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Artículos científicos

Derechos de los seres sintientes en el marco jurídico mexicano

Rights of Sentient Beings in the Mexican Legal Framework

Direitos dos seres sencientes no marco legal mexicano

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Resumen

Se trata de una investigación jurídica, documental descriptiva que propone una nueva terminología para sustituir el concepto de *animal* por el de *seres sintientes* en el marco jurídico mexicano. Expone la inexistencia de directrices generales en el artículo 4 de la Constitución Política de los Estados Unidos Mexicanos para reconocer y garantizar de manera real los derechos de estos seres. La dispersión legislativa y la falta de reconocimiento limitan su protección y bienestar. Se analiza el marco jurídico y estudios en la materia, teorías, instrumentos de carácter internacional y se propone que los seres sintientes deben ser sujetos de derechos. A pesar de que en México las 32 entidades federativas tienen leyes de protección animal, no son suficientes para garantizar el derecho a la vida, la libertad, al no maltrato y a la salud de los seres sintientes. En la legislación no existen sanciones de carácter penal que contribuyan a prevenir, erradicar los abusos y actos inhumanos hacia estos seres y las investigaciones en este campo son incipientes.

Palabras clave: maltrato animal, marco jurídico, protección animal, seres sintientes.



Abstract

This is a legal, descriptive documentary research that proposes a new terminology to replace the concept of *animal* with that of *sentient beings* in the Mexican legal framework. It exposes the lack of general guidelines in Article 4 of the Constitution of Mexico to recognize and guarantee in a real way the rights of these beings. The legislative dispersion and lack of recognition limit their protection and welfare. The legal framework and studies on the subject, theories and international instruments are analyzed and it is proposed that sentient beings should be subjects of rights. Although Mexico's 32 states have animal protection laws, they are not sufficient to guarantee the right to life, freedom, freedom from mistreatment and health of sentient beings. There are no penal sanctions in the legislation that contribute to prevent and eradicate abuses and inhumane acts towards these beings, and investigations in this field are incipient.

Keywords: animal abuse, legal framework, animal protection, sentient beings.

Resumo

É uma investigação jurídica, um documentário descritivo que propõe uma nova terminologia para substituir o conceito de animal pelo de seres sencientes no quadro jurídico mexicano. Expõe a falta de diretrizes gerais no artigo 4 da Constituição Política dos Estados Unidos Mexicanos para reconhecer e garantir os direitos desses seres de maneira real. A dispersão legislativa e a falta de reconhecimento limitam sua proteção e bem-estar. Analisa-se o arcabouço legal e os estudos sobre o tema, teorias, instrumentos internacionais e propõe-se que os seres sencientes sejam sujeitos de direitos. Apesar de no México os 32 estados terem leis de proteção animal, elas não são suficientes para garantir o direito à vida, liberdade, não abuso e saúde dos seres sencientes. Na legislação não há sanções penais que contribuam para prevenir, erradicar abusos e atos desumanos contra esses seres e as investigações nesse campo são incipientes.

Palavras-chave: maus-tratos a animais, marco legal, proteção animal, seres sencientes.

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Introduction

This research analyzes the conceptualization or redefinition to conceive or call animals as sentient beings (denotes that an entity, an individual, or a being has the ability to feel pain or well-being). There are positions that recognize them as “non-human animals”, “non-human persons” and “non-human beings”, which in itself represents a significant advance.

Sentient beings are a branch within living beings that are distinguished by their ability to feel physical and psychological sensations, such as fear, happiness, pain, and perceive experiences. This ability is called sentience. Plants, trees, flowers, etc., are living beings, but not sentient beings, since they do not have a central nervous system (Escobar, November 19, 2015).

In our language, and within the literature on animal rights, it is common to use the word sentient to denote that an entity, an individual, or a being has the ability to feel pain or well-being. The sentient word has also been used as a synonym to mean the same thing. However, the reader must be warned that none of these words (sentient or sentient) are recognized or registered in the twenty-third edition of the Dictionary of the Spanish language of the Royal Spanish Academy (RAE). On the other hand, the word that comes closest to the intended meaning is sensitive, which means, according to the aforementioned dictionary (among other meanings), 'that feels, physically and morally'. Only occasionally does this word come to be used instead of sentient or sentient. Interestingly, in the English language there is the word sentient, which is widely used among authors of that language and is defined as the 'ability to see or feel things through sensations or feelings', according to the Oxford Advanced Oxford University Learner's Dictionary of Current English Eighth Edition (Nava, 2019)

The way in which these beings are called will expand their rights in the Political Constitution and the Mexican legal framework. According to the above definitions, they will be called sentient beings in the future in this investigation.

This leads to the search for the following questions: should sentient beings have rights? What kind of rights should they have? Would these rights be for all sentient beings? Where should these rights be recognized?

Based on these approaches, the theories of utilitarianism, anticrudelism and morality were analyzed objectively and argumentatively; International instruments, constitutional



article 4, secondary laws and the Official Mexican Standard (NOM) on the matter were reviewed.

The Universal Declaration of Animal Rights, of 1978, defined these beings as 'animals', but this meaning has not allowed the full recognition of their rights. This Declaration has been adopted by legislation in different countries, through which they recognize, only, the right to life, liberty and not to be abandoned.

Based on the principles of natural law, it is proposed that "animals", as they are currently called in Mexican legislation, be considered sentient beings. The foregoing is based on the Cambridge Declaration on consciousness in animals, which shows that these beings, being aware of what is happening in their environment, are also aware of the suffering and mistreatment they suffer.

Based on the provisions of the Cambridge Declaration, it is feasible to maintain that "animals" can indeed have rights. The foregoing does not depend on whether or not they are granted the status of legal persons, but whether they are subjects of rights because they have the status or condition of sentient beings.

In order to argue the terminological change, it is appropriate to carry out a brief analysis of the theory of utilitarianism, which has its beginnings during the Industrial Revolution, in the middle of the 19th century. The father of said ethical theory and main exponent is Jeremy Bentham (Ortiz, 2017).

The theory of utilitarianism was followed by who is considered the greatest representative of Bentham today, the Australian philosopher Peter Singer. In it, are, among others, the arguments about the moral duties that we have towards animals; the search for their well-being under the equation of the greatest possible well-being for the greatest possible number of animals; the creation of the best scenario (whether human or animal); the imperative that the basic principle of equality between all individuals of our species be extended to animals (they and we deserve equal consideration); the certainty that what makes animals have moral status is that they are sentient beings, that is, that they can feel pain or suffering, pleasure or well-being, and that is enough for them to have interests that must be directly considered (Nava, 2019).

Utilitarianism is a very interesting theory to deal with the problem that concerns us here, because its principle of action includes animals. They must also be taken into account when we act, and if our action is going to cause them pain, that is a reason not to do it. According to this philosophy, animals deserve moral consideration simply because they can



suffer. Since for this theory it is precisely about avoiding pain and increasing well-being, the only criterion to decide if a being is a member of the moral community and therefore if we have moral obligations towards him, is his ability to feel pain. . Any other criterion, be it race, sex, intelligence, species, only gives rise to unjustifiable discrimination. This is how utilitarianism unites humans and animals within the same moral community. Since all members of the community can suffer, the principle of moral equality reigns within it, which aims to prevent anyone from claiming privileged positions for themselves (Nava, 2019).

One of the current debates, since the approval of the Universal Declaration of Animal Rights, is to consider whether they can be called sentient beings and be subjects of rights. Considering that they are not subjects of rights and continuing with the idea that these beings serve only to meet certain needs of human beings means adopting positions that would always be based on the benefits of the human being. Considering that the happiness of human beings is above sentient beings devalues the conditions of mistreatment and abuse that they live.

The anti-cruelism theory, espoused by the English philosopher John Locke, who is known as the father of classical liberalism, holds that we should avoid being cruel to animals.

However, anticrudelism has problems, the main one being that, even when the act towards an animal is not cruel, this does not imply that it is correct. Someone who uses animals to teach biology classes probably kills them with good intentions, so that the students learn their anatomy; his act is not cruel, but that does not mean that it is correct to use animals for educational purposes (Ortiz, 2017, p. 389)

From the foregoing it follows that there will be cruelty in acts where there is no compassion, carried out for pleasure or pleasure to the suffering of animals. And that when there is a benefit to the human being, the line between right and wrong tends to be more problematic.

The theory of morality, for its part, starts from the recognition of the moral status of animals. Various authors consider that this status is inferior to that of human beings, since they do not have a conscience, obligations or plans for the future like the latter.

The moral duties we have towards animals; the search for their well-being under the equation of the greatest possible well-being for the greatest possible number of animals; the



creation of the best scenario (or the most useful) through the maximization of the satisfaction of moral interests (whether of humans or animals); the imperative that the basic principle of equality between all individuals of our species be extended to animals (they and we deserve equal consideration); the certainty that animals have moral status lies in the fact that they are sentient beings, that is, they can feel pain or suffering, pleasure, well-being, and this is enough for them to have interests that must be directly considered (Ortiz, 2016).

If sentient beings are considered as objects and property of the human being, it is because they are believed to have no moral value, this has caused these beings to be used for the benefit of humans (Certified Humane, February 14, 2019). A study carried out in 2012 showed that "animals" are beings that have the ability to feel pain, fear, pleasure and positive emotions, just like human beings. From the above it follows that this sentience is what gives them a moral status equal to that of human beings, as well as giving them the ability to be a sentient entity.

It should be noted that the theory of utilitarianism and morality have influenced countries such as Argentina (National Animal Protection Law), Brazil (Animal Protection Law), Chile (Law No. 20,380 on Animal Protection), Colombia (Law 84 of 1989), Costa Rica (Law 7451 Animal Welfare), Panama (Law 70 for the Protection of Domestic Animals), Peru (Law 1454/2012-1C, which prohibits the use of animals of any species in public shows and private), Dominican Republic (Law 248-12, on animal protection and responsible ownership), Uruguay (Law No. 18,471 of 03/27/2009). In these nations, their constitutions recognize these beings as sentient beings and the right to life, liberty and to be respected has been legislated, which is an important advance for its consolidation in the legal framework, by making such rights effective, highlighting I manifest humanism, morality of the human being and his respect towards other living beings.

In 2012, the Cambridge Declaration published the results of a Turing test that measured "consciousness in animals" and concluded that animals have a neurological substrate that gives them consciousness (Karten, July 7, 2012). The ability to be conscious is an argument that strengthens the denomination to be recognized in the Mexican legal framework with the status of sentient beings.

Mexico is one of the 17 megadiverse countries on the planet that has approximately 12% of the world's species; It is considered the fifth country in Latin America, after Brazil,



Colombia, China and Indonesia, which are home to 70% of the world's diversity (National Commission of Natural Protected Areas [Conanp], September 6, 2018)

Although Mexico is considered one of the main countries with great biodiversity, it is in third place in animal abuse, trafficking and illegal trade. These beings are valuable like any other. The "animals" must have natural rights, such as the right to life, freedom, to be respected, etc. According to Ortiz (2017):

Recognizing rights to animals implies recognizing at the same time that human beings have moral obligations towards them; recognizing that an animal has, for example, the right to life, imposes on us the obligation to respect its life, that is, not to use it as a mere means or a resource for our food or for research (p. 409).

The Mexican legal framework, particularly in the Political Constitution, in its article 4, stipulates that the environment must not be damaged or deteriorated in accordance with natural law, but in no section of this precept does it recognize any right to sentient beings. It is important to mention that not only in this precept, but in the entire constitutional text, it does not expressly recognize the rights of sentient beings, despite being the country's supreme norm.

The Mexican legal framework contains laws such as the General Law of Ecological Balance and Environmental Protection (LGEEPA) (Presidency of the Republic, April 11, 2022), the Federal Animal Health Law (Presidency of the Republic, May 11, 2022) and the General Wildlife Law (Presidency of the Republic, May 20, 2021), as well as different General Mexican Standards (NOM), for example, NOM-051-ZOO-1995, Humane treatment in the mobilization of animals, published in the Official Gazette of the Federation (DOF) on January 11, 1996, NOM-033-SAG/ZOO-2014, Methods for killing domestic and wild animals, published in the DOF on August 26, 2015, NOM-062-ZOO-1999, Technical specifications for the production, care and use of laboratory animals, published in the DOF on August 22, 2001, NOM-148-SCFI-2018, Commercial practices-Marketing of animals company and provision of services for their care, training and entertainment ento, published in the DOF on February 28, 2019, and NOM-059-SEMARNAT-2010, Environmental protection-Native Mexican species of wild flora and fauna-Risk categories and specifications for their inclusion, exclusion or change-List of species at risk, published in the DOF on November 14, 2019, all aimed at regulating the obligations of people in the treatment that should be given to animals, a proposal that is made in the present



investigation. Unfortunately, despite the existence of these laws, the basic rights of these beings that guarantee their well-being are not recognized, as detailed in the following paragraphs.

The LGEEPA conceives as ecological balance the relationship of interdependence of living organisms among themselves and of these with the environment, in a given space and time. In this context, environment is understood as the set of natural and artificial or human-induced elements that make possible the existence and development of human beings and other living organisms that interact in a given space and time.

The LGEEPA does not, however, recognize the rights of sentient beings in its sections, it only mentions that the federal, state, municipal governments and Mexico City must regulate the dignified and respectful treatment that must be given to sentient beings, for Therefore, it is concluded that more than rights, they are obligations of people to treat them well as living beings.

Likewise, an analysis was made of the Federal Animal Health Law, which regulates the bases for the diagnosis, prevention, control and eradication of diseases and pests that affect sentient beings, etc. This law is focused on regulating bases for the diagnosis, prevention, control and eradication of diseases and pests that affect sentient beings. Although it can be highlighted that the right to health is recognized, however, this recognition is for commercial purposes that ensure that the meat is of "quality" for human consumption, but in essence, as already mentioned, there is a mercantilist, and not protection in relation to health to achieve their well-being.

In this same sense, the General Wildlife Law establishes the regulation of sentient beings at the federal level; It includes the use of the fauna and the conditions in which it takes place, its authorization and surveillance, and at the same time regulates the dignified treatment that must be given to the animal during its possession or property, breeding, capture, transfer, exhibition, quarantine, commercialization, use, training or slaughter. As we can see, this law does not recognize any rights to sentient beings, rather it is focused on practically regulating the management and commercialization of these beings, as well as the management, use and conservation, granting them a use and commercialization value.

The analyzed NOMs that regulate issues related to sentient beings do not recognize any right to them, so it is concluded that they only regulate the health aspect for human consumption, the use that is given to them in laboratories for experimentation and commercialization purposes. Mexico is one of the main countries with trafficking in beings



in danger of extinction. The laws do not regulate the protection, care and welfare of animals, it is only important that they do not suffer damage in their transfer for commercial purposes.

Of the 32 states that exist in Mexico, Colima and Jalisco only provide in their Constitution the right to be respected. As can be deduced from the foregoing, these states only provide for one of the basic rights proposed (life, liberty, non-abuse, right to health); unlike the constitutions of Mexico City and Oaxaca, which recognize the right to life and the right to be respected. Only these constitutions recognize rights to sentient beings and in the other states it has not been a matter of interest.

The state of Oaxaca has the Ecological Balance and Environmental Protection Law, which regulates article 12, section A, of its Constitution, which turns out to be a true copy of the LGEEPA. This local law is not harmonized with its Constitution, since it does not expressly take up the right to life and non-abuse, which is recognized by said Constitution. Consequently, this has generated difficulties in achieving respect for the rights of sentient beings, which does not contribute to their benefit or well-being.

From the analysis carried out on article 4 of the Political Constitution of the United Mexican States, the federal animal protection laws, the official regulations, the constitutions of the states of Oaxaca, Colima, Jalisco and Mexico City, it is noted that they only recognize two rights: the right to life and to be respected, and do not provide for the right to liberty or health. The recognition of the rights of sentient beings is inconclusive, because it does not allow their protection and well-being to be fully, according to the objective of this investigation, at least they must have the recognition of the right to life, freedom, not abuse and health.

Methodology

Study, which analyzes and interprets the legal system and its application to social behavior, is of a documentary type, because the information was obtained from secondary sources, and descriptive, since it has a population under study (sentient beings). A new conceptualization or terminology is proposed that replaces the concept of animal with that of sentient beings; identifies the lack of recognition of certain rights of these beings in the Political Constitution of the United Mexican States and other legislation, such as the right to life, freedom, non-abuse and health, and exposes the legal ambiguities or gaps that do not



contribute to achievement of these rights and which are the sentient beings that should be subjects of rights.

Results

In our country there are some "animal protection" laws and official regulations, but they need to recognize the right to life, liberty, non-abuse and health; There are also no public institutions for the care of sentient beings. In the entire Mexican territory there is only one free public veterinary hospital located in Naucalpan, State of Mexico, this is a primary care center that seeks, through sterilization and anti-rabies vaccination, to promote the responsible ownership of pets, avoid abandonment and health risks.

Next, studies and statistics are presented that highlight the situation suffered by sentient beings in Mexico due to the lack of legislative protection.

According to the National Institute of Statistics and Geography (Inegi), Mexico ranks third with the highest number of animal abuse. Likewise, the 2021 national survey showed that 69.8% have at least one type of "animal" that they use as pets. The totality results in 80 million of said beings: 43.8 million are of the canine species, 16.2 million are felines and 20 million are of the small species.

A publication by the Ministry of the Environment and Natural Resources [Semarnat] (August 31, 2018) reveals that Mexico is one of the main actors in the illegal extraction and trade of "animals", as it is a country with great biodiversity at the global level. worldwide and its geographical location has communication with different countries, which implies that the trafficking of said beings is carried out with ease.

Table 1. Most Illegally Traded Species in Mexico

Núm.	Animales	Nombre científico
1	Perico cabeza amarilla	<i>Amazona oratrix</i>
2	Guacamaya roja	<i>Ara macao</i>
3	Guacamaya verde	<i>Ara militaris</i>
4	Tucán pecho amarillo	<i>Ramphastos sulfuratus</i>
5	Mono araña	<i>Ateles geoffroyi</i>
6	Mono aullador	<i>Alouatta palliata</i>
7	Tarántula rodilla rojas	<i>Brachypelma smithi</i>
8	Iguana negra	<i>Ctenosaura pectinata</i>
9	Iguana verde	<i>Iguana iguana</i>
10	Víbora de cascabel	<i>Crotalus sp</i>
11	Halcón de Harris	<i>Parabuteo unicinctus</i>

Source: Own elaboration with data from Semarnat (August 31, 2018)

Another text released by the Federal Attorney for Environmental Protection [Profepa] (2019) reveals that more than 150 species of parrots that exist on the planet are in danger of extinction, which have been the reason for a big business. In Mexico, 32 species of parrots have been declining in the last three decades, due to their illegal capture for sale as pets. It also reports that in the period from February to May there is the greatest extraction in illegal trade.

Along these same lines, a petition made by the Animal Heroes association (2022), called "Prison to the abuser", reports that Mexico has the first place in abandonment of pets in all of Latin America.

For its part, the Global Animal Law GAL Association (2020), which analyzes the legislation of 124 countries, concludes that although there are various laws in Mexico that contemplate animal rights, all of them have limitations and although they include some provisions of animal welfare, aim to ensure animal health rather than animal welfare; they are inconsistent because it only recognizes protection for some of the animals.

Likewise, Vieto (October 27, 2020) reveals that Mexico is a supplier country of "animals", transit site and final destination of species. The most trafficked beings are psittacine birds such as yellow-headed parrots, the orange-fronted parakeet; birds of prey such as Harris's hawk, red-tailed eagles, as well as toucans and passerines; also reptiles,

which represent the second most trafficked animal in Mexico worldwide: crocodiles, iguanas, turtles of the Kinosternon genus and some snakes such as boas suffer the same fate. The same study reveals that, in 2020, 15,053 tortoises of various species were seized at the Mexico City International Airport, which were headed to China, 260 had died on arrival. Another animal in the category of mammals, such as primates and felines, most trafficked in Mexico is the spider monkey, which is frequently used as a pet, in addition to the jaguar, which is another animal used as a pet.

A recent study yields data that concludes that there are about 30 million dogs in the country, 70% of them live on the streets, four times the population of Monterrey, and 6 out of 10 suffer abuse (Santoyo, February 23, 2022). On the other hand, in the year 2021, the Citizen Council for Security and Justice of Mexico City (August 17, 2021) dealt with nearly 1,200 cases in CDMX and the State of Mexico alone for mistreatment of pets derived from physical assaults.

Result of the analysis of article 4 of the Political Constitution of the United Mexican States, it is noted that, despite the fact that it maintains that “every person has the right to a healthy environment for their development and well-being. The State shall guarantee respect for this right. Environmental damage and deterioration will generate responsibility for whoever provokes it in terms of the provisions of the law”, nowhere in this constitutional precept is any right of sentient beings expressly recognized.

From the analysis carried out on the laws in Mexico, such as the LGEEPA, the Federal Animal Health Law and the General Wildlife Law, it can be concluded that these laws do not regulate fundamental rights for the well-being of sentient beings, such as the right to life, to freedom, to be respected and to health; they only regulate obligations of the treatment that must exist between humans and animals.

Table 2. federal laws

Ley	Reconoce algunos de los siguientes derechos: ¿a la vida, a la libertad, a ser respetados y a la salud?
LGEEPA	Reconoce el derecho a no ser maltratados, establece que todos los niveles de Gobierno deben regular el trato digno y respetuoso que se le debe dar a los seres sintientes, el cual no obliga al respeto de dichos seres.
Ley Federal de Sanidad Animal	No reconoce ninguno de los cuatro derechos propuestos, solo establece el derecho a la salud de los seres sintientes, pero solo con el fin de convertirse en carne para consumo humano, lo que demuestra que no es prioridad su reconocimiento.
Ley General de Vida Silvestre	No reconoce ninguno de los derechos propuestos, solo establece el manejo y comercialización de los seres sintientes, el cual le da pautas a los humanos para el tráfico ilícito de estos seres, dejando en claro la falta de respeto por el derecho a la libertad.

Source: self made

In the NOMs of the Mexican legal framework, rights are not recognized either, they only regulate the mobilization, the practices of killing, the use that is given to them in laboratories, their commercialization, hunting, etc. And they do not provide for the specific protection of these beings, as shown in Table 3 below.

Tabla 3. NOM

Normas oficiales	Reconoce algunos de los siguientes derechos: ¿a la vida, a la libertad a ser respetados y a la salud?
NOM-051-ZOO-1995, Trato humanitario en la movilización de animales	No reconoce algún derecho que pueda lograr el bienestar de los seres sintientes, únicamente establece las formas de movilizar a estos seres, con el fin de disminuir el sufrimiento que padecen, tratando de evitar las tensiones o reduciéndose en el traslado.
NOM-033-SAG/ZOO-2014, Métodos para dar muerte a los animales domésticos y silvestres	No reconoce algún derecho que pueda lograr su bienestar, ya que establece prácticas para darle muerte a estos seres, tratando de ofrecerles el mínimo dolor posible.
NOM-062-ZOO-1999, Especificaciones técnicas para la producción, cuidado y uso de los animales de laboratorio	No reconoce ningún derecho, solamente le otorga la categoría de cosa, establece algunas de las especificaciones para lograr la producción, el cuidado y el uso que se les da en los laboratorios.
NOM-148-SCFI-2018, Prácticas comerciales- Comercialización de animales de compañía y prestación de servicios para su cuidado, adiestramiento y entretenimiento	No reconoce ningún derecho a los seres sintientes, solo establece los elementos y requisitos para la comercialización de los “animales” de compañía, así como la prestación de servicios de cuidado y adiestramiento.
NOM-059-SEMARNAT-2010, Protección ambiental-Especies nativas de México de flora y fauna silvestres-Categorías de riesgo y especificaciones para su inclusión, exclusión o cambio-Lista de especies en riesgo	No reconoce ningún derecho, su objetivo es dar a conocer los animales que están en peligro de extinción.

Source: self made

Discussion

There is no homogeneous criterion of how "animals" should be called or conceived, since most of the legislations in the world take up the definition of animal made by the Universal Declaration of Animal Rights, which, it should be noted, recognizes the right to life, respect, non-abuse, freedom and food. However, this international instrument contains a problem of conceptualization, since it has not taken up criteria of natural law, humanists or the theory of utilitarianism and morality capable of creating principles or guidelines that influence world legislation.

The Mexican legislator takes up the theories of anticrudelism and morality when making laws, who, from this perspective, has given "animals" the category of use or thing. In civil legislation there is no recognition of rights, consequently, it gives tacit permission for sentient beings to serve to satisfy needs, ranging from exploitation, use, enjoyment and enjoyment to work, sale and illegal trade.

From the analysis carried out on the Constitution, it is concluded that it does not provide in any of its articles rights to "animals" (sentient beings); the only precept that deals with this issue is constitutional 4, fifth paragraph, which establishes:

Every person has the right to a healthy environment for their development and well-being. The State shall guarantee respect for this right. Environmental damage and deterioration will generate responsibility for whoever provokes it in terms of the provisions of the law.

As can be seen from the cited precept, it only stipulates the right to the environment, of which an interpretation could be made to understand its scope, however, as the supreme law should not be subject to that criterion, for which it is essential that there be expressly the legal status and terminology of sentient beings so that they are taken up by the secondary laws and the legislation of the federal entities, since the recognition of rights and their protection has been left to the secondary legislation, however, it does not happen So.

The NOMs, which are also part of the Mexican legal framework and which in theory should technically specify the rights, only provide for the right to health and to be respected.

There are positions or approaches that maintain that "animals" do not have the capacity to feel, which has influenced decision-making in the legislative field that does not allow the recognition of certain rights, however, as has already been established in previous

lines, There are studies that maintain that these beings have such a capacity to feel pain, anguish or suffering, also reaching happiness, joy, etc. (Certified Humane, February 14, 2019)

On the other hand, it is taken for granted that there is recognition of rights to sentient beings, for the sole reason that there are secondary laws and official regulations that regulate the ways in which they should be treated for commercial, consumer and use purposes, but not attending to true rights of how to live in their habitat, respect their environment, not to be hunted, mistreated and to be cared for in their health as living beings.

The LGEEPA, in its article 87 Bis 2, establishes that "the federal government, the federal entities, the municipalities and the territorial demarcations of Mexico City, within the scope of their respective competences, will regulate the dignified and respectful treatment that must be given to the animals".

The main objective since the enactment of the Federal Animal Health Law was to achieve justice, as well as well-being in the field, as well, it tells us that at present it is the preservation of human health by giving good regulation to sentient beings that are used for consumption until they are meat for human consumption. (Medina, 2015)

Therefore, this law only regulates bases to diagnose, prevent, control and eradicate diseases and plagues to sentient beings, only with the aim of preparing them for human consumption, which has caused many of these beings to suffer mistreatment, because a true right to health is not guaranteed.

The General Law of Wildlife has as its main objective to regulate the management and commercialization of sentient beings. Said law does not offer protection to these beings, as it does not recognize the rights to life, liberty, to be respected and to health. The reality is that they are vulnerable to situations of violence and abuse. The foregoing is consistent with the analysis of the General Wildlife Law carried out by Castro and Bustos (2021), who reached the following conclusion:

The vision of protecting and preserving wildlife is predominantly aimed at regulating the handling and marketing of specimens, rather than focusing on eradicating mistreatment and exploitation of the species. The main regulations, the LGVS and its regulations, dealing with the protection of wildlife are more focused on regulating the management, exploitation and conservation of wild non-human animals that have use value, especially



economic, for humans, leaving unprotected any other wild species not present in the legal discourse. In his speech, species that are in some category of risk and that represent some commercial value have more value (p. 122).

It is to be concluded that the General Law of Wildlife does not regulate the right to achieve the well-being of sentient beings, the same law gives them a use value, allowing the human being to commercialize them, and ultimately obtain an economic benefit.

After having exposed the lack of recognition of legal status in the Constitution, the problems and legal gaps that laws and official regulations have in Mexico, it is necessary to point out which sentient beings should be the object of rights. It is not an easy task considering that there are positions that argue that they should not be subject to any right and for others it is an "irrelevant or of little importance" issue. However, for the purpose of this study, it is necessary to establish a proposal. Therefore, the classification made by the Mexico City Animal Protection Law (May 4, 2018) is shared:

Article 2. Animals, which do not constitute pests, that are permanently or temporarily within the territory of the Federal District, which include: I. Domestic; II. Abandoned; III. Ferals; IV. Sports; V. Trained; VI. Assistance Dogs; VII. For shows; VIII. For display; IX. For mounting, loading and shooting; X. For supply; XI. For traditional medicine; and XII. For use in scientific research XIII. Security and Guard; XIV. Animal therapy [sic]; XV. Silvestres, and XVI. Aquariums and Dolphinariums.

Article 3. Without prejudice to what is established in the previous paragraph, it corresponds to the authorities of the Federal District, in aid of the federal ones, the safeguarding of the interest of every person to demand the fulfillment of the right that the Nation exercises over wild animals and their habitat as part of its natural and cultural heritage, except those that are in captivity and whose owners have documents that support their legal origin, either as a pet or as part of a public or private zoological collection and comply with the treatment provisions dignified and respectful to the animals that this Law establishes.

Of the legal precepts in question, it is noted which animals should be subject to rights, so they are taken up from this Law as a proposal with the purpose that these same ones could be recognized and added to the Animal Protection legislation of the Federal



Entities, as well as those animals that the legislator considers that, given their condition, and taking up the theory of Utilitarianism and Morality, are recognized and protected by law.

Although the proposal of those sentient beings that must be recognized with certain rights has been established, it is important to point out that, according to research and positions already exposed here, mammals are the ideal candidates since they possess certain capacities similar to the human being. Therefore, they can have the legal status and full recognition of the proposed rights.

Conclusions

From the analysis carried out in this investigation, it is concluded that the Universal Declaration of the Rights of "Animals" has lagged behind in calling sentient beings "animals". Although it is true that it recognizes rights such as: life, respect, freedom, food and not to be violated, it does not fit the theory of Utilitarianism and natural law.

For its part, the Political Constitution of the United Mexican States in its article 4, only regulates the right to the environment, there is not even the mention of "animal" right, much less the recognition of legal status with the denomination of sentient beings. It is required that the highest law of the country explicitly and objectively contain principles or guidelines that influence secondary legislation for the care, protection and punishment against mistreatment, abuse, exploitation, trafficking and sale of sentient beings.

The LGEEPA provides for the treatment that must be given to these beings, the Federal Animal Health Law regulates the right to health only for the purpose of preserving meat for human consumption, and the General Wildlife Law establishes its management and marketing ; These rules protect a commercial and useful purpose for human beings.

Mexico is one of the main countries with the highest index of mistreatment, trade and trafficking of sentient beings worldwide, this is due, among other reasons, to the fact that there is no recognition of rights that guarantee their protection in the Political Constitution of the United Mexican States or in secondary laws; notwithstanding that, in a dispersed manner, some laws and official regulations provide for certain "rights" that are mostly of a commercial nature for the use and enjoyment of the human being.

From the analysis carried out of the international legal framework, the federal Constitution, laws on the matter and NOM, it is noted that the right to health is not recognized either,



therefore, it is important that in Mexican legislation, together with the rights that are already They propose that a fourth basic right, such as the right to health, also be recognized through legislation. This last right in particular must be translated into the creation of veterinary centers or clinics that guarantee prevention, urgent attention, care and free or low-cost medication.

Mexico does not have a federal or local jurisdictional institution (court of well-being and protection of sentient beings) that is in charge of monitoring, safeguarding, mediating and imposing criminal sanctions and monitoring of cases, and not only administrative ones; The creation of a specialized court will require a legal framework, specialized personnel and a budget that allows it to achieve its goals.

The current legislation has given sentient beings a category of thing, and human beings the green light to use them for their own benefit, being exploited or used for research, food, entertainment, work, etc. Despite the advances in legislative regulation to not use "animals" in cosmetic production processes, it is still insufficient, since the practice of using them in everything that represents "advances for science" and especially for the human consumption.

In society there is no awareness or culture of respect and protection towards other living beings. The education that has been had is to conceive and treat these beings as simple objects and that they only serve for their own benefit. That is why there is no awareness or ability to recognize that they are capable of feeling and this has caused the mistreatment and exploitation they receive.

Future lines of research

Due to the fact that the information is scarce and in order to know the current situation on the rights of sentient beings because it has been little explored, it is proposed to continue delving into this topic from various approaches that allow strengthening the legal framework in order to strengthen the information that generates public policies aimed at the recognition of basic rights; its study will allow advances to strengthen this area that in some cases will benefit nature and the balance that must exist between the human being and other beings.

The study opens the possibility of analyzing in greater depth which are the sentient beings that must have recognized the legal status of rights, the inclusion and exclusion



criteria to be considered as such, which leads to a deep reflection that starts from a real diagnosis. of the species that exist in Mexico (including zoos or the like), the degree of danger they encounter in order to legislate and create public policies aimed at their protection, conservation and comprehensive well-being that allow their survival and healthy balance with being human.

It is important to study more research and theoretical approaches on the life of sentient beings that allows sustaining how they should be classified and which should be recognized and have a legal status that in turn is transferred to the laws in order to have a treatment worthy guaranteed by human beings.

Due to the above, some proposals are made in order to contribute to the recognition of the legal status of sentient beings:



Table 4. Proposal for addition to article 4 of the Political Constitution of the United Mexican States

Texto vigente	Texto propuesto
<p>Artículo 4º, párrafo V (...) Toda persona tiene derecho a un medio ambiente sano para su desarrollo y bienestar. El Estado garantizará el respeto a este derecho. El daño y deterioro ambiental generará responsabilidad para quien lo provoque en términos de lo dispuesto por la ley.</p>	<p>Artículo 4º, párrafo V (...) Toda persona tiene derecho a un medio ambiente sano para su desarrollo y bienestar. El Estado garantizará el respeto a este derecho. El daño y deterioro ambiental generará responsabilidad para quien lo provoque en términos de lo dispuesto por la ley.</p> <p>La presente Constitución otorga la calidad de sujetos de derecho a los seres sintientes y le reconoce el derecho a la vida, a la libertad, al no maltrato y a la salud.</p> <p>Las normas relativas a los derechos de los seres sintientes se interpretarán de conformidad con esta Constitución y con los tratados internacionales de la materia favoreciendo en todo tiempo a estos seres la protección más amplia.</p> <p>Todas las autoridades, en el ámbito de sus competencias, tienen la obligación de promover, respetar, proteger y garantizar los derechos de los seres sintientes de conformidad con el principio de progresividad. En consecuencia, el Estado deberá prevenir, investigar, sancionar administrativa y penalmente y</p>

	reparar las violaciones a sus derechos, en los términos que establezca la ley.
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Source: Own elaboration based on the Political Constitution of the United Mexican States

Table 5. Proposal to modify what the laws that protect the rights of sentient beings should be called and which of them should be recognized as subjects of law

Denominación actual	Denominación propuesta
Leyes de Protección a los Animales	Leyes de Protección a los Seres Sintientes
	I. Domésticos; II. Abandonados; III. Ferales; IV. Deportivos; V. Adiestrados; VI. Perros de Asistencia; VII. Para espectáculos; VIII. Para exhibición; IX. Para monta, carga y tiro; X. Ecuestre; XI. Para abasto; XII. Para medicina tradicional; y XIII. Para utilización en investigación científica XIV. Seguridad y Guarda; XV. Animalterapia; XVI. Silvestres, y XVII. Acuarios y Delfinarios; XVIII. Mamíferos.

Source: Own elaboration based on the LGEEPA

Table 6. Proposal for addition to the Federal Penal Code to punish crimes committed against sentient beings

Denominación vigente	Denominación propuesta
Código Penal Federal Título Vigésimoquinto Delitos Contra el Ambiente y la Gestión Ambiental	Código Penal Federal Título Vigésimoquinto Delitos Contra el Ambiente, la Gestión Ambiental y los Seres Sintientes
	<p>Artículo 420 Bis. Se impondrá pena de seis meses a ocho años de prisión y el equivalente de doscientos a dos mil días multa a quien:</p> <p><i>Abandone sin causa justificada a un ser sintiente, que esté bajo su cuidado, maltrate, infrinja daño, capture, lesione o prive de la vida.</i></p> <p>Se aplicará una pena adicional hasta de 2 años más de prisión y hasta mil días multa adicionales, cuando las conductas descritas en el presente artículo se realicen con saña y crueldad.</p>

Source: Prepared by the authors based on the Ministry of the Interior (November 12, 2021)

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