

REVISTA

PRAXIS

86

ETHICAL DISCUSSIONS ON
ANIMAL PROTECTION LAW

DISCUSIONES ÉTICAS
EN TORNO A LA LEY DE
PROTECCIÓN ANIMAL

M. Ph. Diana Solano Villarreal

Master in Philosophy. Lecturer at Universidad
Nacional, Costa Rica.

diana.solano.villarreal@una.cr

M.Sc. Sara Mora Ugalde

Master in Bioethics. Lecturer at Universidad
Nacional, Costa Rica.

sara.mora.ugalde@una.ac.cr

Recibido: 30 de setiembre de 2022

Aceptado: 20 de octubre de 2022

Publicado: 16 de noviembre de 2022

DOI: <https://dx.doi.org/10.15359/praxis.86.5>



Abstract 

This article carries out an analysis regarding philosophical proposals applied to non-human animals, including animal rights, that may be related to the Law 7451 about animal welfare in Costa Rica. These ethical proposals deal with the place that non-human animals should have in the moral community and, that authors of this paper consider, in an indispensable way, that must be reflected in an analysis of a regulation that intends to legislate the relationship between non-human and human animals.

Resumen 

El presente artículo realiza un análisis respecto de la presencia de corrientes filosóficas aplicadas a los animales no humanos y también de los derechos de los animales, que podrían subyacer en la Ley 7451, Bienestar de los Animales, en Costa Rica. Estas corrientes éticas intentan justificar la necesidad de incluir a los animales no humanos dentro de nuestra comunidad moral y que consideramos son las que, de modo indispensable, deben verse reflejadas en cualquier normativa que pretenda legislar sobre la relación que debemos sostener los animales humanos con los no humanos.

Keywords: Bioethics, Costa Rica, Ethics, Law 7451, Non-human animals

Palabras clave: Animales no humanos, Bioética, Costa Rica, Ética, Ley 7451

Introduction

The relation between human and non-human animals has been historically referred to the needs of people. In this way, animals have been reproduced in a certain way, and have been seen according to their usefulness for human beings for their feeding, transportation, work, among others. However, the living conditions of nonhuman animal species are not always the best, apart from the fact that their life seems to be subject to compliance with the express requirements of people. At present, regulations seem to have a different direction, towards animal welfare in several countries. This article investigates, in particular, Law 7451 of Costa Rica, which is why we are not analyzing associated laws that might require a specific study.

This article begins with a reflection of different ethical proposals specially referred to non-human animals, including animal rights, underlining the ones that, in an essential way, could be reflected in some way, in a regulation that intends to legislate on the relationship between human and non-human animals, towards a more dignified and respectful treatment of animals' lives. It is true that philosophical ethical theories may have inconsistencies, however it is possible to take from them their ultimate intention, in this case, the dignified treatment of non-human animals, trying to save, as far as possible, its shortcomings.

This review includes: the ethics of virtue in Aristotle, deontology in Kant, utilitarianism (Peter Singer and Jeremy Bentham) and animal rights (Tom Regan), in addition to other proposals such as Martha Nussbaum, Albert Schweitzer, Aldo Leopold and Arne Naess. Not all of them refer to the author's position, but they serve as a theoretical basis for people who are not familiar with non-human ethical proposals.

Subsequently, a brief mention is made of the history of Law 7451, with the intention of providing an introduction to the historical moment in which it was written, as well as the understanding of its basis. Later, an approach to a bioethical lecture is shared, specially related to beneficence- nonmaleficence and justice, compared to the most significant articles of the Law 7451,

establishing analysis guides for a future revision of the legislation. Likewise, an analysis from various ethical currents aimed at non-human animals to the aforementioned law was made, to establish its possible ethical orientation, that was conducted towards the drafting of conclusions, where the main recommendations are expressed.

Ethics applied to non-human animals and animal rights

Virtue ethics, Aristotle

Aristotelian ethics is a teleological proposal, insofar as it is eudaimonistic target centered, that is, it seeks the achievement of an end. Which end? It is usually translated to Spanish as happiness, although it does not turn out to be the exact word, nearly 2,500 years have passed and they have different linguistic roots, at least it introduces the idea that a purpose is being pursued. That happiness can be related to well-being, but considering the application of virtue; it cannot be limited to honor either, since that would imply placing the purpose of life in the hands of another person. Nor can it be equated with economic wellbeing, because money works as a means to achieve something, in this case, the definition of purpose would be misleading. It is commonly mentioned that happiness is obtained as a result of the immediate satisfaction of the senses, however, Aristotle warns of the difficulties that an interpretation of this type implies, because falling into excess could produce the opposite effect to the desired one. Which is why this theory leads towards the flourishing of human life.

Virtue is an essential theme in Aristotle, the number of words dedicated by the Stagirite to his “ethical” work makes it very clear. The theory of virtue in Aristotle was amplifying its scale gradually, because as is well known in his Eudemian Ethics he considers that only men, free men could practice virtue, then, in his Nicomachean Ethics, he extends the practice of virtue to other “human beings” and non-human animals. In fact, Aristotle himself says the virtue of the horse makes the horse good and useful for running (Aristotle: 1994: 187). Of course, the virtues awarded to animals will therefore be those that human beings and their needs give them and not those that, even for the survival of the species in question, may be more important.

Aristotle did not consider non-human animals as equal to “men” (women, slaves and even foreigners would not have the same moral status).

Non-human animals would not have moral significance in itself, but rather derived from the non-justification of causing them pain, since it would not be a virtuous attitude, worthy of a man (Lara and Medina: 2019: 7).

Today Aristotle's assertion "that some human beings were born to serve other human beings" would be considered scandalous (it has to be taken into account that he writes from his culture, at another time and place, very far from the authors). However, the authors consider that the void left by the teacher of Alexander the Great, regarding moral consideration or lack of it, for non-human animals, is also something to take into account, because as said above, non-human animals would simply find themselves at the mercy of the whims of human beings. Being its counterweight the possible daily application of the exercise of virtue, which could lead to a virtuous decision-making, although this possibility of exercising virtue will depend on the capacity of each person.

Deontology in Kant

In the 18th century, the German philosopher Immanuel Kant proposed a very different vision, the focus is not on achieving a specific goal or end as in Aristotle, but on making decisions out of duty. In Kant one does not seek happiness, but simply act considering what has to be done, what is correct according to the categorical imperative, which is guided, among other maxims, by treating people as ends and not as means: "a merely relative value, as means, and that is why they are called things; instead, rational beings are called persons because their nature already distinguishes them as ends in themselves..." (Kant: 2010; 54), this applies only while these people can be defined as autonomous from Kantian perspective, of course.

It also refers to the possibility that the human being, by a self-reflection, determines those duties that guide what is correct from what is incorrect, with which, it supposes to be an autonomous and not heteronomous proposal. To be considered autonomous, the person must be able to direct their choices according to the Categorical Imperative, which is guided by the precept that the maxims chosen can be considered as universal laws. In Kant, non-human animals could never be autonomous agents, ends in themselves, hence any moral consideration would be anthropocentric in nature. So, referred to

non-human animals, the most that could be aspired to, ethically speaking, is indirect moral considerations, with all the problems that this entails.

Utilitarianisms

Utilitarianism can be traced back to Plato, who in his dialogues, *Meno* for example, tells that this or that virtue of people is useful (good) for the same individuals (Platón: 1981; 316), although he is not considered as the father of Utilitarianism, since there were proposals that emerged in the England of the First Industrial Revolution, from the hand of Jeremy Bentham and John Stuart Mill, who seeing the situation of their context, in which there was a large part of population with deplorable conditions, promulgated an ethical theory that will seek to favor a greater number of people, with the lowest cost and in the shortest possible time, this theory is known as utilitarianism.

Bentham's utilitarianism has been known as classical utilitarianism, insofar as his proposal refers to the greatest amount of good, which Bentham identifies with pleasure, for the greatest number of individuals, not specifically human beings. In addition, it should be remembered that for Bentham the factor of whether non-human animals can think or not is insignificant, since it is known that many can feel and this is the criterion that, among others, defines the inclusion of non-human animals in the moral community. Which provoked criticism and reforms by his own disciple John Stuart Mill.

Regarding its application in non-human animals, both considered them to be sentient beings, although there is an important difference between their positions: for Bentham, non-human animals have the same moral status as people, while Mill proposes different levels that justify a minor moral value (Lara and Medina: 2019: 13).

After Mill's "refinement" of classical utilitarianism, we find that all life that is not human remains for centuries, in a kind of limbo, as to whether or not it is owed any moral consideration. It is in this context, that Peter Singer's proposal appears, who by including all beings with a sufficiently developed central nervous system, expands Mill's theoretical panorama, and creates Extended Utilitarianism.

This type of utilitarianism is not without limitations, the most notorious is the fate of living entities that lack a central nervous system, not included as subjects of moral consideration. On the other hand, it is important to dwell

for a moment on the political dimension of utilitarianism, since as Carlos Rubén Tirado Negrón points out in his doctoral thesis:

For utilitarianism, ethics has always gone hand in hand with politics. In fact, for all utilitarians, from Bentham to Singer, ethics has always been the frame of reference, foundation and motivation for legal and political reforms. What Singer really proposes is a change of the whole society, in which small actions only make sense if they advance the final objective of an authentic social transformation. That is, ethics, if it wants to achieve its goals, must give way to politics. Ethics and politics are therefore the two sides of the same coin. (Tirado: 216; 34)

Up to this point, mostly anthropocentric visions have been included, where the human being is situated as the only moral subject. Except in the proposals of Bentham and Singer, which are closer to a pathocentric argument, that is, that selects the ability to suffer pain or pleasure as a criterion of morality, in an attempt to endow all animals with moral significance.

Tom Regan: Animal rights

From Tom Regan's proposal, the concept of rights is the foundation of ethics and politics, so that rights must have (among other things), a clear minimum to establish who or whom the law or rights protect, moral or legal in question. In the case of non-human animals, the minimum requirement will be: to be the subject of a life, which means that the fact of being alive and presenting some sufficient psychic development to defend their life, beyond pure biology, is reason for surplus.

In Regan's opinion, most mammals would fall comfortably into the category of: subject of a life, along with birds, fish and some cephalopods, which means that each subject of a life must be able to enjoy moral consideration and some basic universal rights, such as those that any sentient being has a minimum of self-awareness and desire to live, which implies in short, that human beings could not (and in fact we should not) use other animals as if they were our ownership, with all the implications that this entails.

Martha Nussbaum's capabilities approach

Various approaches have been exposed previously, however, in none of them, it is exposed as in Martha Nussbaum that, along with the moral interactions in which all animals participate, human animals, we must also have duties of justice towards non-human animals. In turn, Nussbaum thinks that the utilitarian and contractualist models do not really give non-human animals the real and concrete option to face the injustices they suffer. To solve the above, Martha Nussbaum tells us that non-human animals must be included within a theory of justice, which can be given by putting the theory into practice: "the capabilities approach", which offers a more robust philosophical foundation to develop public policies to protect non-human animals.

Very briefly, we can say that the capabilities approach deals with the quality of life that people are really capable of achieving. The most important concepts to understand this approach are: that of capabilities, and that of functioning. Capacities can be defined as: the minimum requirements for an individual to experience a worthy existence, a "good life", throughout his life. The operations are then, degrees of "being and doing", of the subject that suppose the fulfillment of one or several capacities. In other words, they would be the product of execution, of being able to put into practice the aforementioned capacities. On the other hand, very basic functions for an individual include: having healthy food to nourish oneself properly, suitable clothing to protect oneself from the weather and a place where one can rest and where the subject feels protected from external threats.

In Nussbaum's proposal, the problem with animal ethics postulated so far, is that ethics based on duties of compassion or humanity are too limited and at the same time too open. On the other hand, contractarian theories of Kantian origin (such as Rawls's) have not shown to be more effective in justifying and defending animal rights. Only if we overcome these theoretical perspectives, we can start a safe path to the current problems of animal ethics.

According to the New York philosopher, at the end of the day, the issue related to the dignity of non-human animals is not an ethical problem, but one of justice, which the Capability Approach is better prepared to solve, as long as, understands that other animals have many and very diverse needs according to their species and other variants, which in turn imply many and

very diverse kinds of animal dignities, for which they can create regulations for interspecies justice.

Other proposals

Other forms of argumentation have also been formulated, with broad visions. One of these is the biocentric argument, exposed by the Nobel Peace Prize winner, Albert Schweitzer, which exposes the value of life as a criterion of morality, with which moral relevance includes plants and organisms regardless of their complexity (Sepúlveda: 2017, 105), the author postulates the absolute value of life and the relationships of man with all living beings (Sepúlveda: 2017, 105).

An interesting vision is presented by authors such as Aldo Leopold and Arne Naess, who propose a physiocentric argument, with all of nature as passive members of the moral community (Sepúlveda, 2017, 105). Leopold argues that: “It seems to me inconceivable that an ethical relationship with the land could exist without love, respect and admiration for the land, and a high regard for its value. Of course, by value I mean something much broader than mere economic value; I mean, value in the philosophical sense.” (Kwiatkowska: 1999. Citado por Sepúlveda, 2017)

In addition to the ethical currents referring to non-human animals, we have thought of including in our search, two principles of general Bioethics: Beneficence - non-maleficence and Justice, as we consider that they can be applied to the reality of the lives of millions of people. non-human animals, specifically those that have more contact with humans, for whatever reason, and that is why many experience great pain.

Beneficence, “Bene-facere”, refers to a positive act of doing, implies performing an action in favor of another subject. This principle has in itself the difficulty of determining what the other considers to be good, because it should not be conceived as a projection of the person who performs the act’s own considerations of good. Regarding the principle of Non-maleficence “Primum non nocere”, it refers to “above all, do no harm”, which implies the negation of an act, instead of doing, not doing; This means that decision-making must include the possibility of not doing what is potentially possible, if such an act corresponds to harm to the subject. Both the principle of Beneficence and that of Non-maleficence require a general balance of benefits and

risks (possible harm), to make decisions. However, in order to carry out this balance, the greatest quantity and quality of relevant information possible must be available, otherwise, an uninformed or partially informed decision could lead to an erroneous outcome. This principle can be applied on both: between active moral agents, and between active moral agents and passive moral agents, who in theory do not have, or have little capacity to reason: young children, older adults who suffer from some condition for which they have lost the capacity for autonomy, adults with differentiated capacities that, like older adults, reduce or cancel their autonomy and non-human animals and, for this reason, we have included it in this research.

Regarding the principle of Justice, since ancient philosophical reference has been made to “give each one what corresponds to him”, the difficulty lies in determining exactly what corresponds to each one. On the other hand, the principle is usually related to “providing an adequate response”, as long as the subjects involved are benefited, for example, in the case of carrying out an investigation, real benefits for the participating subjects should be foreseen.

There is also talk of giving “reasonable availability”, this implies that, in the event of obtaining some benefit, which derives from, for example, a medicine, it can be made available to the population that was part of the study. In addition, justice is linked to the protection of vulnerability, because, although due to the condition of living beings, it is evident that death will be the only event that we will not be able to avoid, there are beings that have historically faced greater difficulties to survive, or that, in certain circumstances, they may face a higher, differentiated risk.

Finally, the criterion of justice has been associated with the response that is offered after carrying out an unfair act, with which fines, sanctions and penalties must be considered. As in the Beneficence-No maleficence principle, we know that it is expected to apply between active and passive moral subjects, human beings’ active moral subjects (they can give and ask for moral reasons, for which they are responsible for their actions) and the non-human animals passive moral subjects (they cannot give moral reasons, but they can and should be protected from the actions of active moral agents).

History of the regulatory framework

The current Animal Protection Law approved in 2017, is fundamentally the same Animal Protection Law of 1992, with some minor changes that alter almost nothing of the intention of the one enacted in the early 90s. Which speaks to us, from the concern for the comprehensive welfare of non-human animals in Costa Rica for 29 years and on a little advance on the issue of animal abuse and how it has progressed in our country, at least in legal matters.

The approved modifications to Law 7451, which existed since 1992, were presented during the government of Luis Guillermo Solís with the following words: “For many years, before he was even a presidential candidate, we adopted animal welfare as an objective of public policy. and today we see the culmination of that effort that is even greater from civil society organizations and that now becomes a Law of the Republic” ([Presidencia, 2017](#)). The discourse around the approval of the changes to the existing law was confusing insofar as it seemed to appear as something absolutely new, showing in the same document propositions such as the following: “This new Law includes prison sentences of three months to a year who directly or through another person, causes damage to a domestic or domesticated animal “([Presidencia, 2017](#)) and in only two paragraphs of difference “The reform to the Animal Welfare Law exempts the application of sanctions in what concerns to activities” ([Presidencia, 2017](#)).

There is other legislation in relation to animals in the country, but it has to do with the use that is given to them, from the anthropocentric point of view, such as the Poultry Development Law ([Law 4981](#)), on poultry development in the country. Another example is the Law that Prohibits the Presence of Roaming Animals on Public Highways and Areas ([Law 5346](#)), which has regulated the issue since 1973; or more recent legislation such as the Law Against Dog Fights ([Law 9245](#)) of 2014, to name just a few.

Principles of General Bioethics: Beneficence- non-maleficence and Justice, in Law 7451

It can be observed in the previous paragraph, how a differentiation is established in the specific considerations according to the group of animals to which reference is made; In other words, Law 7451 promulgates a type

of respect for animals in a general way (respect for all animals), but it is expressed differently for animals according to the categories that, due to their usefulness, for humans, are awarded to them, as the following terms: wild, productive, working, companion, from zoos in sports and in experimentation. For example, beyond the satisfaction of vital needs, wildlife can enjoy a free life and reproduce, the same is not said for other groups.

Regarding beneficence, Law 7451 establishes in the first place that “animals shall enjoy the benefits stipulated in this Law and its Regulations” ([Asamblea Legislativa, 2017, Article 2](#)), which generally refers to any benefit mentioned in additional regulation too, but since there is still any, then it refers only to the law. Articles can also be found in the direction of maximizing benefit and minimizing harm and error, when it mentions the need to ensure the welfare and appropriate conditions for animals, as when it refers to productive animals. The benefit is exposed as a reduction in suffering, accepting a minimum pain, which could give rise to a question about what this minimum pain means and how it is justified; In this sense, it seems to extend the current style of relationship between non-human animals and human animals, in which it is “allowed” to cause pain according to the function that certain animals fulfill for human society.

It is important to note that, from the perspective of the authors, it is understandable that the Law responds to the society in which it is registered, but that it would be desirable, to play an important role in raising awareness of the rights of animals and their respect, beyond ensuring compliance with minimum conditions of survival, transportation or use of technologies for pain reduction.

One of the great unknowns in the subject of beneficence is that it indicates the need for the owner or possessor of productive animals to ensure that they develop in an appropriate environment ([Asamblea Legislativa, 2017, Article 5](#)), but without indicating what an appropriate environment is. The variations in the perception of this meaning can be so wide, as to generate conflicts, both in the way of regulating its compliance, and so that, in fact, the animals can have an adequate environment to develop. It could be, for example, that in terms of areas, one producer assumes that he can have a certain number of hens in a space similar to a 16m² room, while

another understands the need to design larger areas that encourage mobility and interaction.

The Justice principle should be applied to human beings, as those who have the ability to make decisions regarding non-human animals and give them fair treatment. It is from the interaction between human beings and other animals, and the common consideration that the life of the latter is at the service of the former, that events have taken place that have led, for example, to the extinction of complete species. In this sense, it could be interpreted as giving protection to all those who are vulnerable to acts carried out by human beings, giving an adequate response to their populations and compensation for damages, fines and measures for non-compliance.

In this line of thought, the Animal Welfare Law contemplates related to experimentation with non-human animals, that those selected are of the appropriate species and the number does not exceed the minimum necessary to obtain scientifically valid results ([Asamblea Legislativa, 2017, Article 10](#)). Although it could be interpreted as a search for the reduction of suffering, the species considered adequate could be seen as particularly vulnerable, precisely because they are members of that group in which experimentation is allowed. What are the rights of these populations? What species make up this group?

On the other hand, no articles were found in the Law, aimed to respond to the health needs and priorities of non-human animal populations. An Animal Welfare Law, could have taken into account their needs and priorities, to start from them and propose ways to achieve their welfare. However, the existing Law has a clear focus on the use that human beings give to other animals.

On the subject of justice, the Animal Welfare Law assigns a greater number of articles to compensation for damages, indicating in the case of experimentation that, if it does not comply with what is indicated in the Law, it is suspended until it is counted, with the corresponding guarantees ([Asamblea Legislativa, 2017, Article 13](#)). Although there is no indication of a way to compensate for the damage caused or the procedure regarding the seizure of animal species.

Regarding the promotion of fights, breeding and training to increase the danger ([Asamblea Legislativa, 2017, Article 21](#)), a fine of a quarter to half a

salary (30 days to pay, for control, education and supervision) was formulated, except for fishing and aquaculture, agricultural, zootechnical, livestock or veterinary, phytosanitary or for hygiene and reproductive control of an animal species. This presupposes a species control policy that should take into account aspects of the environment where economic activities take place. If a change of focus towards respecting animal rights, instead of “using” them, is not possible, one could also consider what happens to the environment when a certain economic activity is carried out with non-human animals.

The civil responsibilities concerning the owners for the damages caused by animals under their supervision and care, according to the Penal Code ([Asamblea Legislativa, 1970, Article 392](#)), are also indicated, although they seem to be too lax, since they refer to thirty days of penalty fee top, which may lead to underestimate this fee and commit crimes. It is considered to be an advance, to include a section on the Penal Code related to animal cruelty, in which it is proposed to be sanctioned between 3 months and 1 year to whom causes harm to domestic animals.

In this sense, there are no articles that refer properly to the injustices committed against non-human animals, in terms of the mechanisms to compensate them for the damage caused and, in those that refer to the responsibility of the people involved, it is lax in the formulation of fines and measures for non-compliance. Particularly noteworthy is the change in the fine, because the Animal Welfare Law, in its previous version, indicated that: “A fine equivalent to four monthly minimum wages will be sanctioned” ([Asamblea Legislativa, 1994, Article 21](#)), while the most recent proposal current manifests a fine between a quarter and a half minimum wage.

Ethical currents present in Law 7451. Peter Singer’s Extended Utilitarianism and Tom Reagan’s proposal on Animal Rights.

According to the proposals of Peter Singer and Tom Reagan, which in principle try to justify why non-human animals should be considered moral and legal subjects, while currently in the collective consciousness of many people in Western and Westernized culture, non-human animals are in no way equated with human beings. The mere mention of trying to include animals in our moral community scandalizes many, because from the consideration

of these detractors, considering non-human animals as active moral agents lacks all “logic” and common sense.

Of course in ethical proposals made by Singer, Reagan, other academics and animal rights activists, it is clear that the latter could not be considered moral agents in the same way as adults, considered to be autonomous and responsible, then they should be seen as passive, just as children, senile older adults, and adults with “diminished” cognitive abilities are, and although those who drafted Law 7451 try to make us believe that they want to include animals in our moral and legal community, as exposed in this article, this does not occur in the aforementioned Law.

From the beginning of Law 7451, in article 1 on values, the following is established: “The awareness that cruel acts and mistreatment against animals harm human dignity”, from the outset the emphasis on the human being is blunt, it is configured, as we said above, within the anthropocentric vision as in the Aristotelian current previously exposed. However, cruelty and mistreatment of animals are despicable acts in themselves, which primarily injure the non-human animals themselves. Non-human animals may or may not be affected depending on their ethical integrity and sensitivity, hence the initial questioning about the need to justify everything from a human-centered perspective, annuls the possibility of including non-human animals as passive moral agents.

On the other hand, the importance of promoting this vision of respect for animal life is underlined, but the way in which it will proceed is not specifically mentioned, so a greater commitment is required for its fulfillment, establishing responsibility for its implementation and execution.

Regarding chapter II, articles from 3 to 9, which deal with the treatment of non-human animals, according to the role that Costa Rican society has assigned them, it is limited to the owners of the animals not torturing them and providing them with of the minimum conditions for biological survival and the anguish that the absence of these minimum conditions may derive from, leaving the bitter sensation that one is reading the user manual of a machine, this being much more detailed. The ethics of minimums is present without any shame.

In chapter III, articles 10 to 13 (Experiment with animals), we find a similar situation to what is exposed in chapter II, a call is made to avoid

cruelty, however, the 10th article (on experiments), shows how the use of animals for experimentation should be justified: “for the benefit of human or animal health or the progress of biological knowledge”, without making it clear if there is a prioritization of the three aforementioned categories (human benefit, animal health or progress of biological knowledge), which could lead to justifications based on biological progress, to the detriment of the health and life of non-human animals, for example.

The foregoing does not occur in legislation aimed at experimentation with human beings, since, in the case of research with human beings, both nationally and internationally, the need to respect life and have a broad justification that truly benefits people, above scientific advances. This should apply for non-human animals too. Currently, Costa Rica’s law emphasis is placed on carrying out these experiments appealing to compassion (Singer) seeking the least damage and pain to animals, exiling cruelty, but such intentions lose their strength when repeating over and over again the phrase, “as far as possible”. In addition, if it is not established as an essential requirement (that the experiment should not prioritize biology knowledge over respect for non-human animals, so that justification must be related to the benefit from the experiment that is intended to be carried out), the animal will find itself instrumentalized, leaving the moral hierarchy of non-human animals, again, non-existent. However, it agrees with the need that, in case of carrying out research with animals, it must comply with a validity requirement, so that the results can be taken into account, but with stricter controls.

In chapter IV of Law 7451, articles from 14 to 17, title: Obligations of the owners or possessors of animals, it begins in an alarming way indicating: “The owners or possessors of animals will be responsible for ensuring that they benefit from the application of the basic conditions dictated in this Law”. What are those basic conditions? What can be more basic than avoiding cruelty, complying with the minimum of food, water and enough space to move? Is there something more basic than showing compassion, not exposing them to fights just for the perverse and violent enjoyment of some humans and thereby avoiding cruelty? Sadly, we find ourselves again faced with a vision of non-human animals as means, and not as ends.

Chapter V, articles from 18 to 20 are about the determination of harmfulness of certain animals, towards human beings, the conditions or

auctions of animals and the conditions of shelters and municipal funds. Here the instrumentalization, the objectification of non-human animals is blatant. We will not refer further to this chapter as it may require a complete article related to the need to respect life. In the same way, the Chapter VI referring to sanctions and fines for non-compliance with the provisions of Law 7451, leaves much to be desired, since what is established are very low fines such as: four minimum wages ([Asamblea Legislativa, 1994, Article 21](#)), and the payment of damages by the person responsible for the animal, if that is the case, which should be changed, because for some business owners in this country, both the fine and the payment of damages are an insignificant sum, leaving open the possibility for those with more money to incur animal abuse without major consequences.

At the end of Law 7451, article 23 of chapter VII defers what is stipulated in previous articles in the aforementioned law, since it establishes that: “Through its competent technical agencies, the public administration will determine if it is not providing an animal with the basic conditions established in the Law”. The foregoing opens a door to subjectivity that may lead to misconceptions on non-human animals’ respect. The lack of commitment describing those basic conditions, could be against the possibility of stimulating compassion and the obligation to provide animals with minimum conditions for their subsistence, that could become only a discourse that does not intend anything more than to create the illusion of a true commitment to non-human animals.

In general terms, the law has a direction towards a minimum compliance of non-maleficence. “As far as possible” is one of the phrases used in the Animal Protection Law, which denotes the low commitment that compliance with the stipulated articles implies. With the exception of the section on ferocious animals and animal experimentation, the fines and penalties do not clearly and decisively include respect for non-human animals in all other aspects contemplated in the regulations.

Conclusions and recommendations

Modernity has prioritized an aspect of reason. As “rational” beings and yet our behaviors towards non-human animals, towards ourselves and the environment in general are not rational, if not quite the opposite, hence

our rationality may well be questioned. With this in mind, it is worth asking how we human beings who act so irrationally, stand as judges regarding the presence or absence of rationality in non-human animals? Do we have moral authority? That is why we recommend not using rationality as a criterion for defining what is included or excluded in the set of moral subjects.

From the reading of the Animal Welfare Law and the review of ethical proposals, there is evidence of a clear presence from Tom Reagan and Peter Singer, mainly from the latter, without it being absolutely consistent. Both Peter Singer's proposal and Tom Reagan's proposal mention the importance of awareness, which can make a change in the relationship between human beings and non-human animals. In Costa Rica, there are still many efforts to be done, since its society needs a law to remind that people must not be cruel and must show minimal compassion with non-human animals.

In order to avoid a violent, cold and cruel society, our primary recommendation is to include topics that lead to the respect for non-human animals since early education, so that it becomes a foundational part of the ideology of Costa Rican people. It was published as an inclusion in the I and II primary public educational system, but this should be reviewed in order to amplify coverage and guarantee its application. A change in the way people relate to non-human animals, after years of instrumentalizing them, needs to be taken seriously, and demands a big effort and commitment of Costa Rican society.

Referencias

- Aldo Leopold y la Ética de la Tierra*. Available from: https://www.researchgate.net/publication/332335751_Aldo_Leopold_y_la_Etica_de_la_Tierra [accessed Jun 10 2021].
- Aristóteles, (1994) *Ética Nicomaquea, Ética Eudemia*. Madrid: Gredos.
- Asamblea Legislativa (1970) Código Penal. San José: Costa Rica. Modificado 1995.
- Asamblea Legislativa (2014). Ley contra las peleas de caninos. Ley N°9245.
- Asamblea Legislativa (1973). Ley del 10 de setiembre de 1973 (sin título y conocida como: multa para los propietarios de animales que deambulen por carreteras, calles, aeropuertos, plazas u otros parajes públicos). Ley N° 5346.
- Asamblea Legislativa (2017). Ley de protección animal. Ley N° 7451.
- Asamblea Legislativa (1994). Ley Bienestar de los animales. Ley N° 7451.
- Asamblea Legislativa (1972). Ley de Fomento avícola. Ley N° 4981.
- Kant, I. (2010) *La fundamentación de la metafísica de las costumbres*. Madrid: Gredos.
- Kwiatkowska, T (1999) *Humanismo y Naturaleza*. Plaza y Valdes, México
- Lara, A. y Medina, M. (2019) *Ética de investigación con animales*. México: UNAM.
- Platón, (1981) *Diálogos*. Madrid: Gredos. Menón.
- Presidencia de Costa Rica (2017) Gobierno celebra que Ley de Bienestar Animal ya sea una realidad para Costa Rica. <https://www.presidencia.go.cr/comunicados/2017/06/gobierno-celebra-que-ley-de-bienestar-animal-ya-sea-una-realidad-para-costa-rica/>
- Sepúlveda, J. (2017) *Hacia una propuesta de ecología política y justicia medioambiental*. Tesis doctoral. UCM. <https://eprints.ucm.es/id/eprint/47348/1/T39857.pdf>
- Tirado, C. (2016) *La dimensión política como solución al problema de las relaciones entre las sociedades humanas y los animales no humanos: análisis y perspectivas de cambio*. Tesis doctoral. UCM.