sup>&</sup>lt;sup>19</sup> A. Choduń, Słownictwo tekstów aktów prawnych w zasobie leksykalnym współczesnej polszczyzny, Warsaw 2007, pp. 36–38.

<sup>&</sup>lt;sup>20</sup> Ibidem.

A. Malinowski, op.cit., pp. 152–156; E. Malinowska, op.cit., pp. 27–38.

The Act of August 21, 1997 on the protection of animals (Dz.U.No. 111, item 724, as amended) – hereinafter referred to as the AO, Art. 6 para. 1.

the functioning of the internal market"<sup>23</sup>. Sometimes they are additionally combined with adjectives conducive to possible different views or undefined collocations in the form of nouns with definitions, e.g., "Any animal that has been used in a procedure causing severe or persistent pain or suffering (...) shall not be used in subsequent procedures unless it is restored to good health and well-being and (...) or the subsequent procedure involves minor interventions only", "Plants, animals or fungi (...) may only be destroyed or killed in connection with<sup>24</sup>: 1) implementation of tasks justified by the needs of nature protection; (...) 3) rational economy; (...) 7) general safety", "If the animals pose an extraordinary threat to human life, health or economy, including game management, it is allowed to take measures to reduce the population of these animals"<sup>25</sup>.

The tendency to use the modal verb *may* also is noticeable, where the painful, often fatal consequences of specific actions are evident and indisputable or at least highly probable, "Killing animals may cause the animals pain, anxiety, fear or other forms of suffering", "Restraining may, however, cause anxiety to the animals"<sup>26</sup>.

Also, the divisions of animals made for the skillful regulation of issues related to their breeding, experiments on them, and their killing are adapted not to their welfare but human needs. The analyzed legal texts are associated with replacing the hyperonym animal with hyponyms indicating generally animal species, e.g., breeding species – pig, cattle, poultry, which makes it easier to distance oneself from consent to harm; equidae; deer<sup>27</sup>; game animals<sup>28</sup>; marine

<sup>&</sup>lt;sup>23</sup> Council Regulation (EC) No. 1099/2009 of September 24, 2009 on the protection of animals at the time of killing (Official Journal EU L 303 of November 18, 2009, as amended) – hereinafter referred to as the Council Regulation (EC), Sec. 57 of the preamble.

<sup>&</sup>lt;sup>24</sup> European Convention for the protection of vertebrate animals used for experimental and other scientific purposes (Official Journal WE L 222 of August 24, 1999, as amended), Art. 11 para. 4.

Act of April 16, 2004 on nature protection (Dz.U.No. 92, item 880, as amended), Art. 125; Art. 33a para.1 of Act on the protection of animals.

<sup>&</sup>lt;sup>26</sup> Ibidem, Sec. 32 of the preamble. Council Regulation (EC), Sec. 2 of the preamble.

Act of December 10, 2020 on the organization of farm animal breeding and reproduction (Dz.U. 2021, item 36).

Act of October 13, 1995, Hunting Law (Journal of Laws 1995, No. 147, item 713, as amended) – hereinafter referred to as the Hunting Law Act.

organisms<sup>29</sup>. Hence the subjective allowing specific procedures in selected species and not allowing them in relation to others, and consequently condemning them to suffering or protecting against them, e.g., "It is forbidden to kill animals in the period constituting 10% of the duration of pregnancy for a given species, immediately before the planned date of delivery, and 48 hours after delivery, except for: a) killing animals in the cases specified in the Act (...) on the protection of animals used for scientific or educational purposes"<sup>30</sup>, "Recommendations on phasing out the use of carbon dioxide for pigs and water stunning equipment for poultry are not included in this Regulation as the impact assessment has shown that these recommendations are currently not economically viable in the EU"<sup>31</sup>.

The economic aspect, which is a factor that relativizes the relationship of humans and animals, verbalized in the form of nouns, competitiveness, commercialism, which appeared in the last example, is often used as an argument justifying lowering the standards of humane treatment toward a specific group of animals, e.g., "The slaughter of poultry, rabbits, and hares for private domestic consumption is not carried out on a scale that could affect the competitiveness of commercial slaughterhouses. The necessary efforts that public authorities would have to make to detect and control these activities would also be disproportionate to the potential problems to be resolved. Therefore, these activities should be excluded from the scope of this Regulation"<sup>32</sup>.

Looking at the human-animal relationship through the prism of benefits has a lexical externalization mainly in the form of specific nouns and expressions such as improving living conditions and sustainable development<sup>33</sup>. The principle clearly stated in the analyzed texts is animal welfare. However, no less important, and perhaps the most important, is that the protection of animals influences society's attitude toward agricultural products. The improvement

<sup>&</sup>lt;sup>29</sup> The Act of December 19, 2014 on Sea Fishing (Dz.U. 2015, item 222 as amended) – hereinafter referred to as the Sea Fishing Act.

Art. 34 para. 4 point 1 item a) of the Act on the protection of animals.

Council Regulation (EC), Sec. 6 of the preamble.

<sup>&</sup>lt;sup>32</sup> Ibidem, Sec.17 of the preamble.

Directive 2009/147/EC of the European Parliament and of the Council of November 30, 2009 on the conservation of wild birds (Official Journal EU L 20 of January 26, 2010, as amended), Sec. 5 of the preamble.

of protection during slaughter contributes to the improvement of meat quality. It indirectly positively influences the safety of work in slaughterhouses<sup>34</sup>.

The elasticity of the boundaries of good and evil in the context of human behavior toward animals is also well illustrated by fragments of the analyzed texts containing numerals, which show that the imposition of more stringent requirements for animal welfare protection depends on authoritatively accepted numbers. It is the case when it comes to the obligation of economic operators to appoint an animal welfare worker in a slaughterhouse, "Paragraphs 1–5 shall not apply to slaughterhouses which slaughter less than 1000 units of mammalian livestock or 150,000 birds or rabbits per year. It cannot escape the fact that these numbers refer to animals objectively considered. It is about animals and livestock units. The unit is understood to mean "the standard measurement unit allowing the aggregation of the various categories of livestock for comparison purposes" The numbers cover different species and relate to different aspects of animal handling. For example, concerning fish, they specify their protective size and, for example, the length of the rod and the number of points in the hook <sup>36</sup>.

Lexemes also indicate the objectifying approach to animals in legal texts that regulate animalistic issues, the dictionary definitions linking their meaning exclusively or primarily with inanimate objects, the fragments referring to "unloading" or "cooling animals", and good lexicographic explanations of the verbs used<sup>37</sup>. To unload means to take out imported objects; empty the load, unpack: unpack the goods' (NSJP). To cool – 'lower the temperature of something: cool the food' (NSJP). Moreover, it is assumed that fractional conversion factors appropriate for objects, and not for living creatures are applied for animals – livestock units – e.g., "other cattle: 0.50 livestock units; pigs with a live weight of more than 100 kg: 0.20 livestock units; other pigs: 0.15 livestock units; sheep and goats: 0.10 livestock units; lambs, kids and pig-

Council Regulation (EC), Sec. 4 of the preamble.

<sup>&</sup>lt;sup>35</sup> Ibidem, Art. 17 para. 6.

Announcement of the Minister of Maritime Economy and Inland Navigation of September 25, 2018 on the publication of a consolidated text of the Regulation of the Minister of Agriculture and Rural Development on catching fish and conditions for rearing, breeding and catching other organisms living in water (Dz.U. item 2003), § 2 paragraph 3 point 1, § 6.

European Convention for the Protection of Animals for Slaughter, drawn up in Strasbourg on May 10, 1979. (Dz.U. 2008, No. 126, item 810).

lets with a live weight of less than 15 kg: 0.05 livestock units"38. Similarly, for marine organisms, the "Minister (...) shall determine (...) that: 1) (...) 1 kg of cod may be exchanged for not less than 3 kg and not more than 6 kg of herring or 4 kg and not more than 8 kg of sprat"39. The given numbers are selected subjectively, just as the proposed measures of the undefined degree of animal suffering are subjective, "The procedures may be performed only if: (...) 2) the number of animals used in them has been limited to the level necessary to achieve the objectives; 3) the animals used are kept in conditions appropriate to their species, and the research methods used in the procedures have been selected to minimize or eliminate pain, suffering, distress "and" It is unacceptable to perform the procedure if it involves severe pain, suffering or distress"40. As the examples cited show, consent to subjectivism, like anthropocentrism, is the foundation of relativism in human-animal relations, is also revealed through the additive language forms used in legal texts. Qualitative adjectives such as necessary, severe, minimal, smallest, exceptional are discretionary and used to define the degree of pain, suffering, or conditions of accepting specific procedures, make each person individually read and apply them in practice.

It also happens that the legal text openly legitimizes the lack of respect for animals in the face of their earlier deliberate killing. The relativistic legislator in Art. 6 paragraph 1 of the Act on the protection of animals under one of the numerous exceptions to the prohibition of killing animals indicated, among others hunting. Without discussing the very fact of the admissibility of hunting, as this is a topic for a separate, extensive study, it should be noted in this context the content of § 49 of the Regulation of the Minister of the Environment<sup>41</sup>, which in paragraph 1 states that: "The leader of the hunt gives the results of the hunt, announces the king and the viceroys of the hunt, and makes decorations", and in para. 2 that: "Display of trophies of the hunt should be, as far as possible, graced with traditional hunting signals". It raises doubts as

<sup>&</sup>lt;sup>38</sup> Council Regulation (EC), Art. 17 para. 6.

Sea Fishing Act, Art. 53a para. 7 point 1 item a).

<sup>&</sup>lt;sup>40</sup> Act of January 15, 2015 on the protection of animals used for scientific or educational purposes (Dz.U. item 266, as amended), Art. 5 para. 1–2.

Regulation of the Minister of the Environment of March 23, 2005 on detailed conditions for hunting and marking carcasses (Dz.U.No. 61, item 548, as amended).

to whether such wording complies with the seriousness of the legal act. Taking away from the context of the so-called hunting tradition and focusing on the language layer, one can see, for example, sports analogies and the fact that the activities in question appear to be fun, entertaining, and festive events. The king is – in one meaning – 'the best person in a group' (king of tenors, football, ski jumps, alpine skiing). 'awarding someone a decoration' (decoration of medalists, winners), and grace means 'making something more solemn, more attractive and perceived as better' (WSJP). Only that in the case under consideration, the best ones emerge in the "discipline" of killing animals<sup>42</sup>. It naturally raises the question of whether there is anything to grace in the end.

#### III. Conclusion

Basically, as Art. 1 para. 1 of the Act on the protection of animals states: "An animal as a living being capable of suffering is not a thing. Man owes it respect, protection, and care". However, going beyond this provision which paints an idyllic picture of animal existence and looking more broadly at the legal regulations concerning animals, one could, while uttering unspoken, add to the quoted fragment "but not always" in the second sentence. Moreover, what is significant, there are no regulations concerning the protection of animals in the Basic Law.

The examples analyzed in the article show a far-reaching differentiation of the situation of animals – the dosage of respect, care, and protection depending on the arbitrary decision of humans motivated by various benefits. The objective approach to animals, resulting from the anthropocentric cultural model, the subjectivism characterizing decisions made in their case, the pursuit of social and economic benefits related to their breeding, and the relativism conditioned by all these are confirmed in the *lexis* of the analyzed legal texts. The linguistic exemplification of the relativity of good and evil in the human-animal relationship are single nouns, verbs, numerals, adjectives, multi-element expressions, word substitutions, and collocations used in them connoting conditionality, selectivity, and discretion.

<sup>&</sup>lt;sup>42</sup> Hunting includes an "expedition where people hunt and kill wild animals, formerly for food, today treating it as a sport" (ISJP).

Finally, to complete the linguistically oriented considerations, attention should also be paid to the inconsistency of the Polish legislator, which manifests itself on the penal law level. For example, according to Art. 278 § 1 of the Penal Code<sup>43</sup>: "Whoever collects someone else's movable property for the purpose of appropriation shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years"44. The same applies to the limits of the sentence. It is the case when someone else's property is destroyed, damaged, or rendered unusable (Art. 288 § 1 of the Penal Code). However, according to Art. 35 para. 1 and 1a of the Act on the protection of animals: "Whoever kills an animal or slaughters an animal in violation of the provisions (...) shall be subject to imprisonment for up to 3 years. The same punishment applies to anyone who abuses an animal". The comparison of the maximum penalties for the indicated acts leads to the conclusion that since the theft or destruction of someone else's property may potentially be more severe for the perpetrator than the killing (harming) of the animal, the life (well-being) of the animal is in fact – from the legal point of view – significantly less value than the thing. Only ascribing the perpetrator of the act under Art. 35 para. 1 or 1a of the Act on the protection of animals actions with particular cruelty are associated with a scope analogous to the theft/damage/ destruction of property, i.e., with imprisonment from 3 months to 5 years<sup>45</sup>. However, this only means equating the value of an animal and a thing, which, especially in the light of Art. 1 paragraph 1 of the Act on the protection of animals, should not take place.

The beginning of the 21<sup>st</sup> century is characterized by changes in human attitude toward nature, including animals. An anthropocentric attitude toward the world may lead to a global catastrophe in the biosphere and the anthroposphere<sup>46</sup>. However, this situation should mobilize not only for specific ecological activities but also for constructive reflection, covering other areas of human activity, which could realistically influence society's approach toward animals, among which legislative activity and legal texts reflect it take

<sup>&</sup>lt;sup>43</sup> Act of June 6, 1997 Penal Code (Dz.U.No. 88, item 553, as amended).

However, this does not apply to situations where the value of the thing does not exceed PLN 500, because then Art. 119 § 1 of the Code of Petty Offenses shall apply.

<sup>&</sup>lt;sup>45</sup> Art. 35 para. 2 of the Act on the protection of animals.

<sup>&</sup>lt;sup>46</sup> J. Lejman, op.cit., p. 283.

a prominent place. In the light of the given examples concerning mutual relations between humans and animals, it seems justified and necessary to give the protection of animals a constitutional rank.

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