

*CHRONICLE OF THE FIRST ANNUAL CONFERENCE
OF THE CHINA ANIMAL LAW FORUM — WUHAN, CHINA
OCTOBER 19TH, 2024*

CRÓNICA DE LA PRIMERA CONFERENCIA ANUAL
DEL FORO CHINO DE DERECHO ANIMAL — WUHAN,
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ABSTRACT

The First Annual Conference of the China Animal Law Forum was successfully held in Wuhan, China on October 19th, 2024. The theme of this annual conference was “Theory and Practice of Chinese Animal Law”. More than 130 participants from all over China attended the conference.

KEY WORDS

China; Animal Law; Forum; Annual Conference.

RESUMEN

La Primera Conferencia Anual del Foro de Derecho Animal de China se celebró con éxito en Wuhan, China, el 19 de octubre de 2024. El tema de esta conferencia anual fue “Teoría y práctica del Derecho animal chino”. Más de 130 participantes de toda China asistieron a la conferencia.

PALABRAS CLAVE

China; Derecho animal; Foro; Conferencia anual.

The First Annual Conference of the China Animal Law Forum was successfully held in Wuhan, China on October 19th, 2024. This conference, themed “Theory and Practice of Chinese Animal Law,” attracted more than 130 experts and scholars from all over China. The main objective of the China Animal Law Forum is to provide a comprehensively showcase of the diverse perspectives and open approach of Animal Law research in China. It aims to provide an important platform for promoting theoretical exploration and practical innovation in related fields.

In the opening speech, Pro. Xu Weigong of the School of Law, Zhongnan University of Economics and Law said that the rule of law, as the basic way of national governance, is an important guarantee to promote the modernisation of the national governance system and governance capacity, and animal protection also needs to be promoted within the framework of the rule of law. Zhou Huyong, Executive Vice President and Secretary General of the Social Law Research Association of Zhejiang Law Society & Professor of School of Law, Wenzhou University, pointed out that the rule of law in animal protection is an emerging and important field of research, and the core of which lies in the systematically solving the problem of human-animal relations, and thus promoting the harmonious coexistence of humans and nature. This field requires interdisciplinary cooperation, the abandonment of the disciplines of the gateway, the comprehensive use of jurisprudence, ethics, sociology and other multidisciplinary approach. The rule of law in animal protection should adhere to the use of public law and private law means and incorporate them into the scope of social jurisprudence or the study of the third jurisdiction, in order to realise a more comprehensive governance effect. Gu Xuan, Deputy Director of the Animal Protection Research Centre of Shandong University, added that interdisciplinary research and practice should take a comprehensive view of the well-being of humans, animals and the natural environment in order to achieve sustainable development for man and nature. Li Xiang, Deputy Director of the Department of Hygiene Inspection and Quarantine of Wenzhou Medical University, believed that the concept of “One Health”, which emphasises the realisation of harmonious coexistence between humans and nature (including animals) through interdisciplinary, interregional and intersectoral cooperation, was very much in line with the purpose of this annual conference. Li Xiang also called on the experts and research institutes to strengthen cooperation, jointly promote the protection of animal resources and build a pattern of social co-governance of animals in harmony with human beings and nature, in order to promote the practice and development of the rule of law for animals. Fang Dan, Secretary General of Beijing AiTa Animal Protection Foundation, also believed that China’s animal protection legal system under the dual perspective of spiritual civilization and ecological civilization is still in a state of absence, and the construction of the rule of law for animals is an arduous task that urgently needs multi-party cooperation.

In the discussion session on Animal Law theory, Wei Zhixun, Dean of the School of Law of Shanghai University of Political Science and Law, proposed the theory of “intersubjectivity as a basis” for Animal Law. This theory, based on an analysis of anthropocentrism, ecocentrism, animal welfare, and Žižek’s nature-centrism, argues that humans and nature share a co-subjective status. Through humans’ rationality and empathy, intersubjectivity between humans and nature can be achieved, thereby promoting the amicability and sustainable development of animal legislation. Liu Yize, a lecturer at the School of Law, Tianjin Polytechnic University, argued that the construction of animal rights law should adopt an anthropocentric stance. He argued that non-anthropocentric approaches are paradoxical and untenable, and that animal rights are essentially collective human rights that protect human emotional, ethical, and spiritual values. To incorporate animal rights into the legal system, it is necessary to start with public perception and promote equality and benevolence in human interaction. Qu Xuyang, a postdoctoral fellow in Civil and Commercial Law at the School of Law of Wuhan University, began her discussion from an animal-centred perspective. She argued that the legitimacy of Animal Law and its anthropocentric nature are at the core of current public opinion and academic debates. As a part of the human legal system, Animal Law ultimately serves human interests rather than sacrificing human well-being for animal rights. This position is based on the nature of law as an expression of human will, designed to regulate human behaviour and promote human welfare.

In terms of judicial application, the crime of illegal hunting gained attention. Shi Rui, Director of the 8th Prosecution Department of the People’s Procuratorate of Xixing City, Jiangsu Province, combined his practical work experience with a discussion of four issues and countermeasures regarding the crime of illegal hunting in judicial practice. 1) Regarding the determination of subjective intent in the crime of illegal hunting: Shi Rui believes that it is sufficient to prove that the offender knew or should have known that the animal being hunted was a wild animal. It is not necessary to prove that the offender knew the specific name and protection level of the wild animal. 2) Regarding the identification of the offense of illegal hunting: The object of the offence is a valuable or endangered wild animal, or a terrestrial wild animal of significant ecological, scientific or social value; moreover, the eggs and spawn of a wild animal shall also be regarded as wild animals and be protected by criminal law. 3) Regarding the prosecution standards for the crime of illegal hunting: If someone violates wildlife protection and management regulations and illegally hunts terrestrial wildlife for food, but does not meet the standard for prosecution of the crime of illegal hunting of terrestrial wildlife, but does meet the standard for the prosecution of the crime of illegal hunting, then according to the relationship between ordinary crimes and general crimes, he or she cannot be convicted and punished for the crime of illegal hunting. 4) When dealing with the issue of how to deal with illegal hunting and related crimes, we must abide by the modesty of punishment and not mechanically and dogmatically apply the prosecution

standards to convict people. Chen Xiaobiao, Associate Professor of the Law School of Southwest University of Political Science and Law (represented by Xiang Yanruo), believed that after the revision of the provisions relating to wildlife in Amendment XI to the Criminal Law of the People's Republic of China, there is a lack of a clear legislative definition of "aggravating circumstances" in the criminal composition of the offence of illegal hunting. Wildlife in general should also be included in the Wildlife Protection Law for protection, but there should be a limit, and protection should not be unilaterally emphasised, while conflicts between humans and wildlife need to be properly dealt with. Matters that can be resolved under administrative law should not be subject to criminal law, which should remain modest. Ding Yanlin, Director of the Centre of Environmental Law and Policy at the School of Law, Northwest University of Political Science and Law, and Liu Xiaoyu, a master's degree candidate in law at the School of Economics and Law, Northwest University of Political Science and Law, jointly argued that behind mechanical justice is the continuous expansion of administrative power in the criminal sphere. In order to prevent the administrative power from overriding the criminal law and to delineate the boundary between the administrative power and the criminal justice power, the ways and means of the administrative power to participate in criminal legislation should be reasonably limited, while the independence of criminal illegality should be judged by judicial practice.

The issue of urban dog management in China currently faces many challenges in different regions. Local legislation has played a significant role in regulating dog owners' behaviour, safeguarding citizens' rights and interests, and maintaining social order, but it also has certain shortcomings. He Lin, Associate Professor at the School of Law, Wuhan University of Technology, conducted a horizontal legislative comparative study of local legislation on urban dog management in Hubei Province as a sample. She argues that: 1) In terms of legislative form, local regulations predominate, with legislative objective focusing primarily on order management, with less attention paid to the promotion of civility and animal welfare. 2) In terms of legislative content, there is a multi-management system with unclear responsibilities. Although there are provisions on the conditions for breeding dogs, the electronic identification and insurance system are not widely promoted. Penalties for mistreatment and abandonment are clearly inadequate and administrative penalties for dog abuse need to be included in local dog breeding legislation. Wang Wenyong, lawyer & senior partner at Beijing Jiawei Law Firm, focused on the "confiscation or euthanasia" measures in urban dog management, arguing that the legality of "confiscating or euthanising dogs" as an administrative penalty is questionable due to the lack of a legal basis.

In the civil field where there are more controversial issues, Dr. Qu Xuyang first talked about the three core issues involved in animal protection. 1) When defining the responsibilities of breeders, we must pay attention to the two aspects of interests and control and cannot simply make judgments based on daily feeding behaviour. In a in

Shanghai caused by stepping on a stray cat¹, the court incorrectly identified the feeder as the keeper, ignoring the legal requirement that the keeper must derive a benefit from the animal or have actual control over it. This judgment reflects the abuse of the “deep pockets theory”, which seeks to determine liability based on economic ability rather than legal logic. 2) Animal rescuers or rescue organizations should be given the status of owners under civil law to exclude others from interfering with rescued animals and to provide them with legal protection. Current laws cannot protect the rights of rescuers of stray animals. 3) It is difficult to recognise the legal consequences of animal abuse, and the deterrent effect of existing penalties (e.g., dissuasion) is insufficient. Zeng Xiangbin, a lawyer with Hubei Huanyuan Law Firm, highlighted the issues and challenges of animal protection in judicial practice through five typical cases, including the application of liability clauses for harm caused by animal breeding, specialisation in public welfare actions, the limitations of the Wildlife Protection Law in judicial practice, and the courts’ neglect of the exemption rules for public welfare advocacy.

The specific models of grassroots governance for animal protection and their importance were also discussed. Li Yong, Chairman of the Community Social Organisation Branch of the China Association for the Promotion of Social Organisations, argued that at present, Chinese communities lack public spaces and have a weak foundation for governance, but the construction of animal rule of law can give full play to the role of community social organisations in social governance. Liu Huan, Director of Seven-Colour Sunshine Public Welfare Foundation of Zhejiang Province & Master’s Tutor of Zhejiang Gongshang University, further elaborated that whether animal protection can be elevated from the moral, political or legal level to a public issue is the key to its integration into grassroots governance. At present, animal protection has gradually become a common public issue, but whether it should be elevated to a political or semi-public political issue needs further attention. On behalf of the Haitian Community Animal Civilization Building Association of Qiantang District, Hangzhou, Qian Yefang, Professor & Director of the Institute of Animal Protection and Rule of Law at the School of Law, Zhongnan University of Economics and Law, shared the experience of building the Haitian model of grassroots animal civilisation building. The Haitian Model is a self-governing model of animal civilisation, jointly built by four parties explored by the Haitian Community in grassroots governance. Its core is self-governance, advocating that “people in the community protect animals in the community, and people in the community manage animals in the community”. The four parties include the community residents’ committee, the property owners’ committee, the community social organisation and the property management

¹ See China Judgements Online, Civil Judgment of People’s Court of Minhang, Shanghai, No. (2023) Hu 0112 Minchu 52717, <https://wenshu.court.gov.cn/website/wenshu/181107ANFZ0BXSK4/index.html?docId=nsblavzcFEjwfiUEPJ3BF5Orla4JP5WzfeZDnfDu6BbLO4nWpCUZO3qNaLMqsJlcEe6S1vNd-6naPGooBXPL2d+lrXF7ZQmiXrSLaaivhjZLPMDuMaeltLqLP8VI69c>. Last accessed March 22, 2024

company. Among them, the community social organisation is the core element and must be spontaneously organised by the community residents to participate in governance with a legal capacity. This Four-Party Co-Construction model realises the effective governance of community animal-related issues, promotes the construction of community civilisation, and provides the experience for other communities to learn from. Li Ge, a lecturer at the School of Political Science and Law of Jinan University, introduced the “Society Link Community” model of civilised dog-breeding in Jinan. By linking resources, services and emotions, this model promotes the transformation of civilised dog ownership from single-government management to multi-subject governance. In terms of resource linkage, the third-party social organisations assist in building model communities, establishing convenient facilities and coordinating professional service providers. Service linkage, on the other hand, relies on the professionalism and volunteerism of the social organisations to educate residents about civilised dog ownership through online and offline means, thereby increasing residents’ literacy. Emotional linkage builds trust and understanding through interactive exchanges, creating an atmosphere of civilised dog ownership and enabling dog owners to move from passive acceptance of management to active participation in governance.

The success of the First Annual Conference of the China Animal Law Forum marks a new stage in the study of Animal Law in China. The China Animal Law Forum not only provides an important platform for the theoretical exploration and practical innovation of Animal Law in China but also provides valuable experience for promoting the integration of animal protection into grassroots governance and building a pattern of social co-governance for animals.

