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Teresa Gardocka

THE PROTECTION OF ANIMALS IN POLAND. A LEGAL AND SOCIAL PROBLEM

The problem regards relating to the various groups of animals in danger of extinction: domestic animals, animals used during entertainment events (circuses), animals, kept by people usually in order to provide a company and sometimes due to the specific needs (e.g. guide dogs for the blind), livestock, game animals, experimental (laboratory) animals, as well as fish and insects in order to protect a biodiversity, and also for the educational mission addressed primarily to the young people. Legislative, social and religious aspects of a problem are investigated. At present the European law plays an important role in the problem of protection of animals. For instance: the Polish statute is undergoing a process of changes connected to the necessity of implementation of the European Union directive regarding the protection of experimental animals because the internal law of the State members should be in conformity with the European acts.

The main idea of the article is based on the statement that an animal is not a thing but a living creature able to feel suffering and the human society must feel and reduce these sufferings. The author stresses that the low level of social acceptance for the requirement of the humanitarian treatment of animals constitutes a problem.

Special relevance of the article is a society doesn't understand why one should take care of the animal welfare, does not accept spending money on it and does not show any empathy for animals. Killing of a homeless animal is easily justified socially while a movement in favor of animals, especially among young people, requires a change of the old provisions neglecting the animal rights.

Key words: *protection of animals, European Union, domestic animals, livestock.*

The protection of animals in Poland regards several various problems. Firstly, it is the protection of animals as a part of the natural environment, regulated by the provisions regarding nature and other provisions relating to the groups of animals differentiated in various ways, like, for example, the protection of fish (the act on inland fishing) or the protection of game animals (the hunting act). The zoological gardens, which carry out the species protection of animals in danger of extinction and the educational mission addressed primarily to the young people, constitute a part of a system of the protection of animals. At present, each of these tasks is questioned. Certainly, combining them in one institution may be questioned where the protection of biodiversity is connected with showing the animals, captured in unnatural conditions, for the educational purposes. Obviously, documentary films showing the life of animals in natural conditions significantly better fulfill the educational mission than showing the animals behind the bars, which may even mislead younger children about the fact how wild animals live.

The particular legal protection is also guaranteed for the experimental (laboratory) animals, used for the biological and medical experiments, experiments connected with testing medicines as well as with examining conditions causing stress. Especially, the latter are questioned due to the difficult transfer of their results onto people. The experiments are restricted in numerous ways in order to reduce the suffering of animals. Their conduct is controlled by the ethics commissions composed of the scientists conducting such type of experiments, the representatives of human and social sciences, and activists of the organizations defending animal rights.

At present, many persons raise objections to the restrictions claiming that they are not sufficient and to the ineffective functioning of the ethics commissions. The statute is undergoing a process of changes connected to the necessity of implementation of the European Union directive regarding the protection of experimental animals. The European law plays an important role in the problem of protection of animals. The internal law of the State members should be in conformity with the European acts.[1]

Further considerations will concern the protection of livestock, animals used during entertainment events (circuses) and animals accompanying humans as domestic animals, kept by people usually in order to provide a company and sometimes due to the specific needs (e.g. guide dogs for the blind).

The statute regulating these issues dates back to 1997 but it was amended many times, primarily in order to adjust it to the European Union directives regulating the protection of animals in specific issues.

The Polish act on the animal protection's based on the assumption that an animal is not a thing. It is stated explicitly in article 1 of the statute which states that an animal is not a thing as it is a living

creature able to feel suffering. However, just in a subsequent paragraph the statute states that in issues not regulated by this statute, provisions regarding things are applied accordingly.

It seems that the explicit declaration in support of the rule of non-reification of animals is justified philosophically, at least in regard of animals with which people feel certain closeness, therefore, undoubtedly, in regard of the anthropoid apes but also in regard of other vertebrates. The statute explicitly relates the protection to all vertebral animals. Thus, the protection also covers fish (vertebrates), however, it is difficult to prove that people feel any closeness, from the emotional point of view, with fish, and it even seems that a majority of people are not aware of feeling suffering by fish. It is impossible to prove that other animals, for example, insects do not suffer. The lack of awareness of their suffering but also the common arduousness of many insects for a human causes that they are covered only by the protection resulting from the protection of environment as species in danger of extinction.

Sometimes the protection also covers the insects of a relevant economic importance for a human, for example, bees. Such type of regulation is peculiar.

The application of provisions regarding things takes place primarily in regard of an ownership. An animal not living in the wild, as a rule, has an owner. An owner may dispose of an animal. He or she may give it to somebody, may sell it, with certain restrictions, for example, it is forbidden to sell animals on markets, to breed cats and dogs for commercial purposes, and breeders are forbidden to sell animals beyond the place of rearing.

However, a domestic animal may not be abandoned since an owner is under a legal obligation to provide an animal with a room protecting it from cold, heat and precipitation, as well as to provide it with proper pet food and constant access to water. An owner may not hold an animal (usually it concerns a dog) tethered longer than 12 hours during a day and a rope may not be shorter than 3 metres.

Despite such, quite restrictive, legal regulation, in Polish cities there is a great number of homeless domestic animals - cats and dogs, primarily abandoned by their guardians, at least in regard of dogs. Although, urban cats more often than feral dogs adjust to the life without guardianship and breed as feral animals.

A municipality, which is obliged to organize shelter and veterinary care for animals, has a duty to provide homeless animals with care. Apart from the municipal shelters there are in Poland many shelters organized by private persons engaged in the animal protection or by the organizations taking care of animals. These shelters live off financial donations from people. Some of them have a status of a Public Benefit Organization, therefore, they receive money within tax deduction. Citizens have right to such deductions in an amount of 1% tax in favour of a chosen organization having such status.

Unfortunately, with insufficient social control, there are still cases of killing homeless animals, also under the guise of ensuring them care by the municipality. Social organizations protecting animal rights monitor the activity of the municipalities in this respect, however, the abuse still takes place.

Provisions regarding mistreatment of animals and prohibition of killing them relate both to the domestic animals (accompanying) and to the livestock. In fact, the provision has a form of a prohibition (it is forbidden to kill animals, except for), however, it mentions all cases in which it is allowed to kill animals. Apart from killing animals reared for meat or skins and fishing, it is allowed to hunt for game animals, to kill a species of strange species endangering indigenous animals and to put blind litters to sleep, as well as to kill animals directly endangering people or other animals (e.g. animals infected with rabies).

Law also contains prohibitions regarding a way of conducting slaughter of animals. By means of an order of pole axing an animal before performing a slaughter it prohibits a ritual slaughter required by the orders of judaism and islam. Since both judaism and islam are religions recognized in Poland, a total ban on a ritual slaughter seems contrary to the Constitution of the Republic of Poland which vouches for freedom of religion, and an act on the relation of a state towards Jewish religious communities requires municipalities to exercise supervision over a ritual slaughter.

A majority of constitutionalists in Poland believe that such type of a ban may not be established for Polish believers of judaism and islam due to the constitutional freedom, and for the needs of the believers the communities may conduct slaughter in a way required by the orders of religion.

In relation to the livestock the European Union establishes very severe norms regarding their rearing. The requirements concern, among others, the size of the cages in which hens are reared, transport of animals for slaughter, conditions of slaughter. The implementation of these directives into the Polish legal order very clearly and significantly changed the conditions of rearing animals. These requirements are quite strictly enforced during the transport and slaughter of animals, as well as during the purchase of milk or hen eggs.

Nevertheless, the low level of social acceptance for the requirement of the humanitarian treatment of animals constitutes a problem. A significant part of the society does not understand why one should take care of the animal welfare, does not accept spending money on it and does not show any empathy for animals. Killing of a homeless animal and poaching are easily justified socially. Many persons consider requirements regarding rearing due to the animal welfare as exaggerated. On the other hand, a movement in favour of animals, especially among young people, acts very intensively, monitors the enforcement of law and organizes actions in favour of a change of the old provisions neglecting the animal rights.

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Тереза Гардоцка

ЗАХИСТ ТВАРИН У ПОЛЬЩІ. ПРАВОВА ТА СОЦІАЛЬНА ПРОБЛЕМА

Проблема розглядається стосовно різних груп тварин, що знаходяться під загрозою вимирання: домашніх вихованців, тварин, що використовуються для розваг (цирк), для специфічних потреб (собаки-поводирі), домашньої худоби, диких тварин, експериментальних (лабораторних) тварин, у тому числі риб та комах, з метою збереження природного біологічного різноманіття, а також освічення молодого покоління. Досліджуються законодавчі, соціальні та релігійні аспекти проблеми. В даний час Європейський закон відіграє важливу роль в проблемі захисту тварин. Наприклад, Польський статут піддається низці змін у зв'язку з необхідністю впровадження директив Євросоюзу щодо захисту експериментальних тварин, тому що внутрішньодержавне право повинно відповідати Європейським актами.

Головна ідея статті базується на твердженні, що тварина - це не річ, а жива істота, здатна відчувати страждання, і людське суспільство має відчувати і зменшувати ці страждання.

Автор підкреслює, що низький рівень сприйняття соціумом вимог гуманного поводження з тваринами створює проблему.

Особлива актуальність статті полягає в тому, що значна частина суспільства не розуміє, навіщо дбати про благополуччя тварин, витрачати гроші на їх потреби і, взагалі, виявляти якесь співчуття. Вбивство безпритульної тварини з легкістю виправдовується соціумом, у той час, як рух на користь захисту тварин, особливо серед молоді, потребує зміни старих правових та соціальних положень, які нехтують правами тварин.

Ключові слова: *захист тварин, Євросоюз, домашні тварини, домашня худоба.*

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ЗАЩИТА ЖИВОТНЫХ В ПОЛЬШЕ. ПРАВОВАЯ И СОЦИАЛЬНАЯ ПРОБЛЕМА

Проблема рассматривается в отношении различных групп животных, находящихся под угрозой вымирания: домашних питомцев, животных, используемых для развлечений (цирк), для

специфических нужд (собаки-поводыри), домашнего скота, диких животных, экспериментальных (лабораторных) животных, в том числе рыб и насекомых, с целью сохранения природного биологического разнообразия, а также просвещения молодого поко- тия. Исследуются законодательные, социальные и религиозные аспекты проблемы. В настоящее время Европейский закон играет важную роль в проблеме защиты животных. Например, Польский устав подвергается ряду изменений в связи с необходимостью внедрения директив Евросоюза относительно защиты экспериментальных животных, поскольку внутригосударственное право должно соответствовать Европейским актам.

Главная идея статьи основана на утверждении, что животное - это не вещь, а живое существо, способное испытывать страдания, и человеческое общество должно чувствовать и уменьшать эти страдания.

Автор подчеркивает, что низкий уровень принятия социумом требований гуманного обращения с животными создает проблему.

Особая актуальность статьи состоит в том, что значительная часть общества не понимает, зачем заботиться о благополучии животных, тратить деньги на их нужды и, вообще, проявлять какое-либо сочувствие. Убийство бездомного животного с легкостью оправдывается социумом, в то врем, как движение в пользу защиты животных, особенно среди молодежи, требует изменения прежних условий, пренебрегающих правами животных.

Ключевые слова: *защита животных, Евросоюз, домашние животные, домашний скот.*

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