

# FROM MORAL RIGHTS TO CONSTITUTIONAL RIGHTS: BEYOND *ÉLITIST AND ELECTIV SPECIESISM*

SÔNIA T. FELIPE

*(Universidade Federal de Santa Catarina - Brasil)*

## Abstract:

Animal rights movement and the laws it have propounded since the 19<sup>th</sup> Century are critically analyzed in this article under the perspective of the *elitist* and *elective speciesism* that constitute both the foundation of anthropocentric and non-anthropocentric ethics. Moral tradition considers non human animal species as inferior to the human species since non human animals lack any characteristic for being morally considerable. This is conceived here as *elitist speciesism*. On the other hand, animal protection movements consider certain kinds of animals as morally considerable while ignoring the suffering and pain of all others; this represents another kind of speciesism called in this article *elective speciesism*. The history of animal protection laws shows that even in England and in the United States of America the first laws evidenced *elective speciesism*. The same kind of bias is typical for Brazilian animal protection laws. I hope to contribute to the notion that if we really want to protect *animals*, not only a certain kind of them, we have to give up our emotional preferences and predilections for some animals and move toward a complete abolition of both institutionalized and particular forms of animal use, abuse and murder.

**Keywords:** speciesism, *elitist speciesism*, *elective speciesism*, animal rights, laws

## Introduction

At the end of the 18<sup>th</sup> century, in 1776, a little book on moral philosophy has been published in Aberdeen, by Humphry Primatt. Probably, it has been the only one written completely defending animals. This book, “A Dissertation on the duty of mercy and the sin of cruelty to brute animals” had been rigorously constructed with logical arguments, demanding a complete revision of the concepts defended by moral and religious traditions, related to the value of life and suffering of sentient beings. Based on the official doctrine disseminated by the Catholic tradition, due to the absolutely influence of St Thomas Aquinas<sup>1</sup>, Primatt is a dissident voice who defends peace in favour of animals.

At the same year, 1776, North-Americans has proclaimed their independence and the principles of liberty, equality, self-determination and the right to be happy without wanton impediment, as ethical, economic and political principles, in order to direct their lives independently to the British domain. Both equality and rights had been thought as human moral needs for all citizens. However, in politics, animals were not considered under the same moral principles as citizens were. Only humans had the right to live in peace, have a good life and be happy as well. The rights proclaimed by the North-American

independence may be considered as a groundwork of the Human Rights Declaration, assigned by almost 50 countries in 1948. It still maintains human rights away from animal rights, as only humans are considered worthy of equal consideration and protection by law. The Human Rights Declaration shows a speciesist-anthropocentric character, highlighting human needs of liberty and ignoring animal needs of protection against human interferences. Being speciesist, this declaration only recognized liberties that are beneficial to humans ignoring the same kind of needs as soon as they occur in nonhuman animals.

This cognitive matrix characterizes our moral humanist legacy: we are speciesist and anthropocentric. It is very difficult to liberate ourselves from this conception, thus when we get to recognize we are guided by speciesist concepts and want to overcome our moral and mental concepts tending to adopt anti-speciesist (anti-élitist) attitudes, it is common to adopt a speciesist elective one, for example, we start to protect some kind of animals because of our feelings, permeated by aesthetic, economic, cultural or scientific value judgements. Then, we *elect* certain animals following our predilections. That is the reason why we usually call them “pets”. Following the *elective speciesism*, animals who does not stimulate such feelings in humans does not deserve to be protected by law.

The practice of elective speciesism is not restricted to people who buy pets. It is common in groups which defends animals. While protecting macaws, toucans, golden lion tamarins, capybaras, whales, dolphins, dogs and horses, for example, many animal defenders seem unaffected by animals being tortured at rodeos, circuses, zoos, or being confined and used as items by chemical laboratories on painful experiments. The suffering of sows, cows, hens, ostriches, veal, rabbits and mice still belongs to foreign departments, not to human business.

In other words, we easily defend the protection of certain animal species, usually that one we have some predilection. But, when we morally, politically and legally defend animals, depending just on our feelings and private predilections, we contribute to turn ourselves in a kind of *hunters*. Each one of us, morally speaking, *hunts* a certain kind of animal to protect, a kind of animal that in some way seems to us. So, by this kind of sentimental identification, we get power enough to fight against others who explore or extinct them. This way, we do not go far from anthropocentrism or speciesism.

## **Speciesism**

The term speciesism has been created by Richard D. Ryder about thirty years ago to figure the moral discrimination practiced by humans against animals of other species, on the excuse that non human animals do not deserve moral consideration, even having the same interests, because they do not belong to the human species.

It could also be used the term *chauvinism* to designate that kind of prejudice by which the interests, needs or qualities of another person are not good enough as our own needs, qualities or

interests. Chauvinists self proclaim their superiority by nature. Similarly, in *élitist speciesism*, which declares the superiority of the ones who has reason, the animals' capability of sentience is never as relevant as the human's capability of sentience, just because the subject is not a human shape.

In its original meaning, the term *speciesism* has only one sense. I suggest to consider at least two kinds of speciesism: one, named here *élitist* speciesism only considers morally relevant to protect interests of rational beings, actually because they belong to the *Homo sapiens* species, even if animals are equally sentient. The other kind of speciesism, named here *elective* does consider morally relevant to defend animals interests, if these animals evokes that kind of moral compassion, empathy and love. The elective speciesist stays unaffected by the suffer of animals who are not included in their compassionate animal advocacy.

If we conceive both *élitist* and *elective* speciesism, we are able to comprehend our moral and psychological limitation to overcome the *speciesism*. We need to consider the power of this cognitive matrix upon which we have constructed the human conception of animals' moral standing.

To overcome both forms of speciesism it is necessary to stop using our *élitist* and *elective* predilection for some animals as moral reference to distinguish morally considerable animals from non morally considerable ones. Our affective predilection has to be limited to our private life, not to establish the right of those who will never live in our private companion.

The pathway from defending moral rights to defending constitutional rights for animals should be grounding on our ability to overcome both forms of speciesism (*élitist* and *elective*). In other words, it is time to definitely recognize *inherent value* (Tom Regan) to animals who are *subjects-of-their-lives*, independently if their biological design motivate us positive affection or not. Animals' right to live in peace has no relation to human feelings, as these feelings are not always good for them. Sometimes, humans love tormenting the loved one. The other's right to live in peace has not to be controlled or determined by affections we can not decide to have or not.

Adding the adjective *anthropocentric* to the term *speciesism*, I would like to talk about another kind of speciesism, practiced by animals rights' defenders: the election of certain species as a political shield, while animals who belong to other species continue suffering any kind of ill-treat, negligence and abandon, without any consideration. Therefore, we have at least two kinds of speciesism to fight against: one, practiced by almost everybody, grounded upon the conviction that reason is the most important capability an animal possess; the other, practiced by some animal advocates, grounded upon the conviction that animals deserve moral consideration only if they are pets.

Due to the rational element in our speciesist conception of living nature we defend human interests as supreme, claiming they belong to rational beings. The emotional element in our speciesist conception of living nature make us defend some animals because we have feelings for them, such as kindness, compassion or fear. In both cases, we still consider that only deserves moral consideration

the ones who are in our moral concept of value. Then we change this concept to suit our private life and our consciousness to the demands it requires. For several animals there is no difference between both attitudes.

During the 18<sup>th</sup> and the 19<sup>th</sup> century the moral philosophy in Britain received, besides Humphry Primatt's text referred above, the contribution of Jeremy Bentham, John Stuart Mill, Henry Sidgwick and Henry Salt. All of these thinkers revealed the moral urgency to expand the principles of liberty, equality and justice, to contemplate the need of respecting the *specific well-being* of all sentient beings, capable of suffer by the physical limitation of liberty.

### **Escaping from élitist speciesism, falling into electiv**

In the 19<sup>th</sup> century, finally were created the first laws protecting animals. Though, these laws does not consider all animals species. Following what has been said above, to understand the gaps in the political movement defending animals it is necessary to be conscious of the conceptual limits created by rationality itself, from where the movement is launched. If we are *élitist speciesists* in the moral tradition, and do not want to repeat the same mistakes there are on it, it necessary to recognize that the conceptual standard we apply to disconnect of such model is the same we have been following all the time. In other words, if reason put us in a superior standing compared to other animals, laws proposed to protect then based on this matrix has economic interests in the sistematic use of animals.

### **Elective speciesist laws**

England, 1809. Lord Erskine proposed a law project to the British Parliament, in order to create a legal protection to animals<sup>2</sup>. The House of Lords approved it and the Commons rejected it<sup>3</sup>.

England, 1822. Richard Martin "succeeded in obtaining passage of a law known as "Dick Martin's Act" to "Prevent the Cruel and Improper Treatment of Cattle"<sup>4</sup>. It became illegal for everybody "to wantonly and cruelly beat or ill-treat [any] horse, mare, gelding, mule, ass, ox, cow, heifer, steer, sheep or other cattle...". During "this period of time [...] an organization was formed in London [...] that become the Royal Society for the Protection of Animals"<sup>5</sup>, inspiring Henry Bergh in New York to do the same.

Animals has been protected by the North America legislature, at least until 1846, because they were property of someone. Therefore, the law protected only the animals domesticated to work or with commercial value: horses, cows, sheeps, pigs. No reference to pain or suffering of animals had been done until that time. The preference of protecting those animals results only from their commercial value<sup>6</sup>.

It used to be considered a crime only if the animal were owned by someone. Ill-treating and hurting an animal which belonged to him/herself was not a crime. Ill-treating or hurting domesticated, wild or animals without owner was not considered as well<sup>7</sup>.

The elective speciesism practiced by representatives moves society, becoming it truly political.

1829 – The New York Law established in § 26: “Every person who [...] shall maliciously kill, maim or wound any **horse, ox or other cattle, or any sheep, belonging to another**, or [...] shall maliciously and cruelly beat or torture any such animals, whether **belonging to himself** or another, shall upon conviction, be adjudged guilty of a misdemeanour.”<sup>8</sup> It still emphasizes commercial value of animals: “killing, maiming, or wounding” are actions which violates the bodily integrity of the animal, always considered an object of ownership.

The predilection for animals with commercial value is a characteristic of the New York Law. This law had not restricted human liberty related to bears and dogs, for example. Favre and Tsang criticize the New York Law: “The legislature had not yet made the conceptual bridge that, if it was wrong to cruelly torture a cow, it should also have been wrong to torture a cat or dog. The critical factor ought not be the value of the animal to the owner, but the ability of the animal to suffer.”<sup>9</sup> The law which protected *beasts*<sup>10</sup> excluded any kind of animal without commercial value.

Elective speciesism seems to be able to understand by the thesis of Favre and Tsang, which animal protection’s law were confused, due to there is no clear decision about the reason why some actions should be considered cruel by law, if it is because of the commercial value of animals or their sentient nature<sup>11</sup>. In that sense, legislation shows the dilemma: should we attribute moral or venal value to physical and emotional integrity of other sentient animals?

In 1866, the American Society for the Prevention of Cruelty to Animals, ASPCA, was founded by Henry Bergh. The New York Law had been modified, introducing the expression “or any animal”, besides those with commercial value mentioned by law since 1829, and the expression “belonging to him or to any other”, typifying crimes committed against animals by the owner or any other. However, only animals with commercial value, the beasts, were protected<sup>12</sup>.

In 1867, Henry Bergh reformed the precedent law adding the terms “any living creature” to show the comprehensiveness of animal rights’ law. The list of illegal acts against animals had been improved, including “overdriving and overloading; torturing and tormenting; depriving of necessary sustenance; unnecessarily or cruelly beating; and needlessly mutilating or killing”, changing the focus “from the mind set of the individual to objective evidence of what happened to the animal.” By the same law it became illegal to put bears, dogs, bulls, cocks or any animals to fight against each other as spectacle. In the first time in history, the transport of living creatures had been adjusted by law as well<sup>13</sup>.

Elective speciesism clearly appears in these law (1867), proposed by Henry Bergh: “properly conducted scientific experiments or investigations” should be exceptions by law, if done “at a medical

college or university of the State of New York”<sup>14</sup>.

Individual and collective predilection for some animals results in denying interests of living beings belonging to other species than those we like so much. In 1868, Henry Bergh presented to the New York Magistrates “the case where the sea turtles were being shipped on their backs” [...] [without] “food or water”. At these time, “the court and much of the public did not believe the law had been violated because they did not believe that sea turtles could feel pain or suffer from lack of food and water. But, forty years later a court did sustain a cruelty conviction concerning the shipment of sea turtles.”<sup>15</sup>.

The elitist speciesism clearly appears in the consideration of what cruelty means when pain and death are related to different animal species. Judges had considered cruelty something else than only killing an animal. Cruel is something done to an animal, that people can not morally justify. So, the simple act of killing an animal does not constitute cruelty, following Justice in United States, in 1900. In the *Horton v. State*'s case, Justice justified: “[T]he mere act of killing an animal, without more, is not cruelty, otherwise one could not slaughter a pig or ox for the market, and man could eat no more meat.”<sup>16</sup>.

Individual or collective predilection for certain kinds of animals and indifference toward others, still exists when the infliction of pain and suffering become exception in cases of necessity or utility.

### **Elective speciesism in Brazilian Legislature**

Brazilian National Congress assigns the same conception. Following Edna Cardozo Dias, the “first Brazilian law related to cruelty against animals has been the Decree 16.590, 1924<sup>17</sup>. Bulls, bullocks, cocks and canaries were protected by that law in order to prevent cruel spectacles.

This law was followed by others: The Fishery Act, Law 221, February 28<sup>th</sup>, 1967; the Law to Protect Fauna, Law 5.197, January 3<sup>rd</sup>, 1967, modified by Law 7.653, February 12<sup>th</sup>, 1988; Vivisection's Law, Law 6.638, May 8<sup>th</sup>, 1979; Zoos' Law, Law 7.173, December 14<sup>th</sup>, 1983; Cetaceans' Law, Law 7.643, December 18<sup>th</sup>, 1987; Animals by-products' inspection Law, Law 7.889, November 23<sup>rd</sup>, 1989; Environmental's Crimes Law, Law 9.605, February 12<sup>th</sup>, 1998<sup>18</sup>.

Each one of these laws represent a threshold in our political culture establishing economic limits for all humans who depends on animals' exploration on their activities. For the citizens who does not depend on the use of animals to do their job, these are protective laws for all animal species. What has not been said is that the elective protection of certain animal species means the indifference to the conditions of others.



### **Élitist speciesism, elective speciesism**

Animal protection' laws created to overcome élitist speciesism, the kind of speciesism grounded upon the criterion of reason to establish moral standing of living beings, suffer from a psychological form of speciesism, called here *elective speciesism*, grounded by predilections, emotions or economic interests.

Wild animals have not been mentioned by the first animals' protection laws in Europe, neither in the United States of America. Hunting is an old tradition which represents several powerful interests around the world, from economic to psychological and cultural, in both tradition. Domesticated animals which are destined to slaughterhouses were excluded from legal protection in 18<sup>th</sup> and 19<sup>th</sup> century.

When trying to abolish speciesism, whose suffering is in question? It could be the suffering of animals used as workers (slog). In these cases, it is about poor conditions, animals who are used by poor workers to help them transporting their loading. Usually they are poor animals belonging to poor citizens. It could also be the suffering of animals confined inside cages in zoos, circuses and pet shops. We openly talk about not having right to ill-treat or deserting elderly companion animals. Nevertheless, we do not publicly defend the suffering of sows, cows and hens used by industries to explore their by-products.

The first animals' protection laws have elected some species as the "right" ones to be legally protected. At the same time, unable to genuinely overcome élitist speciesism grounded on rational criterion, those laws condemned the species who are not legally protected, the "wrong" ones, to absolute legal discrimination, just because humans does not have any interest about many kinds of animals while they are still alive, just when they are already dead. The human predilection for some dead animals is evident in the legal ordainment, despite it has not been explicitly said, but implicitly, because they are not mentined. This way, they do not exist by law. Without legal personality, there are no constitutional or legal rights. Even eating those animals every day people are not able to see them, to think in their life conditions, because they do not exist by law. Ignoring needs of living beings can be the right way to cruelly discriminate them.

Animals has been mentioned as "property things" since the Eshnunna and Hammurabi Laws, established between the 3<sup>rd</sup> and the 2<sup>nd</sup> century before our era. Male and female slaves, cows, goats, dogs and cats are shown up by law always related to prices, use or commercial benefits. Destroying any element of a particular one (*awilum*<sup>19</sup>) or public property resulted in penalties whose amount werestipulated by law. To ruin others' property has been always considered by law as a crime. To inflict pain and suffering to animals has been always related to the honour of the owner, not to the pain suffered by those animals.

In traditional Judaism animals are also mentioned as property things. Their well-being is considered only related to the right of the owner to preserve his property<sup>20</sup>. The duty to treat well

domesticated animals, when used as workers or means of production, on the other hand, is connected to the human right to get return of their investments in maintaining alive those animals. After these conception, animals are thought as “things”, “living things” belonging to a human owner.

While the conception of “living things” would not be changed for “subject-of-a-life”, suggested by Professor Tom Regan, animals would be hardly considered in their own nature, with their specific welfare and protection against natural or social attacks from humans, to the place they naturally live.

Until the first half of the 19<sup>th</sup> century laws protecting animals still ignored animal suffering<sup>21</sup>. After the second half of that century, the first laws established in England and in The United States of America started considering sentience inherent to animals. The pathway from defending moral rights to constitutional rights for animals, what has asked Humphry Primatt at the end of the 18<sup>th</sup> century, has continue to be done intermittently at the last most recent two centuries.

Resulting of the elective speciesism referred above, certain categories of animals are emphasized, sometimes those who are target by sea hunting (the movement against whale hunting), sometimes those who are forced to live in battery cages (movement against meat industry), sometimes those used in spectacles as performers (movement against *farra-do-boi* - ox fun days, bullfights, circuses) or those used as items in scientific experiments (movement against experiments using animals).

Each one of these movements fights against speciesism. However, if they are sectarian they inevitably become elective speciesist: each one of them choose an animal species to offer protection, or a kind of ill-treatment to fight against, stimulating indifference to suffering of another kind of animal abuse at the same cultural environment. Being themselves elective speciesist, animals’ protective movements are not synchronous, or even “contemporaries”.

I ascribe this intermittence to the fact that being speciesist in its rational or emotional form, when we want to abolish speciesism we actually do it in a better way for “us”, witch means electing “right animals” to protect and not recognizing the same moral standing of others. Even if people feel themselves able to abolish rational speciesism, it does not mean they are able to abolish emotional speciesism. Following these kind of speciesism, we recognize we have being cruel to animals without any valid moral foundation; nevertheless, we tend to correct the old wrongs selecting a especial animal to give moral and legal protection. Doing things this way, we still look for some pleasure related to our interaction with living beings of other species. So, preventing being (élitists) rational speciesists we manage to become (electives) speciesists by emotional preferences.

But, as said above, the political movement defending animals has an intermittent nature, stopping for a while in a specific country and then starting again in another. Besides its intermittent nature, this kind of political movement is not synchronic: whales have been protected by government and citizens in a country while the same species have not been protected in others. Each society has its own political timing, following its own traditional predilection for certain kinds of animals while neglecting others.



In Europe and in the United States of America animals have zealously been defended in the last century, especially in the seventies<sup>22</sup>. Exactly in the same years we had in Brazil and Latin America military dictatorship in almost all countries. Nobody would dare to do a thing like defending animal liberation. Under such conditions, we concentrated our political goals defending moral and legal rights for citizens, not for all *subjects-of-a-life*, interested in living in peace.

Philosophers and theologians of liberation in Latin America missed the opportunity to change the moral tradition while they had ignored in their political works the universal, general and impartial character of ethics, without any kind of discrimination. Wherever there was imprisoned, mistreated, tortured and maimed, independently on their biological species, should had started liberation.

In South America we have not done anything to liberate animals and ecosystems in general. That is the reason why the theology expert Andrew Linzey, in his book *Animal Theology* (chapter 4), criticizes liberation theology and philosophy in Latin America.

Brazilian backwardness in ethical and political defense moral and constitutional rights to animals is revealed by the content of higher education in Philosophy and Law. In Brazil, students does not have the opportunity to study Tom Regan, Richard D. Ryder, Humphry Primatt, Peter Singer, the most important thinkers on the matter of animal rights and human obligation toward them. Therefore, it is rare the opportunity students have to write their academic works on philosophical approach related to ethical questions about moral standing of non human beings. We can easily imagine how delayed we are about moral and legal standing of animals in Brazil. The first book on these matters translated from English into Portuguese has been *Animal Liberation*, almost twenty years after it had been published in England. Finally, we had Tom Regan's *Empty Cages* translated into Portuguese in 2005.

In Brazil, laws to protect animals had been approved by National Congress without any philosophical foundation, especially during dictatorship' regimes. When citizens were deprived of their liberty of political expression and democratic rights, animals and environment received laws witch were supposed to protect then, if the State took seriously the duty and obligation to respect its own legislation.

But, as Thomas Hobbes said, in his book *Leviathan*: when citizens are submitted to a sovereign power, this power make laws to citizens obey, while itself does not. I comprehend animals protection laws made in exception regimes in Brazil in this perspective. As animals and natural physic environment are submitted to federal protection, and as the non democratic State make laws, but refuses to submit itself to then, animals and ecosystems stay arbitrarily submitted to particular, private interests and powers at the government.

Laws formulated to protect animals are usually proposed by representatives who only wants to enlist specific voters in general elections. Their legislative projects are not discussed by their electors. Parties and universities, congress, round tables, seminars, except this Vegetarian Congress, usually does not discuss the substance of laws destined to protect animals in Brazil. Therefore, animals' protection laws are created only to show others we do the right thing. Actually, we do not. When enforced, such

laws eventually show the power of government just pretending to be concerned with animal welfare, while they are actually protecting private business.

We think animals have rights only when some practices are declared cruel by the mass media. We usually do not think that our traditional habits are responsible for many cruel practices against animals. Representatives, businessmen and consumers continuously produce, sale and consume animals everywhere and for different reasons: from food to entertainment, nobody questions the morality and legitimacy of those practices. If, in our country the term speciesism is still unknown, so it is easy to recognize how emotionally speciesists we are, defending by predilection certain kinds of animals while eating and mistreating others.

In our country only the ones who are caught out committing crimes are recognized as criminals. All practices against animals welfare that are not testified by the police, are not considered actually as a crime. Customs define what is right or wrong related to what humans should do or not to do to animals. Customs, we know, result from emotional subjective predilections. Therefore, our concept of what is right or wrong to do to animals depends on our positive or negative feelings related to them.

Concluding: if we do not change the concept of “living being”, used to define the moral standing of animals, for the concept of *subject-of-a-life* (Tom Regan), and if we do not recognize we continue practicing speciesism while defending a kind of animal while ignoring the cruelty, negligence and suffering of all others, who are not elected to be moral and legally protected; while embracing an animal we impartially testify the bleeding of others, we continue to be *electiv speciesists* (electing an animal species by predilection), even if we have abandoned *élitist speciesism*. Change the criterion of reason and adopt the criterion of emotional predilection still results in speciesism, from the point of view of the animal species we do not specially love. Moral and legal protection should not be subjected to our feelings. Feelings are important to select our partners. Animals are not our partners. They are subjects *of their lives*, independently of being next to our feelings or distant from them. Therefore, they should not be subjected *to our life*.

Moral and constitutional rights must be universal, general and impartial. Therefore, should not be élitist. They ought to consider the benefit needs, without discriminating sex, race, species or any other difference of the ones subjected to malefic interactions.

The defense of moral and constitutional equality for animals and the defense of animal liberation from human malefic interaction should radically change our traditional point of view about the nature of living beings, without repeating the same speciesists mistakes on the moral tradition we are trying to overcome.

## Notes

<sup>1</sup> In 1897, the Catholic Dictionary described the animals' moral standing in these terms: "They have no rights. The brutes are made for man, who has the same right over them which he has over plants and stones. He may kill them for his food; and if it is lawful to destroy them for food, and this without strict necessity, it must also be lawful to put them to death, or to inflict pain upon them, for any good or reasonable end, such as the promotion of man's knowledge, health, etc., or even for the purpose of recreation." Apud LINZEY, Andrew. *Animal Rights: A Christian Assessment of Man's Treatment of Animals*. London: SCM Press, 1976, p. 20.

<sup>2</sup> FAVRE, David and TSANG, Vivien. The Development of Anti-Cruelty Laws During the 1800's. In: RANDALL, Lockwood and ASCIONE, Frank R. (Eds.) *Cruelty to Animals and Interpersonal Violence*. Readings in Research and Application. Purdue University Press/ West Lafayette, Indiana, 1998, p. 34. Cited Favre e Tsang, DAL.

<sup>3</sup> Favre e Tsang, DAL, p. 35.

<sup>4</sup> Favre e Tsang, DAL, p. 35.

<sup>5</sup> Favre e Tsang, DAL, p. 35.

<sup>6</sup> Favre e Tsang, DAL, p. 38.

<sup>7</sup> Favre e Tsang, DAL, p. 39.

<sup>8</sup> Favre e Tsang, DAL, p. 40.

<sup>9</sup> Favre e Tsang, DAL, p. 42.

<sup>10</sup> Definition of "beast", in 1856, in the city of Minnesota, USA: "[I]t seems to me, that all [animals] such as have, in law, no value, were not intended to be included in that general term.... The term beasts may well be intended to include asses, mules, sheep and swine, and perhaps, some other domesticated animals, but it would be going quite too far to hold that dogs were intended." Favre e Tsang, DAL, p. 43.

<sup>11</sup> Favre e Tsang, DAL, p. 43.

<sup>12</sup> Favre e Tsang, DAL, p. 45.

<sup>13</sup> Favre e Tsang, DAL, p. 47.

<sup>14</sup> Favre e Tsang, DAL, p. 49.

<sup>15</sup> Favre e Tsang, DAL, p. 50.

<sup>16</sup> Apud Favre e Tsang, DAL, p. 56.

<sup>17</sup> *A tutela jurídica dos animais*. Belo Horizonte: Mandamentos, 2000, p. 155.

<sup>18</sup> Apud Edna Cardozo Dias, *Op. cit.*, p. 155.

<sup>19</sup> Term witch designates free man, owner, considered subject of commercial rights and worthy of law protection. In: BOUZON, Emanuel. *Uma coleção de Direito Babilônico pré-hammurabiano*. Petrópolis: Vozes, 2001; and from the same author, *O Código de Hammurabi*. Petrópolis: Vozes, 2003.

<sup>20</sup> About moral standing in judaic tradition, see BLEICH, David J. Judaism and Animal Experimentation. In: REGAN, Tom (Ed.). *Animal Sacrifices: Religious Perspectives on the Use of Animals in Science*. Philadelphia: Temple university press, 1986, p. 63n.

<sup>21</sup> "The development of anti-cruelty laws during the 1800's". In: LOCKWOOD, Randall and ASCIONE, Frank R. (Eds.) *Cruelty to Animals and Interpersonal Violence*: Readings in Research and Application. Purdue University Press/West Lafayette, Indiana, 1998, pp. 33.

<sup>22</sup> See MAGEL, Charles R. *Keyguide to Information sources in Animal Rights*. London: Mansell Publishing Limited, 1989.

**References**

- PRIMATT, H. *The Duty of Mercy*. Edited by Richard D. Ryder. Fontwell, Sussex: Centaur Press, 1992.
- LINZEY, A. *Animal Rights: A Christian Assessment of Man's Treatment of Animals*. London: SCM Press, 1976, p. 20.
- BOUZON, E. *Uma coleção de Direito Babilônico pré-hammurabiano*. Petrópolis: Vozes, 2001.
- BOUZON, E. *O Código de Hammurabi*. Petrópolis: Vozes, 2003.
- BLEICH, D. J. Judaism and Animal Experimentation. In: REGAN, Tom (Ed.). *Animal Sacrifices: Religious Perspectives on the Use of Animals in Science*. Philadelphia: Temple University Press, 1986, p. 63.
- LOCKWOOD, R. and ASCIONE, F. R. (Eds.) *Cruelty to Animals and Interpersonal Violence: Readings in Research and Application*. Purdue University Press/West Lafayette, Indiana, 1998.
- MAGEL, C. R. *Keyguide to Information sources in Animal Rights*. London: Mansell Publishing Limited, 1989.