LEGAL CLASSIFICATIONS OF ANIMALS
LAS CLASIFICACIONES JURÍDICAS DE LOS ANIMALES

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ABSTRACT

Throughout history, the legal classification of animals has reflected human use, economic factors and evolving ethical considerations. Roman law recognised animals as living beings with a unique legal status that was distinct from that of inanimate objects – a nuance that was often lost in later legal traditions. Contemporary reforms, particularly in Europe, are increasingly recognising animals' sentience, influenced by scientific advances and societal shifts. The integration of biology into law, or 'bio-legality', challenges traditional legal categories and promotes a more accurate, respectful and protective legal framework for animals. The progressive taxonomy presented here forms the basis of a critical perspective that justifies the recognition of animals as an independent legal category with rights appropriate to their biological and sentient nature, even today. In short, this would be a distinct legal category, just as the Roman categorisation of animals was distinct from other realities. This historical sequence, which is highlighted here, reveals more continuities than discontinuities when we approach historical sources without prejudice. These sources have not always been well understood.

KEYWORDS

Classification of animals; the Gaian *summa divisio*; the Justinian classification; contemporary progressive taxonomy; animal welfare; animal sentience; bio-legality.

RESUMEN

A lo largo de la historia, la clasificación jurídica de los animales ha reflejado, en una constante progresión, tanto el uso humano, los factores económicos como las consideraciones éticas sobre los animales. El Derecho Romano reconoció a los animales como seres vivos con un estatus jurídico único, distinto al de los objetos inanimados, un matiz que, a menudo, se fue perdiendo en las tradiciones jurídicas posteriores. En el contexto contemporáneo –y de manera creciente en Europa–, las reformas legislativas en materia de bienestar animal, influenciadas por los avances científicos y los cambios sociales, han ido reconociendo, de forma paulatina, la sintiencia de los animales que supone un dato diferencial. La integración de la biología en el ámbito jurídico –lo que se denomina «biolegalidad»–, implica un desafío a las estructuras jurídicas convencionales y propicia la creación de un marco legal más definido, respetuoso y protector de los intereses animales. La taxonomía progresiva que aquí se expone, brinda las bases de una visión crítica que puede justificar, también hoy en día, el reconocimiento de los animales como una categoría jurídica independiente, dotada de aquellos derechos que se ajusten a su naturaleza biológica y

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sintiente. En suma, una categoría jurídica distinta, como distinta fue la categorización romana de los animales respecto a otras realidades. Esta secuencia histórica que aquí se pone de relieve, presenta más continuidades que quiebras, si se parte de un conocimiento sin prejuicios de las fuentes históricas, que no siempre han sido bien entendidas.

PALABRAS CLAVE

Clasificación de los animales; *summa divisio* gaiana; clasificación justinianea; taxonomía progresiva contemporánea; bienestar animal; sintiencia animal; biolegalidad.

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INTRODUCTION

References to animals in thought and culture are anchored in reality and can convey the intricate and mysterious relationship between humans and animals.[1] The same has occurred in legal thinking. Over time, the law has attempted to identify the most appropriate terms to specify how animals should be treated and how their relationship with humans should be regulated within an organised society. While reducing any reality to a name or term will always be imprecise, it is also a sign of strength to understand how we should behave when confronted with this reality. In the case of animals, this necessitates classification to improve our understanding of them, or the attribution of a legal status that justifies their treatment and position. Classifying animals from different perspectives has been a constant throughout history.[2] These days, the most common classification divides animals into those kept for companionship, production or experimentation, or for shows. This classification reflects the way we use animals. This classification is strongly influenced by economics, which is why it is used most frequently in Animal Welfare Sciences[3] and European animal welfare legislation.[4]

1 See generally, VITALE, A., POLLO, S. (Eds.), Human/Animal Relationships in Transformation. Scientific, Moral and Legal Perspectives (Cham 2022).

2 ONIDA, P.P. Il problema della 'personalità' degli animali: l'esempio dell'orango Sandra, in Rome and America. Diritto Romano Comune 36 (2015) 360 sq. (on the anthropocentric need to classify animals, to indicate a dividing line between them and human beings).

3 Animal welfare as an originally veterinary concept that is widely referred to, FRASER, D. Understanding Animal Welfare, in Acta Veterinaria Scandinavica 50 (2008), https://doi.org/10.1186/1751-0147-50-S1-S1; FRASER, D. Understanding Animal Welfare: The Science in its Cultural Context, 2nd ed. (Oxford-Ames, IA 2024); STEIER, G. (Ed.) Advances in Agricultural Animal Welfare (Oxford-Ames, IO 2018); MELLOR, D. J., et al. The Sciences of Animal Welfare (Oxford-Ames, IA 2014); BUDOLFSON, M., et al. Animal welfare: Methods to improve policy and practice, in Science 381 (2023), 32-34 DOI: 10.1126/science.adi012; REIMERT, I. WEB, L.E., VAN MARWIJK, M. A.,

Another classification, of a scholastic nature and with Roman roots,[5] which is perpetuated in the majority of continental and Latin American codes,[6] is that which distinguishes between domestic, endangered and wild animals. This includes animals that are fished or hunted, as well as exotic animals from faraway lands, to which humans have always felt an irresistible attraction. Although there are variants, this classification works alongside an eminently rural economy, that of the ancient culture from which it originated.[7] The vision of animals is connected with their role in the life of the land. For this reason, in the concept of domestic animals, beasts of burden (oxen, donkeys and mules) are included, as well as those that are used for food (cows, pigs, goats, rabbits and chickens). As for chickens, jurists debated whether they were domesticated, given their apparent lack of habit of returning to the corral (*animus revertendi, or consuetudo revertendi*[8]). Other animals included in this category are those that guard the home (dogs) and those that clear the area of rodents (cats). Cats were also used for companionship.

This typological classification is reflected in the works of all classical authors, as well as in Justinian's *Corpus Iuris Civilis*[9] and, consequently, in all contemporary codes.

BOLHUIS, J. E. Towards an integrated concept of animal welfare, in Animal 17/3 (2023) https://doi.org/10.1016/j.animal.2023.100838

4 Within the vast existing literature, see e.g. VILLALBA, T. 40 años de Bienestar Animal: 1974-2014 (Madrid 2015); BRELS, S. Le droit du bien-être animal dans le monde. Evolution et universalisation (Paris 2017); FASEL, R., BUTLER, S. Animal Rights Law (Oxford 2023); rev. by ATLAS, B. M. A. Animal Rights Law: Rafael N. Fasel and Sean C. Butler (Hart Publishing, 2023) 240 pp, ISBN 9781509956104 (paperback), in Journal of International Wildlife Law & Policy 27/1 (2024) 42–46. https://doi.org/10.1080/13880292.2024.2342161

5 Gai 2.14-16. See *infra* note 10.

6 GIGLIO, F. Pandectism and the Gaian Classification of Things, in The University of Toronto Law Journal 62/1 (2012) 3 sq. This work offers a fundamental reinterpretation of a pivotal Roman legal text, bearing significant implications for the modern property law and the classification of things within contemporary legal systems influenced by the Roman tradition.

7 See generally, RITVO, H. History and Animal Studies, in Society and Animals 10/4 (2002) 403-406; KALOF, L. (ed.). A Cultural History of Animals in Antiquity (Oxford 2013); KITCHELL Jr., K. F. Animals in the Ancient World from A to Z (London 2014); CAMBELL, G. L. (ed.). The Oxford Handbook of Animals in Classical Thought and Life (Oxford 2014).

8 Gai.2, 68, see *infra*, Section 1.

9 The extensive body of literature on the *Corpus Iuris Civilis* stands as a testament to the dedication of translators who have rendered ancient texts accessible to successive generations. It is important to acknowledge specially the contribution of Rolf Knütel's German translation. See, KRUEGER, P. (ed.) Institutiones, in *Corpus Iuris Civilis*, 1 (Berlin 1954); BEHRENDS, O., KNÜTEL, R., KUPISCH, B., SEILER, H.H. *Corpus Iuris Civilis*. I: Institutionen (Heidelberg 1990); ID. *Corpus Iuris Civilis*. Die Institutionen (Heidelberg 1993); ID. *Corpus Iuris Civilis*. II: Digesten 1-10 (Heidelberg 1995); ID. *Corpus Iuris civilis*. III: Digesten 11-20 (Heidelberg 1999); KNÜTEL, R., KUPISCH, B., LOHSSE, S., RÜFNER, T., BEHRENDS, O. *Corpus Iuris Civilis* – Die Institutionen (Heidelberg 2013). See also the revised reprint of MOMMSEN, T., KRUEGER, P. *Corpus Iuris Civilis*. I: *Institutiones* and *Digesta* (Cambridge 2014). For the English translation of the Digest, see WATSON, A. The Digest

Indeed, the classification of subjects in the Institutes, based on Gaius's division into persons, things, and obligations, has been firmly established in all modern codifications.[10] Book II of the Institutes (Of Things) lists things inside and outside the patrimony,[11] as well as those of divine and human law.[12] The latter are categorised as either private or public law (*res privatae, res publicae)*.[13] Private things are *corporales* or *incorporales*,[14] *mancipi* or nec *mancipi*.[15] The intention behind mancipable property (*res mancipi*) was to provide stability and economic value to the family estate (*mancipium*). This included slaves, draft and pack animals, and Italian estates with their rustic servitudes. The acquisition of a *res mancipi* required formalities and the presence of witnesses (*mancipatio*). Non-mancipable property (*res nec mancipi*) was intended for frequent transactions; its acquisition was done through simple delivery (*traditio*).[16] It should be noted that the Gaian classification refers to animals in relation to the manner of their acquisition (through *mancipatio* for valuable animals or through *traditio* for smaller or newborn animals).[17] Therefore, animals were treated on a case-by-case basis according to their function. The Gaian classification, rooted in the *actio in rem* formula, was also developed for teaching purposes to illustrate the difference between real rights and rights of action.[18]

In reality, it would not be necessary to classify animals. Classic Antiquity was reluctant to do so because of the belief that animals were part of a revered natural order

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of Justinian (Philadelphia 1998). See also, WATSON, A. (ed.). The Digest of Justinian (Philadelphia 1985); BIRKS, P., MCLEOD, G. (eds.). Justinian's Institutes (London 1987).

10 MERRYMAN, J.H. The Civil Law Tradition. An Introduction to the legal Systems of Western Europe and Latin America (Stanford 1985) 6. According to Merryman, the body of Roman law codified under Justinian in the sixth century AD forms the basis of the civil law tradition. Despite significant changes in modern times, the core subjects of the Institutes of Justinian (persons, things and obligations), based in the Gaian classification, remain central to civil law systems, especially in Europe and regions influenced by this tradition.

11 Gai. 2.1.

12 Gai. 2.2.

13 Gai. 2.10.

14 Gai. 2.12.

15 Gai. 2.14.

16 Gai. 2.14-22.

17 See generally, ZULUETA, F. de (ed.). The Institutes of Gaius (Oxford 1946-1953). SECKEL, E., KUEBLER, B. *Gai institutionum commentarii quattuor* (Leipzig 1935).

18 GIGLIO, F. Coherence and Corporeality: On Gaius II,12–14, in SZ. 130 (2013) 127-163. This paper examines Gaius's classification of corporeal and incorporeal things (Gai. 2.12–14). This classification has sparked heated debates among Romanists and private law jurists, as it has significant implications for our understanding of property relations in both Roman law and modern legal systems. See, for all, BEHRENDS, O. Die Person oder die Sache? – was stand im Mittelpunkt des klassischen römischen Privatrechts? Die Kontinuitätsfrage im Streit zwischen junger 'Neopandektistik' und nicht mehr ganz junger 'Neoromantik', in *Labeo* 44 (1998) 26-60; BIRKS, P. The Roman law concept of *dominium* and the idea of absolute ownership, in Acta Juridica 1985 1-37. For further information on the philosophical roots of this debated classification, see, Cic. *top.* 26-27; Cic. *part.* 139.

known as the *scala naturae*.[19] In fact, the Roman jurisprudential texts of the classical era show a total absence of animal classification. Examining the Roman sources without prejudice would present an entirely different picture of the legal treatment of animals.[20] The Romans considered animals, from a natural point of view, to be legal objects on which laws, particularly property laws, could be based and which could be traded. Until recent decades, there have been few changes to this approach.[21] However, the common criticism that animals were considered objects without life in Rome, and that ownership of animals is the starting point of cruelty to animals or, at least, their inferiority and lack of recognition by contemporary law,[22] can easily be refuted. Aside from its serious inaccuracy, this criticism forgets the natural notion of law (*ius naturale*), which is also common to animals, at least according to Ulpian's often contested opinion. [23]

1. THE NOTION OF *ANIMAL* IN ROMAN LAW

The legal status of animals in ancient Rome was not characterised by the application of broad and abstract legal categories; rather, it was viewed from the perspective of their patrimonial worth. Once this point has been clarified, the terms 'classification' and 'categories' can be used in the sense they take on in Roman Law.

When creating legal norms relating to animals, the Romans clearly took natural characteristics into account to a much greater extent than is the case today. The classical approach, which subjects humans and animals to the same biological norms, is recognised as having fundamental significance for the theory of legal institutions. The Romans' realistic approach to ordering the world conceptually, based on experience and

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19 LOVEJOY, A.O., JAMES, W. The Great Chain of Being: A study of the history of an idea (Cambridge/MA 1936) 55-59; WILDBERGER, J. Beast or God?. The intermediate Status of Humans and the physical Basis of the Stoic *scala naturae*, in ALEXANDRINIS, A., WILD, M., WINKLER-HORACEK (Ed.), Mensch und Tier in der Antike. Grenziehung und Grenzüberschreitung (Wiesbaden 2008) 49 sq.

20 See generally, ONIDA, P.P., Studi sulla condizione degli animali non umani nel sistema giuridico romano (2ªed. Torino 2012).

21 See *infra*, Section 1.2.

22 Although with nuances and different results, it is important to consider the influence of FRANCIONE, G. Animals, Property and the Law (Philadelphia 1995); REGAN, T. The Case for Animal Rights (Berkeley 1983); ROCHA SANTANA, L. La teoría de los derechos animales de Tom Regan. Ampliando las fronteras de la comunidad moral y de los derechos más allá de lo humano (Valencia 2018); WISE, S. Rattling the Cage. Toward Legal Rights for Animals (New York 2000).

23 The discussion remains open on the genuine weight of Ulpian's text, D.1.1.1.3. For all, FILIP-FRÖSCHL, J. Rechtshistorische Würzeln der Behandlung des Tieres durch das geltende Privatrecht, in HARRER/GRAF (Ed.) Tierschutz und Recht (Vienna 1994); op. cit. ONIDA, P.P. (2012) Part. I, Ch. III, 110 and fn.18, regarding Cicero's famous text *de Officiis*, c., on the meaning of *natura commune animantium*, extended to all living being, which also appears in Seneca's thinking, Sen. *de clem.*1.18.2.

complemented by legal institutions, is particularly evident in their legal treatment of animals. This approach has helped shape our legal culture and remains central to legal epistemology today, especially with regard to the fundamental aspects.[24]

Although the terminological aspect is not decisive for the purposes of definitive conclusions, the analysis of sources relating to animals offers perspectives of considerable interest.[25] The number of mentions of the term *animal* in legal sources is low, which is rather discouraging.[26] Clearly, the specific numbers of different species predominate, as do the masculine and feminine forms of animals, and even the specific names of young animals, which are generally called *fetus*. Numerous generic names (*avis, piscis*) and collective concepts must also be considered, some of which indicate the economic function of the animal (*armentum, iumentum, grex, polia, quadriga*).[27] Among these, the name *pecus* predominates, with few citations.[28] Wild animals are referred to as *fera* in the sense of animals to be hunted (such as *cervus* and *aper*), or *bestia* in the sense of wild, ferocious or harmful animals (such as *leo, lupus, ursus* and *panthera*).[29]

Just as in contemporary private law, Roman law categorises legal objects according to specific criteria. The most significant category of *res*, to which animals also belong, is undoubtedly *res mancipi*. However, not all animals fall into this category, only those that are important for agriculture.[30] Significantly, animals are placed in the same category as slaves. There are numerous instances in which the rules for slaves and animals are the same. For example, this can be seen in the first chapter of the *lex Aquilia* and in the edict of the curule aediles on the hidden defects of the thing sold. In these cases, however, not all animals are referred to, but only useful ones, as is usually the case.[31]

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24 A deliberately concise list of basic issues includes the terms used to distinguish between animals and inanimate objects, whether conceptual or linguistic. The frequent treatment of animals in the same way as slaves due to their shared status as living beings. The debate on the nature of different species of animal. Rules governing the possession and ownership of animals are influenced by research into the habits of different species, as well as respect for natural freedom. Finally, there is a comprehensive discipline covering damage caused by animals, encompassing a wide range of knowledge and skills.

25 Thesaurus lingvae Latinae (München 2019) *s.v.* "*animal*", in https://publikationen.badw.de/de/thesaurus. The possible general denomination *animal* / *animalia* (which can be applied to all living beings) only appears 49 times (last accessed, 29 August 2025)

26 Heumann-Seckel, Handlexikon (Jena 1971) s.v. *animal/animalia;* OLD (Oxford 1996) s.v. *animal.* There are over 640 direct references to animals and 75 different names for them in only the Digest and Gaius' Institutions.

27 Op. cit. Thesaurus linguae Latinae (2019), s.v. *armentum, iumentum, grex, polia, quadriga*.

28 Op. cit. Heumann-Seckel (1971) *s.v.* "*pecus*"*;* op. cit. OLD (1996) *s.v.* "*pecus*".

29 Op. cit. Thesavrvs lingvae Latinae (2019), *s.v. "cervus"*, "*aper", "leo", "lupus", "ursus", "panthera"*.

30 JOHNSTON, D. Roman Law in Context (Cambridge 2022) 6 sq.

31 Op. cit. ONIDA, P.P. (2012) 355 sq.; GIMÉNEZ-CANDELA, T. Derecho Privado Romano, 2nd ed. (Valencia 2020) 165-171, 358, 363, 372.

Animals can be categorised as wild (*res nullius/ferae naturae*),[32] domestic (*res mancipi/nec mancipi*)[33] or domesticated (*mansuetae naturae*).[34] Wild animals are ownerless by nature, but ownership is acquired through occupation (*occupatio*).[35] If they escape, they revert to being *res nullius*.[36] Domestic animals include working and production animals, such as oxen, horses, mules and donkeys (*res mancipi*), as well as other animals (*res nec mancipi*). Their ownership is transferred in different ways (*mancipatio* or *traditio*). Tame animals (*mansuetae naturae*) are wild animals that have become accustomed to returning, such as doves and bees, and their ownership is conditional on their voluntary return (*animus revertendi*).

Both Gaius and Justinian distinguish between wild and tame nature (*ferae/mansuetae naturae*), maintain occupation as a method of acquiring ownership and recognise the loss of ownership through the animal's escape. Unlike Gaius, Justinian simplify some categories, gradually eliminate the distinction between *res mancipi* and *res nec mancipi*, and develops regulations on harmful animals.

Although sources tend to refer to slaves and animals in the same way, there are also cases in which they are distinguished from inanimate legal objects. This distinction can be made within the framework of a common designation for both. One example is the adoption of the Latin term *animal* to mean 'living being', which it is not only limited to slaves, but can also apply to humans in general. The term *res animales* seems more unambiguous as it explicitly states that these are legal objects. The same applies to the concept of *res se moventes.*[37]

The term *animal* is not limited to animals; it must be understood as referring to 'living beings', which would also include slaves. Therefore, the meaning of the term must always be verified according to the context. Even the term *res animales* has not been sufficiently studied. In Gai. 3.2.17, inanimate objects are contrasted with *animalia* for the reasons explained in the third chapter of the *lex Aquilia*. Having made a clear distinction between animals and slaves, the text immediately points out that *animalia* are divided into slaves and animals. In general terms, it is evident that the category of

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32 I. 2.1.12: *Ferae igitur bestiae et volucres et pisces, id est omnia animalia, quae in terra mari caelo nascuntur…*

33 Gai. 2.120: *animalia quoque quae mancipi sunt, quo in numero habentur boves, equi, muli, asini.*

34 I. 2.1.15: *cervos quoque ita quidam mansuetos habent, ut in silvas ire et redire solent…*

35 Gai. 2.67: *Itaque si feram bestiam aut volucrem aut piscem persecuti animal inde captum occupaverimus, id nostrum fit et eo usque nostrum esse intellegitur* (…); D. 41.1.1.1 (Gai. 2 rer.cott.): *Omnia igitur animalia, quae terra mari caelo capiuntur, id est ferae bestiae et volucres et pisces, capientium fiunt.*

36 Gai. 2.67: *naturalem autem libertatem recipere videtur, cum aut oculos nostros evaserit, aut licet in conspectu sit nostro, difficilis tamen eius persecutio sit.*

37 Op. cit. GIMÉNEZ-CANDELA, T. (2020) 165, 166

res quae anima carent would not possess much conceptual meaning, serving only to distinguish inanimate objects from *animalia*.[38]

In its most expansive definition, the Latin term *animal* means 'living being', and includes both free and enslaved humans, as well as animals. The term appears at the beginning of Ulpian's renowned definition of *ius naturale* and *ius gentium* in D. 1.1.1.3 (Ulp. 1 *inst*.) and D. 1.1.1.4 (Ulp. 1 *inst*.):[39]

> (3) *Ius naturale est, quod natura omnia animalia docuit: nam ius istud non humani generis proprium, sed omnium animalium, quae in terra, quae in mari nascuntur, avium quoque commune est. Hinc descendit maris atque feminae coniunctio, quam nos matrimonium appellamus, hinc liberorum procreatio, hinc educatio: videmus etenim cetera quoque animalia, feras etiam istius iusris peritia censeri.*[40]
>
> (4) *Ius gentium est, quo gentes humanae utuntur. quod a naturali recedere facile intellegere licet, quia illud omnibus animalibus, hoc solis hominibus inter se commune sit.*[41]

In its broadest sense, the term *animal* is only found in two other texts: D. 28.2.12.1 (Ulp. 9 *ad Sab*.)[42] and D. 50.16.124 (Proc. 2 *epist.*)[43]. The terms *animal* and *(res) animalis* are used to designate slaves and animals in the following texts. The fact that

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38 On this chapter of the *Lex Aquilia*, see the most recent studies, including e.g. LORUSSO, A. La stima del danno nel terzo capo della *lex Aquilia* (Madrid 2018); DESANTI, L. La legge Aquilia. Tra *verba legis* e interpretazione giurisprudenziale (Torino 2015); CORBINO, A. Il danno qualificato e la lex Aquilia (Padova 2008) CURSI, M.F. *Iniuria cum damno*. Antigiuridicità e colpevolezza nella storia del danno aquiliano (Milano 2002); CANNATA, C.A. Il terzo capo della *lex Aquilia*, in BIDR 98-99 (1995-1996) 111 ss.; ZIMMERMANN, R. *Lex Aquilia*, The Law of Obligations: Roman Foundations of the Civilian Tradition (Oxford 1996)

39 See also, I. 1.2 pr.

40 The bibliography on this text by Ulpian is extensive and its examination is beyond the scope of this contribution. With specific reference to animals, see e.g. op. cit. FILIP-FRÖSCHL (1994) 21-35; op. cit. ONIDA, P.P. (2012) 95 sq.; op. cit. GIMÉNEZ-CANDELA, T. (2020) 169.

41 On the *ius gentium*, see e.g. NÖRR, D. Aspekte des römischen Volkerrechts. Die Bronzetafel von Alcantara (Munich 1989); BEHRENDS O. Che cos'era il *ius gentium* antico?, in LABRUNA, L. (dir.), Tradizione romanistica e costituzione 1 (Napoli 2006) 481-514; KASER, M. *Ius Gentium* (Köln 1993); WINKEL, L.C. Einige Bemerkungen über *Ius naturale* und *Ius Gentium*, in SCHERMAIER, M., VEGH, Z. (dir.). Ars boni et aequi. Festschrift für Wolfgang Waldstein zum 65. Geburtstag (Stuttgart 1993) 443-449; CHEVREAU, E. Le *ius gentium* : entre usages locaux et droit romain, in L'*imperium Romanum* en perspective. Les savoirs d'empire dans la République romaine et leur héritage dans l'Europe médiévale et moderne. Besançon : Institut des Sciences et Techniques de l'Antiquité (2014) 305-320; FIORI, R. La nozione di *ius gentium* nelle fonti di età repubblicana, in PIRO, I. (a cura di). Scritti per Alessandro Corbino 3 (Tricase 2016) 109-129

42 *Quid tamen, si non integrum animal editum sit, cum spiritu tamen, an adhuc testamentum rumpat? Et tamen rumpit.*

43 *... alterius generis est, cum ex propositis finibus ita non potest neuter esse, ut possit utrumque esse, veluti cum dicimus omne animal aut facit aut patitur: nullum est enim quod nec faciat nec patiatur: at potest simul et facere et pati.*

slaves belong to the category of living beings called *animalia* can be deduced from a text by Ulpian on *rei vindicatio*, in D. 6.1.15.3 (Ulp. 16 *ad ed*.): *si servus petitus vel animal aliud demortuum sit sine dolo malo et culpa possessoris, pretium non esse praestandum plerique aiunt...*

Here, the Latin term *animal* is not used to refer to the slave in question, but rather to another living being, or *animal aliud*. In this context, this can only refer to the animal. However, it is clear that both the slave and the animal belong to the category of living beings (*animalia*). This formulation, consisting of mentioning the slave first and then alluding to the other living beings, is found in several texts, including D. 7.9.5.3 (Ulp. 79 *ad ed*.). *Et si habitatio vel operae hominis vel cuius alterius animalis relictae fuerint, stipulatio locum habebit...* in D. 35.2.30 pr. (Marcian. 8 *fideic*.) *In ratione legis Falcidiae mortes servorum ceterorumque animalium ...,* in D. 21.1.48.6 (Pomp. 23 *ad Sab*.): *Non solum de mancipiis sed de omni animali hac actiones competunt, ita ut etiam, si usum fructum in homine emerim, competere debeant,* in Gai. 2.32 *... ususfructus et hominum et ceterorum animalium constitui possit...* and also in the aforementioned text on the *lex Aquilia*, Gai. 3.217[44].

The term *animal* is not always unambiguous in some of the source texts. An example of this can be seen in D. 19.1.11.4. (Ulp. 32 *ad ed*.) *Animalium quoque venditor cavere debet, ea sana praestari, et qui iumenta vendidit solet ita promittere 'esse bibere, ut oportet'*. Here, the Latin term *animal* can be translated as either 'animal' or 'living being'.[45]

The same could be said with regard to D. 23.3.10 pr. (Ulp. 34 *ad Sab*.) on the risks associated with a *dos aestimata* containing *animalia*: *Plerumque interest viri res non esse aestimatas idcirco, ne periculum rerum ad eum pertineat, maxime si animalia in dotem acceperit.....* e D. 50.17.23 (Ulp. 29 *ad Sab*.) with exemples of *vis maior*:*...animalium vero casus mortesque, quae sine culpa accidunt, fugae servorum, qui custodiri non solent, rapinae, tumultus, incendia, aquarum magnitudines, impetus praedonum a nullo praestantur.* The translation of *animal* as 'living being' also seems justified here.

At first glance, the meaning of the expression *res animales* seems essentially clearer than the simple use of the Latin term *animal*. Ulpian uses it in his exposition of *rei vindicatio* in D. 6.1.1.1 (Ulp. 16 *ad ed*.): *Quae specialis in rem actio locum habet in omnibus rebus mobilibus, tam animalibus quam his quae anima carent, et in his quae solo continentur.*

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44 Here, slaves and quadrupeds are mentioned before all other living beings... *in ceteris quoque animalibus, item in omnibus rebus, quae anima carent, damnum iniuria datum hac parte vindicatur.* (I. 3.23.3a; 4.3.13)

45 Here, the mention of '*iumenta*' should not be seen as an example of a subgroup of animals, but rather, in relation to hidden defects in the item sold, '*iumenta'* can be seen as a subgroup of living beings, like slaves. In this sense, it is also consistent with the translation of D. 21.1.48.6 (Pomp. 23 *ad Sab*.) *Non solum de mancipiis sed de omni animali hac actiones competunt* ...on the same theme.

The adjective *animalis* is also used here in the sense of 'animate' or 'living', but its meaning remains closely linked to the noun *res*, more so than to the word *animal* alone. The *res animales*, i.e. 'living objects'[46], are unambiguously objects of law here and appear alongside the *res, quae anima carent* as a subgroup of *res mobiles*.

Another expression used to refer to living things can be found in D. 33.7.12.2 (Ulp. 20 *ad Sab*.), which discusses the contents of the *instrumentum fundi*: *Alfenus autem, si quosdam ex hominibus aliis legaverit, ceteros, qui in fundo fuerunt, non contineri instrumento ait, quia nihil animalis instrumenti esse opinabatur: quod non verum est: constat enim eos, qui agri gratia ibi sunt instrumento contineri.* The text does not mention *res animales*. It simply recognises that nothing 'vital' (living?) can be part of the *instrumentum fundi*.

Another text by Ulpian shows us the expressions *animal* and *res* animales, as well as *res, quae anima carent*:

> D. 39.2.7.1 (Ulp. 53 *ad ed*.) *Hoc edictum prospicit damno nondum facto, cum ceterae actiones ad damna, quae contigerunt, sarcienda pertineat, ut in legis Aquiliae actione et aliis. de damno vero facto nihil edicto cavetur: cum enim animalia, quae noxam commiserunt, non ultra nos solent onerare, quam ut noxae ea dedamus, multo magis ea, quae anima carent, ultra nos non deberent onerare, praesertim cum res quidem animales, quae damnum dederint, ipse extent, aedes autem, si ruina sua damnum dederunt, desierit extare*.

The jurist compares actions for compensation for damage caused by living beings with *cautio damni infecti*, highlighting the different purposes and effects. The latter would only be pursued in cases of actual damage to obtain compensation. However, the owner of the *animalia* that caused the damage would not face liability beyond the value of the animal, due to the possibility of *noxae deditio*. Conversely, the *cautio damni infecti* would be invoked in cases where damage had not yet been caused, and the owner of a potentially 'damaging' building (a *res, quae anima caret*) would not be burdened beyond the value of the building, similarly to *actiones noxales*. The same could also be granted in the case of failure to provide the *cautio*.

The same could also be granted if the *cautio* is not provided. Ulpian offers a comprehensive explanation, noting that in cases of damage caused by *animalia*, liability continues after the damage has occurred. However, in cases of collapsed buildings, liability ceases. Starting from the explanation of the text in which the phrase *animalia, quae noxam commiserunt....non ultra nos solent onerare, quam ut noxae ea dedamus* refers to the *actio de pauperie*, it can be seen that it describes the same principle that applies to slaves almost literally.[47] However, the expressions *animalia* and *res animales*

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46 The German translation of the *Corpus Iuris Civilis* also has this meaning. See op. cit. BEHRENDS, O. (1995)

47 PRINGSHEIM, F. Eingentumsübergang beim Kauf, in SZ 50 (1930) 333-438

could refer, more generally, to all living beings that can be considered objects of law, i.e. slaves and animals. This interpretation, which encompasses both meanings, is supported by the Glossa, which says of *animalia*: *rationabilia et irrationabilia*, and of *res animales*: *ut servi*.[48]

Furthermore, the expression is also used to refer to slaves and animals in a text by Ulpian (D. 42.1.15.2, Ulp. 3 *off. cons*.). However, unlike in D. 6.1.1.1, where *res mobiles* are divided into *res animales* and *res, quae anima carent,* here it refers to *res mobiles et animales.*

> D. 42.1.15.2 (Ulp. 3 *off. cons*.) *In venditione itaque pignorum captorum facienda primo quidem res mobiles et animales pignori capi iubent*, *mox distrahi: quarum pretium si suffecerit, bene est. si non suffecerit, etiam soli pignora capi iubent et distrahi. quod si nulla moventia sint, a pignoribus soli initium faciunt: sic denique interloqui solent, si moventia non sint, ut soli quoque capiantur.....*

Ulpian here reports a rescript from Emperor Caracalla addressed to the provincial governors, regarding the enforcement of sentences passed in Rome. The text's fundamental information is contained in the instruction to first seize movable property and attempt to satisfy claims through its sale, and then to seize immovable property. However, Ulpian does not merely use the expression *res mobiles* but rather seeks to differentiate distinctly between inanimate and animate objects of law. This further reinforced the notion that there is no immediate equivalence between *res mobiles* and *res animales.*

Finally, it is important to cite D. 33.10.2 (Flor.11 *inst*.) as a final example of terminological diversity between inanimate objects and *res animales*, which provides a definition of domestic supplies: the *suppellex*: *…id est res moventes non animales*. The reference to the concepts of *res animales* and *res non animales* appears again.

It should be noted that in numerous instances, the Latin term *animal* is used exclusively to refer to animals. While this can often be discerned from the context, there are instances where the meaning may be ambiguous. In such cases, we observe that the gloss typically distinguishes instances where the term *animal* is used exclusively to refer to animals, as opposed to humans.[49]

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[48] Roman law, which forms the basis of the legal concept of animals as property, has some surprises in store for those convinced by the assertion that slaves and animals were of equal status. They will be confronted with evidence that legal sources did not treat them in the same way (except in proceedings relating to the assumption of noxal liability). See generally, GIMÉNEZ-CANDELA, T. El régimen pretorio subsidiario de la acción noxal (Pamplona 1981)

[49] For example, in D. 15.2.3 (Pomp. 4 *ad Quint. Muc*.): *definitione peculii interdum utendum est etiam, si servus in rerum natura esse desiit et actionem praetor de peculio intra annum dat: nam et tunc et accessionem et decessionem quasi peculii recipiendam (quamquam iam desiit morte*

Regardless of the extent to which the terms are translated, there is a continuous reference to the quality of being alive. Furthermore, Roman private law does not equate animals with inanimate objects in terms of terminology. In this sense, Roman law is on the same level as contemporary law.

Another noteworthy aspect of animals is that they are regarded as fruit-bearing assets with the capacity for independent reproduction, akin to humans. Typical animal products, such as milk and wool, fall under the concept of natural fruit. Alongside these, the birth of an animal occupies a special position in the legal concept of fruit, appearing here as a *res sui generis*. Terminologically, it is significant that, although animal births are legally considered fruit, they are continually mentioned alongside *fructus* and are most often combined with *partus ancillae* due to their similarity in purely biological terms.[50]

It has been documented that captured wildlife will immediately return to its natural state upon regaining its freedom. Rather than establishing strict rules for the loss of possession of wild or domesticated animals, the Romans created rules appropriate to each class of animal and each case. Particular attention should be paid to the legal treatment of bees, as they are exceptional animals. This demonstrates the extent to which the Romans were oriented towards natural facts when developing appropriate legal rules.[51] It is evident that further examples could be cited from the sources, however, the evidence presented is sufficient to conclude that the Romans exhibited a greater respect for *libertas naturalis*[52] and the variety of animal species than is evident in the present day.

After revising the sources, one can conclude that the Romans considered animals to be living beings with their own essence (*res sui generis*), and treated them as such.

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servi vel menumissione esse peculium), ut possit ei accedere ut peculio fructibus vel pecorum fetu ancillarumque partubus et decedere veluti sit mortuum animal vel alio quolibet modo perierit

50 FILIP-FRÖSCHL, J. *Partus et fetus et fructus.* Bemerkungen zur Behandlungen der Tierjungen im römischen Recht, in Ars boni et aequi, Festschrift für Wolfgang Waldstein (Stuttgart 1993) 99 sq. On *partus ancillae,* see generally DI NISIO, V. *Partus vel fructus.* Aspetti giuridici della filiazione *ex ancilla* (Napoli 2017)

51 On this issue, see MANTOVANI, D. I giuristi, il retore e le api. *Ius controversum* e natura nella *Declamatio maior* XIII, in MANTOVANI, D., SCHIAVONE, A. (Ed.). Testi e problemi del iusnaturalismo romano (Pavia 2007) 323 sq.; FILIP-FRÖSCHL, J. *Apis natura fer est*, *Romanistische Anmerkungen zur besonderen Natur der Biene*, in *Scientia et historia, Festschrift für Peter Putzer*, I (Egling an der Paar 2004) 141sq. See also op. cit. ONIDA, P.P. (2012) 152 ss.; op. cit. GIMÉNEZ-CANDELA, T. (2020) 189; GIMÉNEZ-CANDELA, M. Bees and Covid-19: a necessary legal regulation, in Derecho Animal (Forum of Animal Law Studies) 11/4 (2020) 20-30. DOI https://doi.org/10.5565/rev/da.558

52 See generally, FILIP-FRÖSCHL, J. *Libertas naturalis. Überlegungen* zur natürlichen Freiheit von Mensch und Tier. Studi in onore di Luigi Labruna III (Napoli 2007) 1851-1872. On the loss of ownership of captured animals and enslaved prisoners of war, see CARDILLI, R. Il problema della libertà naturale in diritto romano, in Derecho Animal (Forum of Animal Law Studies) 10/3 (2019) 15-25. DOI https://doi.org/10.5565/rev/da.449

In texts, animals are compared with lifeless objects and considered living beings with special attributes, such as the need to feed themselves, the capacity to reproduce and the ability to move of their own volition. Furthermore, the classical texts also make it clear that animals were differentiated by their basic needs. This has always made the legal treatment of animals difficult, as it is hard to encompass (and contain) the animal phenomenon within legal concepts. Classifying animals within legal categories often means ignoring their natural characteristics. For this reason alone, Roman law rarely attempted to do so, in contrast to current private law, which still insists upon it.

In the context of the discussion on the quality of animals as things, the contemporary misinterpretation of Roman law is revealed. This is primarily evident in the partial translation of the term *res* as 'thing', which takes on the connotation of a dead object. However, in reference to its use in the formation of legal categories, this meaning (object = dead thing) is only one of many that the term can have.[53] Roman jurists used the term *res* in a relatively imprecise manner, both in its technical legal sense and when referring to objects.[54] This has led to confusion, particularly when an accurate distinction is not made. The modern debate on the legal status of animals as 'things' can be better understood by distinguishing between the legal and common usage of the term, which persists in both legal and everyday language today.[55] The idea that animals are living beings, rather than inert 'things' (*res*), is more clearly evident in Roman law than in modern law. However, it would be wrong to assume that people in ancient times had the same mentality towards animals as they do today.

2. THE ANIMALS WITHIN THE CATEGORIES OF POSITIVE LAW

2.1. Animals as property

Roman law served as the foundation of private legal categories.[56] This legal tradition has profoundly shaped European legal systems through continuous adaptation since the 12th century, influencing the codification movements that emerged in the 17th and 18th centuries.[57]

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53 See generally, RESCIGNO, F. I Diritti degli Animali. Da *res* a soggetti (Torino 2000).

54 For an overview of the various meanings, applications and nuances of the term '*res*' in Latin literature, see the entry for '*res*' in the op. cit. Thesaurus Linguae Latinae (2019)

55 Op. cit. Heumann-Seckel (1971) *s.v.* "*res*", where the term '*res animalia*' is used; this sufficiently expresses the ambiguity and breadth of the term '*res*/thing'.

56 The present article does not analyse the medieval tradition or the modern reception of the Roman texts of reference, particularly the pandectist approach. A detailed and sequential examination of this subject is required, and this will be addressed in a separate publication.

57 Medieval legal scholars in Bologna developed the *ius commune* by providing textual glosses and commentaries on the *Corpus Iuris Civilis*, thereby transforming Justinian's Roman law into the rules

Roman law has influenced the way animals are treated in both the common law and civil law.[58] In both traditions,[59] animals are considered property that can be owned, and only the law can limit this entitlement. Although they both have Roman origins, the two traditions differ in their legal institutions, a difference that is particularly evident in the rules relating to animals. In terms of classification, the common law distinguishes between wild (*ferae naturae*) and domesticated (*mansuetae naturae*) animals. Domesticated animals are considered absolute property, although welfare legislation nowadays limits the exercise of property rights. The principle of qualified property rights has been developed for wild animals when they are in their natural state, while

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that were in force in medieval Europe. During the Renaissance, humanists critically studied Roman law as a historical legal system, employing philological methods, and recognised its rationality. During the 17th and 18th centuries, the legal rationalism movement emerged, proposing that the *Corpus Iuris Civilis* was the formal expression of legal reasoning from which lasting principles could be systematically deduced (*ratio scripta*). This approach significantly influenced the development of civil codes in the late 18th and early 19th centuries, as exemplified by the French Civil Code of 1804, which served as a model for many countries worldwide. During the 18th and 19th centuries, Pandectists, especially in Germany, combined scientific legal scholarship with the study of historical Roman legal sources, thereby influencing the German codification process, particularly the *Bürgerliches Gesetzbuch* of 1900. See this selected bibliography: DUCK, A. *De usu et authoritate juris civilis Romanorum in dominiis principum christianorum* (London 1689); SAVIGNY, F.K. von. Geschichte des römischen Rechts im Mittelalter (Heidelberg 1834); ID. System des heutigen römischen Rechts, I (Berlin 1840); KANTOROWICZ, H. Studies in the glossators of the Roman law (Cambridge 1938; with William W. Buckland); KORSCHAKER, P. Europa und das römische recht (München 1947); CALASSO, F. Medioevo del diritto, I (Milano 1954); BELLOMO, M, L'Europa del diritto comune, 3 ed. (Roma 1989); TARELLO, G. Storia della cultura giuridica moderna. I Assolutismo e codificazione del diritto (Bologna 1976); ORESTANO, R. Introduzione allo studio del diritto romano (Bologna 1987); WATSON, A. The Spirit of Roman Law (Athens, GA/London 1995); CAVANNA, A. Storia del diritto moderno in Europa, vol. 1 (Milano 1982); ID. Storia del diritto moderno in Europa, vol. 2 (Milano 2005); GAUDEMET, J. Les écoles historiques du droit en France et en Allemagne au XIXe siècle, in Revue d'histoire des facultés de droit et de la science juridique, du monde des jurists et du livre juridique (1998) 87-124; COING, H. German "Pandektistik" in Its Relationship to the Former "Ius Commune", The American Journal of Comparative Law 37/1 (1989) 9-15; GRETTON, G.L. Ownership and its Objects, in Rabels Zeitschrift für ausländisches und internationales Privatrecht / The Rabel Journal of Comparative and International Private Law 71/4 (October 2007) 802-851, DOI 10.1628/003372507782419462; ZIMMERMANN, R., CREMADES UGARTE, I. Europa y el Derecho romano (Madrid 2009); op. cit. GIGLIO, F. (2012) 1-28, DOI: https://doi.org/10.3138/utlj.62.1.1; BARREIRO FERNÁNDEZ, A., PARICIO SERRANO, J. Historia del Derecho romano y su recepción europea (Madrid 2017); RAINER, M.J. Das römische Recht in Europa, 2 (Wien 2020).

58 FAVRE, D. Living Property: A New Status for Animals within the Legal System, in Marquette Law Review 93 (2010) 1024-1025; BERNET KEMPERS, E. Neither persons nor things: The changing status of animals in private law. European Review of Private Law 29/1 (2021) 39-70. DOI: https://doi.org/10.54648/ERPL2021003

59 Op. cit. MERRYMAN, J.H. (1985) 1-4 (about legal traditions) 65, 92 (about property in civil law tradition).

the principle of appropriation by capture is maintained.[60] In contrast, the French Civil Code (also known as the Napoleonic Code, adopted in 1804) distinguishes between property with or without an owner.[61] Latin American codes generally follow the French model,[62] while the German Civil Code further develops the classification of animals.[63]

In most civil codes, animals are regarded as chattels that can be owned. However, reforms have been adopted in some countries to remove animals from this category, as will be seen below.[64] Legislators have achieved this by stating that 'animals are not things',[65] or by explicitly declaring that 'animals are living beings endowed with sensitivity'.[66] Nevertheless, property regulations continue to apply as a subsidiary regime.[67]

The question of whether animals possess legal rights is a contentious issue within the field of animal law.[68] The question is often posed in terms of whether animals are to be classified as property, as living being (not things), or as sentient beings. However, the prevailing consensus is that animals do not possess legal rights, and are instead subject to the property rights of their owners. However, the legislative framework pertaining to animal welfare imposes certain limitations on the use of animal property, a distinction that is absent in environmental legislation, which, instead, protects species and biodiversity (until now, there has been no convention for the protection of the welfare of individual animals).[69]

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60 See the landmark cases: Pierson v. Post, 3 Cai. R. 175 (N.Y. Sup. Ct. 1805) (stating that "property in wild animals is acquired by occupancy only"); Young v. Hichens, 6 Q.B. 606, 115 Eng. Rep. 228 (1844) (stating the principle of "actual reduction to possession"); Keeble v. Hickeringill, 11 East 574, 103 Eng. Rep. 1127 (K.B. 1707) (on the wild animals in private property).

61 Code civil [Civil Code 1804] Art. 713 (Fr.): "les biens qui n'ont pas de maître appartiennent à l'État. Art. 714: il est des choses qui n'appartiennent à personne et dont l'usage est commun à tous».

62 Código Civil [C.C. 1857] [Civil Code 1857] art. 608 (Chile); Código Civil [C.C. 1869] [Civil Code 1869] art. 2343 (Argentina); Código Civil [C.c. 1873] [Civil Code 1873] art. 685 (Colombia).

63 Bürgerliches Gesetzbuch [BGB] [Civil Code], § 960 (Ger.): „Wer eine herrenlose bewegliche Sache in Eigenbesitz nimmt, erwirbt das Eigentum an der Sache". *§* 961 (Ger.): „Zieht ein Bienenschwarm aus, so wird er herrenlos*,* wenn nicht der Eigentümer ihn unverzüglich verfolgt oder wenn der Eigentümer die Verfolgung aufgib"*t.*

64 See *infra,* Sections 2.2 and 2.3

65 See *infra*, Section 2.2

66 See *infra*, Section 2.3

67 See *infra*, note 116, note 117 and note 118.

68 Among the extensive literature, see generally, BENTHAM, J. Introduction to the Principles of Morals and Legislation (London 1789) XVII-1.; SINGER, P. Animal Liberation: A New Ethics for Our Treatment of Animals (New York 1975); Op. cit. REGAN, T. (1983); SUNSTEIN, C.R., NUSSBAUM, M.C. (Eds.). Animal Rights. Current Debates and New Directions (New York 2004); CASTIGNONE, S. (a cura di). I diritti degli animali. Prospettive bioetiche e giuridiche (Bologna 1988); MARGUÉNAUD, J.P. L'animal en droit privé, (Paris 1992); DIEHL, E., TUIDER, J. (Eds.), Haben Tiere Rechte? Aspekte und Dimensionen der Mensch-Tier-Beziehung (Bonn 2019).

69 FAVRE, D. An International Treaty for Animal Welfare, in Animal Law 18 (2012) 237-280

Unlike in private law, the classification system used in animal welfare legislation, which emerged in the 20th and 21st centuries, does not originate from Roman law. It encompasses the following categories: production animals; experimental animals; entertainment animals; and companion animals. This classification is based on ethical criteria and standards of animal welfare, as opposed to property-based criteria that focus on the absolute ownership and economic value of animals. The sources of this classification include Anglo-Saxon animal protection legislation (USA[70] and Great Britain[71]), extensive European legislation (the Council of Europe[72] and the European Union[73]), international organisations such as the World Organisation for Animal Health (WOAH)[74] and the Food and Agriculture Organization (FAO),[75] and 19th and 20th century animal protection movements.[76]

Classifications characterise the law. However, the difficulty of encompassing the phenomenon of animals, and the need to establish legal rules to regulate their relationship with human beings in accordance with organised society, has led to them being framed – almost naturally – within the realm of property. This is an institution that we have always mistakenly considered to be immutable and destined never to change. This could not be further from the truth, as property, like most relationships, categories and legal institutions, is destined to change and adapt to the specific and variable circumstances of the society to which the regulation corresponds. [77]

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70 Migratory Bird Treaty Act 1918; Animal Welfare Act 1966.

71 Martin's Act 1822; Protection of Animal Act 1911; Wild Animals Act 1976; Wildlife and Countryside Act 1981; Animal Welfare Act 2006.

72 European Convention for the Protection of Animals Kept for Farming Purposes, Mar. 10, 1976, E.T.S. 87; European Convention for the Protection of Animals during International Transport (revised), Nov. 6, 2003, E.T.S. 193; European Convention for the Protection of Animals for Slaughter, May 10, 1979, E.T.S. 102; European Convention for the Protection of Vertebrate Animals used for Experimental and other Scientific Purposes, Mar. 18, 1986, E.T.S. 123; European Convention for the Protection of Pet Animals, Nov. 13 1987, E.T.S. 125.

73 See, e.g., Council Directive 98/58, 1998 O.J. (L221) (EC); Council Directive 1999/74, 1999 O.J. (L203) (EC); Council Directive 2007/43, 2007 O.J. (L 182) (EC); Council Directive 2008/119, 2008 O.J. (L 10) (EC); Council Directive 2008/120, 2008 O.J. (L 47) (EC); Regulation (EU) 2017/625, 2017 O.J. (L 95/1); Council Regulation 1/2005, 2004 O.J. (L 03); Council Regulation 1099/2009, 2009 O.J. (L 303); Directive 2010/63, 2010 O.J. (L 276).

74 World Organization for Animal Health, Terrestrial Animal Health Code (1968); Manual of Diagnostic Tests and Vaccines for Terrestrial Animals (1989); Aquatic Animal Health Code (1995); Manual of Diagnostic Tests for Aquatic Animals (1995).

75 CHAMBERS, Ph. G., GRANDIN, T. Guidelines for Humane Handling, Transport and Slaughter of Livestock (FAO 2011)

76 The first animal protection association (RSPCA) was founded in London in 1824. The British initiative inspired other countries, such as France (1845), USA (1866), Italy (1871) and Spain (1872). Two seminal ethical works are op. cit. BENTHAM, J. (1789); op. cit. SINGER, P. (1975).

77 A profound critical review offers, SCHERMAIER, M. *Dominus actuum suorum*. Die willenstheoretische Begründung des Eigentums und das römische Recht, in SZ 134 (2017) 50 sq.

The idea of owning animals and considering them to be things – a real legal dogma – began to break down through philosophical thinking rather than legal thinking. The law saw no need to change the relationship of domination between humans and animals because society remained essentially rural and anthropocentric. However, setting aside the fundamental critical thought on animals of Humanism[78] and the Enlightenment[79] – the imprints of which are evident in philosophical thought and society – it was not until the 1980s and in the dawn of the 21st century that changes were made to legal systems which questioned whether animals should be considered things. These changes, known as the 'animal turn', [80] are due to different factors and can be found in different places and at different times. In this new consideration of animals, the traditional classification of them as things is the fundamental critical point. In coherence with the Gaian *summa divisio* between persons and things,[81] it seems possible to distinguish three periods in recent history that have marked an evolution in their treatment within the legal realm. I believe these periods can be identified by the three terms that constitute the core of the reflection leading to changes in legislation and jurisprudence. These three terms are dignity, sentience, and personhood.

2.2. Animal dignity

The dignity of creatures (*Würde der Kreatur*) is only referenced explicitly as a governing principle of the treatment and consideration owed to animals[82] in the Art. 120.2 of the Swiss Constitution of 18 April 1999, entered into force on 1 January 2000.[83] Following a national referendum, the Swiss Constitution was amended to include an order obliging the legislature to pass laws on the use of genetic and reproductive material of animals, plants and other organisms. When doing so, the legislature must bear in

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78 BOUDOU, B. Montaigne et les animaux (Paris 2016); GONTIER, T., Intelligence et vertus animales: Montaigne lecteur de la zoologie antique, in Rursus 2 (2017) 5ss.

79 DE FONTENAY, E. Le silence des bêtes (Paris 1998); GUICHET, J.L. Rousseau, L'animal et l'homme. L'animalité dans l'horizon anthropologique des Lumières (Paris 2006).

80 RITVO, H. On the animal Turn, in Daedalus, 123/4 (2007) 118-122.

81 Gai 2.1.; see, THOMAS, Y. *Res*, chose et patrimoine : Note sur le rapport sujet-objet en droit romain. Archives de Philosophie du Droit 25 (1980) 413-426; BARRAUD, B. Droit public-droit privé: de la *summa divisio* à la *ratio divisio*?, in Revue de la Recherche Juridique – Droit prospectif, 152 (2015) 561-592, HAL ID: hal-01367507.; ESPOSITO, R. Persons and Things: from the Body's Point of View (New York 2016)

82 SITTER-LIVER, B. Recht und Gerechtigkeit auch für Tiere. Eine konkrete Utopie, in Tier und Recht, in Animal Law – Tier und Recht (Zürich/St. Gallen 2012) 29 – 51.

83 Bundesverfassung [BV] [Constitution] Apr. 18, 1999, art. 120.2 (Switz.): "Der Bund erlässt Vorschriften über den Umgang mit Keim– und Erbgut von Tieren, Pflanzen und anderen Organismen. Er trägt dabei der Würde der Kreatur sowie der Sicherheit von Mensch, Tier und Umwelt Rechnung und schützt die genetische Vielfalt der Tier– und Pflanzenarten".

mind the dignity of other living beings, including animals. This concept was updated in 2008 and transformed into the 'dignity of animals' in the Swiss Animal Protection Act.[84] In this respect, Switzerland is the absolute pioneer in this area. It was also the first European country to include animal welfare as a specific theme in its Constitution,[85] as soon as by 1973.

Aside from this, a landmark legal change came into effect in 2003 by amending the relevant article in the Civil Code (ZGB), which established that animals are not things (*Tiere sind keine Sachen*).[86] This change has had a visible effect on the law of damages, the law of successions and title deeds, and has sparked numerous discussions about whether the term 'dignity' is applied equally to human beings and animals.[87] Article 641a of the ZGB, in line with this, establishes that animals are not things. Interestingly, the legislator refers separately to the contents of property and general principles (Art. 641), and to animals (Art. 641a). In my opinion, this distinction is not purely material, but reflects a new position for animals, which are already distinguished from things.

It can be affirmed that the concept of dignity, as an intrinsic attribute of animals,[88] forms part of the unique philosophical background and moral teleology of Central European thought.[89] This concept is also influenced by the Kantian consideration of animals[90] and is expressed in terms such as 'dignity of creature', 'dignity of creation' and 'fellow creature' (*Mitgeschöpfte*). These terms not only shape the mental landscape of Central Europe, but also the normative lexicon of constitutional orders and respective codes. It is therefore this background that explains the Austrian reform of the Civil Code

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84 Tierschutzgesetz [TSchG] [Swiss Animal Protection Act] Sept. 1, 2008, art. 1 and art. 3 a. (Switz.). Art. 1. "Zweck dieses Gesetzes ist es, die Würde und das Wohlergehen des Tieres zu schützen". Art. 3 a. "Würde: Eigenwert des Tieres, der im Umgang mit ihm geachtet werden muss. Die Würde des Tieres wird missachtet, wenn eine Belastung des Tieres nicht durch überwiegende Interessen gerechtfertigt werden kann. Eine Belastung liegt vor, wenn dem Tier insbesondere Schmerzen, Leiden oder Schäden zugefügt werden, es in Angst versetzt oder erniedrigt wird, wenn tiefgreifend in sein Erscheinungsbild oder seine Fähigkeiten eingegriffen oder es übermässig instrumentalisiert wird".

85 Bundesverfassung [BV] [Constitution] Apr. 18, 1999, art. 80 (Switz.) (protection of animals).

86 Schweizerisches Zivilgesetzbuch [ZGB], [Civil Code] art. 641a (Switz.)

87 MICHEL, M., SCHNEIDER KASSAYEH, E. The Legal Situation of Animals in Switzerland: Two Steps forward, One Step back-many Steps to go, in Journal of Animal Law 7 (2011) 1-41.

88 BURGAT, F. La "dignité de l'animal": Une intrusión dans la métaphysique du propre de l'homme, in l'Homme. Revue Française d'Anthropologie 161 (2002) 197 sq.; RICHTER, D. Die Würde der Kreatur. Rechtsvergleichende Betrachtungen, in ZaöRV 67 (2007) 317 sq.

89 BRENNER, A. Die Würde des Lebens. Vom Selbstsein der Tiere, in MICHEL, M., KÜHNE, D., HÄNNI, J. (Ed.). Tier und Recht. Entwicklungen und Perspektiven im 21. Jahrhundert (Zürich 2012) 55 sq.; op. cit. SITTER-LIVER, B. (2012) 31sq.

90 KORSGAARD, C. A Kantian Case for Animal Rights, in MICHEL, M., KÜHNE, D., HÄNNI, J. (Ed.). Tier und Recht: Developments and Perspectives in the 21st Century (Zürich 2012) 6 sq.

(1998), which declares animals to be non-things, and the same reform introduced in Germany (1990)[91] and Switzerland (2003).

We can briefly see the corresponding regulations of the Austrian Civil Code (ABGB)[92]. In its §285 this Code defines the concept of thing in a broad sense.[93] In this way the concept encompasses both corporal as well as non-corporal things. To this paragraph was added §285a, which excludes *expressis verbis* to the animal of the concept of the thing.[94] To complement this rule, in the field of regulating compensation a new §1332 about the costs of recovery of an injured animal was simultaneously added.[95] Afterwards, the Austrian legislator changed the Enforcement Regulation in the sense of the exemption from seizure of animals.[96]

At the time of the Austrian reform, the German legislator also began a reform relating to the legal status of animals in the Civil Code (BGB). The fact that Germany had itself taken on this theme was to be expected, as in this country broad changes had already been made in the field of animal protection. In 1986 a new version of the Animal Protection Act came into power. Through the "Law to improve the legal situation of animals in Civil Law", it was also modified in Germany the BGB, for which reason, the regulations of the BGB are very similar to the Austrian ones. The title of the chapter two of the first book broadens to include animals, which that which remains of the following form: Chapter 2. Things. Animals, § 90, in which things are defined, and to which § 90a is added.[97]

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91 AMMANN, C., CHRISTENSEN, B., ENGI, L., MICHEL, M. (Ed.) Würde der Kreatur – Ethische und rechtliche Beiträge zu einem unbestimmten Konzept (Zürich/Basel/Genf 2015); rev. by BINDER, R. Die Würde des Tieres is antastbar, en Rechtswissenschaft. Zeitschrift für rechtswissenschaftliche Forschung 3 (2016) 497 sq.

92 GIMÉNEZ-CANDELA, T. El estatuto jurídico de los animales: aspectos comparados, in BALTASAR, B. (Coord.) El Derecho de los Animales (Madrid 2015) 167 sq.

93 Allgemeines Bürgerliches Gesetzbuch [ABGB] [Civil Code] §285 (Austria): "Alles, was von der Person unterschieden ist, und zum Gebrauche der Menschen dient, wird im rechtlichen Sinne eine Sache genannt."

94 Allgemeines Bürgerliches Gesetzbuch [ABGB] [Civil Code] §285a (Austria): "Tiere sind keine Sachen; sie werden durch besondere Gesetze geschützt. Die für Sachen geltenden Vorschriften sind auf Tiere nur insoweit anzuwenden, als keine abweichenden Regelungen bestehen."

95 Allgemeines Bürgerliches Gesetzbuch [ABGB] [Civil Code] §1332a. (Austria): "Wird ein Tier verletzt, so gebühren die tatsächlich aufgewendeten Kosten der Heilung oder der versuchten Heilung auch dann, wenn sie den Wert des Tieres übersteigen, soweit auch ein verständiger Tierhalter in der Lage des Geschädigten die Kosten aufgewendet hätte."

96 Exekutionsordnung [EO] [Enforcement Regulation] §250a (4) (Austria): "Unpfändbare Sachen (1) Unpfändbar sind (…) 4. nicht zur Veräußerung bestimmte Haustiere, zu denen eine gefühlsmäßige Bindung besteht, bis zum Wert von 750,-€ (10 000 S) sowie eine Milchkuh oder nach Wahl des Verpflichteten zwei Schweine, Ziegen oder Schafe, wenn diese Tiere für die Ernährung des Verpflichteten oder der mit ihm im gemeinsamen Haushalt lebenden Familienmitglieder erforderlich sind, ferner die Futter– und Streuvorräte auf vier Wochen."

97 Bürgerliches Gesetzbuch [BGB] [Civil Code], § 90 (Ger.): "[Begriff] Sachen im Sinne des Gesetzes sind nur körperliche Gegenstände. § 90 a. [Tiere] Tiere sind keine Sachen. Sie werden durch besondere

It is interesting to observe that, in a different way to how this reform was addressed in Austrian Law, the BGB signals special treatment for animals, making reference to the rights and duties of the owner, such as in the third chapter, assigned to the property.[98] It agrees to mark an important reform operated in the area of compensation, so completes itself in paragraph § 251 BGB – which regulates the compensation in cash and that, in part two, limits the obligation of restitution to adequate costs through a similar regulation to that of Austria, but with greater scope and weight.[99] With its meticulous recognition, the German legislator introduced, at the same time, rules adapted to the new condition of animals in the rules governing forced execution and changed the order of civil procedure. The §765 of the Civil Procedure Code (ZPO),[100] which regulates the suppression of measures of forced execution in extreme cases, broadens through the following precision instruments, which are a call to the exercise of responsibility that human beings have in respect to animals, in coherence with the spirit that impregnates German animal protection legislation. The new §811c ZPO refers to the exemption of animals from seizure.[101]

In other European countries (Azerbaijan, Moldova, Lichtenstein, Catalonia, Czech Republic, Netherlands),[102] legislators have followed the same way as Austria, with a

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Gesetze geschützt. Auf sie sind die für Sachen geltenden Vorschriften entsprechend anzuwenden, soweit nicht etwas anderes bestimmt ist."

98 Bürgerliches Gesetzbuch [BGB] [Civil Code], §903 (Ger.): "[Befugnisse des Eigentümers] Der Eigentümer einer Sache kann, soweit nicht das Gesetz oder Rechte Dritter entgegenstehen, mit der Sache nach Belieben verfahren und andere von jeder Einwirkung ausschließen. Der Eigentümer eines Tieres hat bei der Ausübung seiner Befugnisse die besonderen Vorschriften zum Schutz der Tiere zu beachten."

99 Bürgerliches Gesetzbuch [BGB] [Civil Code], §251 (Ger.): "(1) Soweit die Herstellung nicht möglich oder zur Entschädigung des Gläubigers nicht genügend ist, hat der Ersatzpflichtige den Gläubiger in Geld zu entschädigen. (2) Der Ersatzpflichtige kann den Gläubiger in Geld entschädigen , wenn die Herstellung nur mit unverhältnismäßigen Aufwendungen möglich ist. Die aus der Heilbehandlung eines Tieres entstandenen Aufwendungen sind nicht bereits dann unverhältnismäßig, wenn sie dessen Wert erheblich übersteigen."

100 Zivilprozessordnung [ZPO] [Civil Procedure Code], §765a (Ger.): "Betrifft die Maßnahme ein Tier, so hat das Vollstreckungsgericht bei der von ihm vorzunehmenden Abwägung die Verantwortung des Menschen für das Tier zu berücksichtigen."

101 Zivilprozessordnung [ZPO] [Civil Procedure Code], §811c (Ger.): "(1) Tiere, die im häuslichen Bereich und nicht zu Erwerbszwecken gehalten werden, sind der Pfändung nicht unterworfen. Auf Antrag des Gläubigers läßt das Vollstreckungsgericht eine Pfändung wegen des hohen Wertes des Tiers zu, wenn die Unpfändbarkeit für den Gläubiger eine Härte bedeuten würde, die auch unter Würdigung der Belange des Tierschutzes und des berechtigten Interesses des Schuldners nicht zu rechtfertigen ist."

102 Azərbaycan Respublikasinin Mülki Məcəlləsi [Civil Code] art. 135.3 (Azer.); Codul Civil [C. civ.] [Civil Code] art. 287 (Mold.); Sachenrecht [SA] [Law of Property] art. 20a (Liech.); Código Civil De Cataluña [CCCat.] [Civil Code] art. 511-1.3 (Cat.); Občanský Zákoník [OZ] [Civil Code] §494 (Czech); Burgerlijk Wetboek [BW] [Civil Code] art. 2a (Neth.).

substantial number of critics[103] due to the difficulty involved in the practical application of this negative category. However, in these countries there is development of literature, discussions, the birth of animal protection groups, but a very moderate scientific and academic reflection up until now.[104]

Outside of Europe, two main lines of interpretation have concurrently opened up; of property, on the one hand, and of procedural action on the other. I am referring to the announcement of the David Favre's theory of "living property",[105] and the Non-Human Rights Project of Steven Wise[106] and concession of *Habeas Corpus* to certain animals in South America.[107] Since the early 2000s, Latin America has become a leading region in developing jurisprudence that protects the interests of animals and nature.[108] In some countries, certain animals have recently been recognised in court as legal persons or subjects of law.[109] Notable cases include the orangutan Sandra[110] and the chimpanzee Cecilia[111] in Argentina, the woolly monkey Estrellita[112] in Ecuador, and the Andean bear Chucho[113] in Colombia (although the latter decision was later overturned, it is still

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103 OBERGFELL, I. Tiere als Mitgeschöpfte im Zivilrecht. Zwischen Rechtsobjektivität und Shadensregulierung, en Rechtswissenschaft 3 (2016) 394, 396 sq.

104 PETERS, A. Tierwohl als Globales Gut: Regulierungsbedarf und –Chancen, in Rechtswissenschaft 3 (2016) 382 sq.

105 Op. cit. FAVRE, D. (2010) 1024-1025

106 NHRP, https://www.nonhumanrights.org/

107 ATAIDE JUNIOR, V. de P. Por um direito processual constitucional pós-humanista: *habeas corpus* para animais no Brasil e na América Latina, Gralha Azul 12 (2022) 119-126

108 GIORGINI PIGNATIELLO, G. Per un costituzionalismo dell'umiltà. Il costituzionalismo ecológico nel dialogo Nord e Sud Globale, in RESCIGNO F., GIORGINI PIGNATIELLO, G. One Earth-One Health. La costruzione giuridica del Terzo Millenio (Torino 2023) 69 sq.; against the affirmation of the so called "rights of nature", see SACHS, N. M. A wrong turn with the rights of nature movement. Geo. Environmental Law Review 36 (2023) 39sq.

109 PARDO, M.C. Legal Personhood for Animals. Has Science made its case? Animals *13*714 (2023) 2339.

110 Op. cit. ONIDA, P.P. (2015) 360 sq.

111 DE BAGGIS, G. F. Arturo, Sandra, Poli y Cecilia: cuatro casos paradigmáticos de la jurisprudencia argentina, in Derecho Animal (Forum of Animal Law Studies) 8/3 (2017) 1-17.

112 BERNET KEMPERS, E. Estrellita and the possibility of nature-based animal rights. Global Journal of Animal Law 12/4 (2024). DOI: https://doi.org/10.71389/gjal.152403 ; ALVARADO-VÉLEZ, J. A. Protección de los animales como sujetos de derechos. Un análisis constitucional del caso "Mona Estrellita" en Ecuador. Estudios constitucionales 2172 (2023) 290-307. https://dx.doi.org/10.4067/S0718-52002023000200290

113 MUSSAWIR, E. On the juridical existence of animals: the case of a bear in Colombia's Constitutional Court, in ALVAREZ NAKAGAWA A., DOUZINAS C. (eds.) Non Human Rights. Critical Perspectives (Edgar Law 2024) 20 sq. DOI: https://doi.org/10.4337/9781802208528.00007 ; BAQUERO RIVEROS, J. E. La libertad para "Chucho", el oso andino de anteojos. Comentario a la Sentencia de la Corte Suprema de Justicia, Sala de Casación Civil, del veintiséis (26) de julio de dos mil diecisiete (2017), in Derecho Animal (Forum of Animal Law Studies) 9/1 (2018) https://doi.org/10.5565/rev/da.244

referenced by animal rights advocates today). Overall, there have been many significant court decisions in Latin America relating to the protection and rights of animals, particularly with regard to the recognition of their legal personhood[114].

2.3. Animal Sentience

Animal sentience is not as obvious to legislators, so it may be worth considering the possible implications of introducing it into legal texts, and how scientists and jurists could collaborate to achieve this. Driven by increasingly robust evidence of animal sentience,[115] Animal Welfare Science opens up a discussion that increasingly questions the notion that animals can only be objects of law[116]. It is beginning to consolidate the idea that animals, as sentient beings, are destined to be subjects of law through the recognition that they are living beings endowed with sensibility.[117] It is in this area that we must recognise the changes introduced by certain European civil codes through their affirmation of animals' capacity to feel. Support from European animal welfare legislation in this area has been decisive. In no other way could one judge the influence of art. 13 TFEU has had, despite the limitations imposed by the same article in its second part. [118]

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114 Op. cit. MUSSAWIR, E. (2024) 20sq.

115 BRAMBELL, F.R.S. Report of the Technical Committee to Enquire into the Welfare of Animals kept under Intensive Livestock Husbandry Systems (1965), p. 13,14,15, 84 (Appendix III), 86 (Appendix IV), respectively; ROWAN, A.N., D'SILVA, J. M., DUNCAN, I.J.H., PALMER, N. Animal sentience: history, science, and politics, in Animal Sentience 31/1 (2021) DOI: 10.51291/2377-7478.1697; KOTZMANN, J. Legal recognition of animal sentience: the case for cautious optimism. Animal Sentience 31/7 (2022) DOI: 10.51291/2377-7478.1706

116 Ultimately see, KOTZMANN, J., FERRERE, M. B. The Legal Recognition of Animal Sentience: Principles, Approaches and Applications (eds.) Hart Publishing (Oxford 2024) DOI:10.5040/9781509970483; LESSARD, M., Beyond sentience: legally recognizing animals' sociability and agency. Journal of Animal Ethics, 14/1 (2024) 89-109. DOI: 10.5406/21601267.14.1.07; LANDI, M. ANESTIDOU, L. Animal Sentience Should Be The Key For Future Legislation. Animal Law 30 (2024) 257, https://lawcommons.lclark.edu/alr/vol30/iss2/7; KOTZMANN, J. Sentience and intrinsic worth as a pluralist foundation for fundamental animal rights. Oxford Journal of Legal Studies, 43/2 (2023). 405-428. DOI: 10.1093/ojls/gqad003; BLATTNER, C. E. The recognition of animal sentience by the law. Journal of animal ethics, *9*/2 (2019) 121-136. DOI: 10.5406/janimalethics.9.2.0121

117 PETERS, A. Liberté, Egalité, Animalité. Human-Animal Comparisons in Law, in Transnational Environmental Law 25 (2016) 3 sq.

118 Consolidated version of the Treaty on the Functioning of the European Union, (TFEU) 2012, O.J. C326/47, art. 13: "In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage."

One of the great challenges the EU has undertaken in terms of animal protection is tying animal welfare regulation to the affirmation of animal sentience. Since the introduction of the first animal welfare regulations, the EU has effectively used sentience as the criterion for classifying animals as "sentient beings" and, consequently, for implementing the relevant public policies. Over the past 40 years, these policies have transformed the EU into a supranational entity with a comprehensive legislative framework, setting an example that has been adopted by many other countries.

Sentience – the capacity to feel, perceive and experience – is fundamental to the debate on animal welfare. It raises the key question of whether animals suffer during their lives and at the time of their deaths, and the ethical, legal and practical consequences of this. If sentience is indeed the inspiration behind all the regulations adopted by EU Member States and many other countries, the debate will focus on how this scientific criterion has been applied to legal regulation.

Animal sentience is generally understood as an objective criterion, but it is also open to study and modification. While advances in the biosciences are inconclusive, they continue to provide new information that allows us to: a) a clearer understanding of what sentience is and how it relates to animal welfare; b) identification of a greater variety of animals that can experience pain, suffering and positive emotions; c) determination of our responsibilities in meeting our obligations towards animals with which we interact, and how we can legally protect animal interests while also protecting human interests.

Sentience implies a certain level of awareness. However, as awareness of oneself is a complex issue, it has also been revised in light of the results achieved by the most up-to-date science. In this sense, the relevance of the Cambridge Declaration[119] (made public in 2012) in broadening scientific discourse on animal sentience is clear. In a special case of scientific results permeating the social realm, it has improved public knowledge of the similarities between animals and humans, specifically in terms of sentience.

This permeation of sentience in the public realm has taken the form of survivals, public demonstrations, such as collecting signatures and rejecting abuse, as well as social media campaigns.[120] These have propagated important changes in the legal system. The legislator has even been driven by formal requests to meet social demands for changes in legislation revolving around improving the condition of animals and adapting the category of sentient beings. This breaks a long tradition of silence, denial

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119 The Cambridge Declaration on Consciousness (2012): http://www.jamiegriffiths.com/the-cambridge-declaration-of-consciousness/

120 See e.g. European Commission, Attitudes of Europeans towards Animal Welfare, EU (Mar. 2016), https://europa.eu/eurobarometer/surveys/detail/2096 ; Who We Are, Eurogroup for Animals, https://www.eurogroupforanimals.org/who-we-are (last visited August 25, 2025); Our Campaigns, Compassion in World Farming, https://www.ciwf.org.uk/our-campaigns/ (last visited August 25, 2025).

and ignorance regarding the ethical and moral value of animals, and is an awareness that is constantly growing and demanding the adaptation of animal legislation to new scientific parameters.[121]

In particular, I am referring to the process of 'de-objectification' of animals,[122] which is evident in the changes to the legal status of animals in some European countries since the 1980s.[123] Initially, this took the form of a negative trend: 'Animals are not things',[124] and in the first decade of the new millennium, it has taken on a more affirmative form that is more coherent with scientific advances: 'They are sentient beings', or the linguistic turn: 'They are living beings endowed with sensibility',[125] which has transformed the ownership category of animals in the primary European civil codes and is also beginning to emerge in Latin American civil codes in the form of changes or proposals for change.

Therefore, in the legal realm, animal sentience has up to now projected itself into the following normative and doctrinal fields:

- In EU legislation on animal welfare, on certain species and groups of animals classified by an economic criterion of production animals, experimentation

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121 See generally, HILD, S., SCHWEITZER, L. (Eds.). Animal Welfare: from Science to Law (Paris 2019); GAVINELLI, A., KNIPINSKA, M., Animals and the Law: Current policy/legal framework at EU level, in FAVRE, D., GIMÉNEZ-CANDELA, T., Animales y Derecho (Valencia 2015) 201-210

122 See generally, GIMÉNEZ-CANDELA, M. The De-objectification of animals (I), in Derecho Animal (Forum of Animal Law Studies 8/2 (2017) 1-4. https://doi.org/10.5565/rev/da.318; EAD. The De-objectification of Animals II, in Derecho Animal (Forum of Animal Law Studies 8/3 (2017) 1-5. https://doi.org/10.5565/rev/da.250; EAD. The De-objectification of animals in the Spanish Civil Code in Derecho Animal (Forum of Animal Law Studies) 9/3 (2018) 28-47. https://doi.org/10.5565/rev/da.361

123 The movement to de-objectify animals is a reality that has begun with the Private Law in most European countries: Austria (Civil Code, 1988), Germany (Civil Code, 1990), Netherlands (Civil Code, 1992), Moldavia (Civil Code, 2002), Switzerland (Civil Code, 2003), Lichtenstein (Property Law, 2003), Cataluña (Regional Civil Code, 2006) Czech Republic (Civil Code, 2012), France (Civil Code, 2015), Portugal (Civil Code, 2016) and Spain (Civil Code, 2021). The legislature has modified the legal condition of animals by limiting itself to a negative expression ("no things") or configuring the category in a positive way ("living beings endowed with sensibility").

124 Allgemeines Bürgerliches Gesetzbuch [ABGB] [Civil Code] §285a (Austria); Bürgerliches Gesetzbuch [BGB] [Civil Code], §90a (Ger.); Azərbaycan Respublikasinin Mülki Məcəlləsi [Civil Code] art. 135.3 (Azer.); Codul Civil [C. civ.] [Civil Code] art. 287 (Mold.); Schweizerisches Zivilgesetzbuch [ZGB], [Civil Code] art. 641a (Switz.); Sachenrecht [SA] [Law of Property] art. 20a (Liech.); Código Civil De Cataluña [CCCat.] [Civil Code] art. 511-1.3 (Cat.); Občanský Zákoník [OZ] [Civil Code] §494 (Czech); Burgerlijk Wetboek [BW] [Civil Code] art. 2a (Neth.). See also, Ustawa Z Dnia 21 Serpnia 1997 R. O Ochronie Zwierzqt [Animal Protection Act 1997] art. 1.1 (Pol.). ("An animal, as living being, capable of suffering, is not a thing.").

125 Code civil [C. civ.] [Civil Code] art. 515-14 (Fr.); Código Civil [Civil Code], art. 201-B (Port.); Código Civil [C.C.] [Civil Code] art. 333 bis (Spain).

animals, animals for fur, animals in shows, companion animals, the transport of animals,[126]

- In the civil codes, in terms of property, in the rules on marital separation or divorce and in the obligations in terms of seizure and confiscation,[127]
- In the constitutions of some European States (Austria, Germany, Italy, Luxembourg, Slovenia, Switzerland), adopting the form of protecting the dignity intrinsic to animals, or a better integration of animals in the area of environmental protection,[128]
- In the court rulings of the European union and in the rulings of courts in certain Member States of the EU and of other countries outside the EU.[129]

Article 13 TFEU has been used to argue for a change in the legal status of animals, beginning with the French Civil Code. In France, the Glavany Amendment[130] of

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126 See, e.g. Council Directive 98/58, 1998 O.J. (L221) (EC); Council Directive 1999/74, 1999 O.J. (L203) (EC); Council Directive 2007/43, 2007 O.J. (L 182) (EC); Council Directive 2008/119, 2008 O.J. (L 10) (EC); Council Directive 2008/120, 2008 O.J. (L 47) (EC); Regulation (EU) 2017/625, 2017 O.J. (L 95/1); Council Regulation 1/2005, 2004 O.J. (L 03); Council Regulation 1099/2009, 2009 O.J. (L 303); Directive 2010/63, 2010 O.J. (L 276).On the incoherencies in the treatment of animals in the current legislation, see generally SOWERY, K. Sentient beings and tradable products: the curious constitutional status of animals under Union law, in Common Market Law Review 55/1 (2018) 55-99.

127 See generally, BUZZELLI, D. Animali e diritto. I modi e le forme di tutela (Pisa 2023); OLIVERA OLIVA, M. Los animals de compañia en las crisis de pareja (Valencia 2023); CERINI, D. Lo strano caso dei soggetti-oggetti: gli animali nel sistema italiano e l'esigenza di una riforma, in Derecho Animal (Forum of Animal Law Studies) 10/2 (2019) 27-38. DOI https://doi.org/10.5565/rev/da.429

128 Bundesverfassungsgesetz über die Nachhaltigkeit, den Tierschutz, den umfassenden Umweltschutz, die Sicherstellung der Wasser– und Lebensmittelversorgung und die Forschung [Federal Constitutional Act on Sustainability, Animal Welfare, Comprehensive Environmental Protection, Securing Water and Food Supply and Research] Dec. 17, 2013, § 2-3 (Austria). Grundgesetz für die Bundesrepublik Deutschland [Basic Law] May 8, 1949, art. 20a (Germany). Costituzione della Repubblica Italiana [Constitution] Dec. 22, 1947, art. 9 (Italy). Constitution du Grand-Duché de Luxembourg [Constitution] Oct. 20, 2016, art 11 bis (Luxembourg). Ustavno sodišče Republike Slovenije [Constitution] July 31, 2000, art. 72 (Slovenia). Bundesverfassung [BV] [Constitution] Apr. 18, 1999, art. 120.2 (Switz.) (dignity), art. 80 (Switz.) (protection of animals); Bundesverfassung [BV] [Constitution] Apr. 18, 1999, art. 104.3b (Switz.) (agriculture); Bundesverfassung [BV] [Constitution] Apr. 18, 1999, art. 118.2b (Switz.) (health protection).

129 See generally, HADJYANNI, I. The Court of Justice of the European Union as a transnational actor through judicial review of the territorial scope on the EU Environmental Law, in Cambridge Yearbook of European Legal Studies, 21 (2019) 128-161. Doi: https://doi.org/10.1017/cel.2019.4 ; DRIESSEN, B., Fundamental Animal Rights in European Law, in European Public Law 23/3 (2017) 547-585

130 The Glavany Amendment, which consecrates the insertion of animal in such that is, in art. 2 of the law 2015-177 of 16 February 2015; MARGUÉNAUD, J.P., L'entrée en vigueur de "l'amendement Glavany": un grand pas de plus vers la personnalité juridique des animaux, RSDA 2/2014 15ss.

2015 recognised animals as "living beings endowed with sensibility";[131] a necessary linguistic change, given that there is no equivalent term in the French language for "sentient beings".[132] While not separating animals from the realm of property,[133] this new classification introduces a significant conceptual change by removing them from the category of things (understood to be assimilated with inert things). This reform has effectively served as a wake-up call for other continental legal systems, particularly in Portugal[134] and Spain,[135] where the legal status of animals has also changed.

2.4. Animal Personhood

Following the concept of sentience, it is not surprising that one would attempt to attribute legal personality to animals, even though this idea does not sit well with those who equate the term person with human being. This is far removed from legal reality. The term person and the concept of 'personhood' are abstractions that can be attributed to any entity that performs a role or contemplated action which is regulated and protected by law.[136]

The origin of the term person also supports this. As is well known, *persona* is the funeral mask worn by the parents of the deceased in funeral processions, representing the different roles that the deceased played in life.[137] The term person also refers to the theatrical mask used by actors to represent different characters or stereotypes in dramatic plays.[138] The law uses the term person to attribute different roles to an individual (*caput*) throughout its life and in different circumstances. Therefore, it is certain that the terms

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131 Code civil [C. civ.] [Civil Code] art. 515-14 (Fr.) see also MARGUÉNAUD, J.-P., LEROY, J., BOISSEAU-SOWINSKI, L. Code de l'Animal (2024) 22-25

132 BURGAT, F. Préface au Code de l'Animal (Paris 2018) VI: "puisse ce travail contribuer à faire de la qualité d'être sensible le véritable cœur du droit animalier".

133 Code civil [C. civ.] [Civil Code] art. 515-14 (Fr.): "les animaux sont des êtres vivants doués de sensibilité. Sous réserve des lois qui les protègent, les animaux sont soumis au régime des biens.

134 Código Civil [Civil Code], art. 201-B (Port.): "(animais) os animais são seres vivos dotados de sensibilidade e objeto de proteção jurídica em virtude da sua natureza. Art. 201-C: (proteção jurídica dos animais) a proteção jurídica dos animais opera por via das disposições do presente código e de legislação especial. Art. 201-D: (regime subsidiário) na ausência de lei especial, são aplicáveis subsidiariamente aos animais as disposições relativas às coisas, desde que não sejam incompatíveis com a sua natureza."

135 Código Civil [C.C.] [Civil Code] art. 333 bis (Spain): "los animales son seres vivos dotados de sensibilidad. Solo les será aplicable el régimen jurídico de los bienes y de las cosas en la medida en que sea compatible con su naturaleza o con las disposiciones destinadas a su protección."

136 ZEIFERT, M. Basic Level Categorisation and the Law, in International Journal of the Semiotics of Law 36 (2023) 244–245. https://doi.org/10.1007/s11196-022-09928-z

137 D. 28.5.16: *... personam alicuis sustinere.*

138 D. 3.3.25: *... in persona actoris observari.*

person and human individual have little in common in terms of origin. However, it is equally certain that the term person is used to attribute rights and duties in the legal order to entities that bear little resemblance to humans, or to physicality.[139]

Since ancient times, and without any intellectual resistance, we have used the term 'legal person' to refer to entities beyond the individual. 'Person' is used to designate corporations, societies and public and private entities, endowing them with legal personality – that is, the capacity to be the subject of laws and to act as such within the legal realm. Therefore, it is not surprising to suggest that the attribution of legal personality to animals is coherent with a line of thought that is slowly but surely gaining ground.

Ultimately, deconstructing the terms 'personality' and 'legal person'[140] and shifting the centre of attention from anthropocentrism to ecocentrism or biocentrism would allow us to include animals. If animals have a personality and undeniable individuality, this would be one of the requirements for attributing them a personality. In my opinion, this is one possible way to improve the protection of animals in the future.

Although various countries have had changes to the legal status of animals in force for several years, it has not yet been definitively clarified what legal status animals have today or should have in the future. The question that arises concerns the discrepancy between the theorisation of animal rights and how they are actually received in current legal systems. In my opinion, the movement criticising animal rights has not yet been overcome. This topic has mainly interested moral philosophers, legal theorists, and social reformers, who have sought to formulate the so-called 'fundamental rights of animals'. However, they have not yet achieved true recognition, respect, or effective inclusion in contemporary legal systems.[141] Of course, they are no longer classified as 'things' in some legal systems, but reforms have not granted them rights either. Therefore, they have not yet become legal subjects or persons and remain in the broader category of legal objects. However, as the current doctrine seems to suggest, it may be more accurate to describe them as a distinct subcategory (*sui generis*), as was observed in the Roman conception of animals.[142]

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139 From the almost exhaustive bibliography, see the excellent compilation by DI NISIO, V. *Persona.* Per una bibliografia ragionata, in Persona: Periodico di Studio e Dibattito 1 (Napoli 2012) 163-186

140 KURKI, V., PIETRZYKOWSKI, T. (Ed.). Legal Personhood: Animals, Artificial Intelligence and the Unborn (Berlin 2017).

141 PETERS, A. Vom Tierschutzrecht zu Legal Animal Studies: Forschungsdesiderate und Perspektiven, in Rechtswissenschaft 3 (2016) 325, 328-31; GIMÉNEZ-CANDELA, M. What is left to be said by the Law about Animals, in VITALE, A., POLLO, S. (Eds.). Human/Animal Relationships in Transformation. Scientific, Moral and Legal Perspectives (Cham 2022) 336 sq.; MICHEL, M. Moving Away from Thinghood in Law, in LEOH – Journal of Animal Law, Ethics and One Health (2023) 29 sq.

142 GILHUS, I.S. Animals, Gods and Humans. Changing Attitudes to Animals in Greek, Roman and Early Christian Ideas (New York 2006); TOYNBEE, J.M.C. Animals in Roman Life and Art (Baltimore-London 1996); DIERAUER, U. Tier und Mensch in Denken der Antike. Studien zur Tierpsychologie,

3. THE CHALLENGES OF BIOLEGALITY

In recent decades, we have witnessed the emergence of what has been termed "the era of bio-legality".[143] This is because political, social, economic and therefore legal changes are increasingly guided, if not determined, by the indisputable reality that biology shows us. Law cannot be separated from biology, otherwise there is a risk of remaining anchored to postulates that forget the very foundation of legal norms.[144]

Bio-legality can be viewed from either an empirical or a theoretical perspective. From an empirical standpoint, it is associated with the era of significant biotechnological breakthroughs in immunology, neuroscience and molecular biology, which primarily occurred in developed societies and represented a genuine revolution in life sciences. This progress has been reinforced by the development and refinement of techniques that have demonstrated their effectiveness, such as reproductive technologies and organ cloning, as well as the discovery of genetic chains. This accumulation of scientific data has called into question court decisions, the content of regulations, and the consideration of vital ethics. Over the years, vital ethics has been subjected to a critical review that can be considered beneficial.

From a theoretical perspective, bio-legality challenges the foundations of biopolitics, which emphasises how biology allows for more inclusive forms of relationships within society. The biosciences and biotechnologies, which are having such an influence on a new way of approaching parenthood, identity and personality, cannot ignore the issues that also concern the relationship between humans and animals. It is therefore vital to establish a critical and renewed vision of animals in law. This could be considered bio-legal.

The connection between biology and legality enables us to reconsider the relationship between the two disciplines. In the context of animal law, this translates into a new, more objective and realistic perspective that is closely tied to the reality of animals. Technological changes allow us to better understand animals and their interests, and to determine how to preserve them.

If we take the recognition of animal consciousness, as set out in the Cambridge Declaration in 2012, [145] as a guiding case, it is clear that, in light of this, it can no longer be argued that animals only experience physical and bodily sensations. This is because they possess a level of consciousness that allows them to process and recognise them.

Anthropologie und Ethik (Amsterdam 1977); ALEXANDRIDIS, A., WILD, M., WINKLER-HORACEK, L. Mensch und Tier in Der Antike Grenzziehung und Grenzüberschreitung (Wiesbaden 2008).

143 van WICH LEN S., de LEEUW, M. Biolegality: How Biology and Law Redefine Sociality, in Annual Review of Anthropology 51 (2022) 383 sq. https://doi.org/10.1146/annurev-anthro-041520-102305

144 FRUEHWALD, E.S. A Biological Basis of Rights, in SSRN (2009) DOI:10.2139/ssrn.1440247; GOMMER, H. A Biological Theory of Law (Seattle 2011)

145 Cambridge Declaration of Consciousness, 7 July 2012.

Consequently, the existing animal regulations, which currently do not take this biological reality into account, should be reviewed and updated. To provide a concrete example, this dimension of animal consciousness should influence legislation on livestock transport or slaughter. This cannot be limited to a description of the means necessary to avoid causing unnecessary pain to animals,[146] because precision technologies have not yet been rigorously applied to determine the pain threshold for an animal.

The bio-legal concept of animals is most relevant in this field of accurate assessment of the biological reality of animals and their needs. It is evident that integrating this bio-legal concept of animals into current and future regulations would prevent a significant amount of "unnecessary suffering" for animals.

Those who argue for the validity of the animal welfare paradigm for the respectful treatment of animals are often viewed with suspicion.[147] This mistrust is not founded on any substantial evidence, as animal welfare is – or should be – subject to constant critical review, along with periodic renewal of current regulations. This enables the determination of more accurate objective parameters by which we treat animals. In this context, the bio-legal significance of the term 'animal' becomes paramount, necessitating its utilisation.

To summarise, environmental, ecological and biological aspects are given new legal significance. It is vital that data from these fields is not merely used as a tangential scientific backdrop to which legal postulates are anchored. Instead, the scientific findings themselves (e.g. animal sentience or animal consciousness) should form the basis and justification for legislation and jurisprudence.[148] This is an example of a bio-legal redefinition of animals.

The influence of increased awareness of animal sentience on jurists is evident in the changes to the legal status of animals introduced in European and Latin American

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146 See generally, SNEDDON, L.U., ELWOOD, R.W., ADAMO, S.A., LEACH, M.C. Defining and assessing animal pain, in Animal Behaviour 97 (2014) 201-212; op. cit. VILLALBA, T. (2016) 79. This concept is reflected in legislation, particularly that of the European Union. See e.g., article 3 of directive 98/58/EC providing that that "Member States shall make provision[s] to ensure that the owners or keepers take all reasonable steps to ensure the welfare of animals under their care and to ensure that those animals are not caused any unnecessary pain, suffering or injury."; article 3 of Council Regulation (EC) No 1/2005: "No person shall transport animals or cause animals to be transported in a way likely to cause injury or undue suffering to them."

147 In a pejorative sense, the terms 'welfarism' and 'welfarist' (both referring to welfare) are used in some academic fields to dismiss a proposal or policy for the protection of animals. However, animal welfare could actually be considered the first frontier of animal protection, as it is a scientific, practical and demonstrable concept with measurable and verifiable effects.

148 Generally see, NUFFIELD COUNCIL ON BIOETHICS. Animal sentience and consciousness. A review of current research. Prepared by AMHED, A., CORRADI, C. (March 2022): https://www.nuffieldbioethics.org/assets/images/Animal-sentience-and-consciousness-review.pdf

civil codes in recent decades.[149] This is one of the most recent examples of how biology forms the basis of law, rather than being an unrelated reference or isolated piece of scientific evidence. This helps us to better understand the implications of recognising animal sentience.

This assertion of the biological as a basis for the legal is similar to Hanna Arendt's theory of animal plurality,[150] which was strongly influenced by Portmann's study of animal form.[151] This influence can also be seen in Agamben's open and inclusive theory of the human-animal relationship.[152] This new approach to law originated with the concept of bio-legality, as set out in Lynch and McNally's 2009 publication on the impact of advances in DNA identification on forensic science for attributing criminal responsibility.[153]

This bio-legal approach to the concept of animals is based on studies I have published in recent years on the de-objectification of animals in legal texts, especially in European and Latin American civil codes.[154] The process entails the reformulation of a bio-legal proposal for animals, with the objective of achieving the recognition of their personality as animals within the legal system.[155] The comprehensive study of the individual, which is a legitimate legal creation and therefore genuinely "artificial" and fictitious, as some may argue, can offer a novel perspective on animal rights, one that has not been previously explored.

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149 Supra note 123. Also see, ESBORRAZ, D. F. El nuevo régimen jurídico de los animales en las codificaciones civiles de Europa y América, in Revista de Derecho Privado 44 (2023) 51-90. DOI: https://doi.org/10.18601/01234366.44.03.

150 VASTERLING, V. Arendt's Post-dualist Approach to Nature: the Plurality of Animals, in Hannah Arendt.net 11/1 (2022) DOI: 10.57773/hanet.v11i1.461

151 PORTMANN, A. Animal Forms and Patterns. A Study to the appearance of Animals (London 1952). See also the review by LE DÉVÉDEC, N. Adolf Portmann, La forme animale, in Lectures, Les comptes rendus (2014) URL : http://lectures.revues.org/14943

152 AGAMBEN, G. The open: Man and Animal, trans. by ATELL, K. (Stanford 2004); rev. by PICK, A. in Bryn Mawr Review of Comparative Literatur 5/2 (2006) https://repository.brynmawr.edu/bmrcl/vol5/iss2/1; see also, SALZANI, C. Agamben and the Animal (Cambridge 2022)

153 LYNCH, M., MCNALLY, R. Forensic DNA Databases and Biolegality: The Coproduction of Law, Surveillance Technology and Suspect Bodies, in ATKINSON, P., GASLEN, P., LOCK M. (eds.). The Handbook of Genetics and Society. Mapping the New Genomic Era (London & New York 2009) 283-301; MACHADO, H., COSTA, S. Biolegality, the Forensic Imaginary and Criminal Investigation, in RCCS Annual Review 5 (2013) 84ss. DOI: https://doi.org/10.4000/rccsar.490

154 See supra note 124. For Latin America see especially, CONTRERAS LÓPEZ, C.A. Régimen jurídico de los animales en Chile, Colombia y Argentina (Valencia 2016)

155 STUCKI, S. Grundrechte für Tiere: Eine Kritik des geltenden Tierschutzrechts und Rechtstheoretische Grundlegung von Tierrechten im Rahmen einer Neupositionierung des Tieres als Rechtssubjekt (Baden-Baden 2016) especially 173sq. y 333sq. NAVARRO SÁNCHEZ, D. De la *res* romana al pleno reconocimiento de la personalidad jurídica: el avance imparable del Derecho animal, in FALCON, M., MILANI, M. (a cura di). A new role for Roman taxonomies in the future of goods? (Napoli 2023) 343-374

The concept of personhood, which I have previously discussed in an effort to reinstate its original significance, [156] is merely a fiction devised to allocate a role, function or action to a reality – whether living or otherwise – within the legal domain. In my opinion, this concept has acquired a novel dimension in the present era, largely due to the support of the notion of bio-legality.[157]

It is important to note that the issue of animal rights continues to be a contentious subject, [158] as it invariably comes up against a fundamental legal structure that considers animals to be objects of law and not subjects. This is due to the traditional dichotomy (subjects-objects) attributing subjectivity (being a subject of rights) to persons (exclusively human beings) and not to things, which is the absolute meaning of the term 'person'. In line with this traditional view, animals are not granted the same rights as people, regardless of whether they are considered sentient beings. Instead, they are regarded as property, with the important distinction that the ownership of animals is governed by its own set of laws. [159].

In summary, the law is based on the identification and delineation of legal categories. Animals must be recognised as a separate, individualised category within the law, as a category in their own right, not as a relative category derived from the interests of human beings. It is therefore necessary to rethink the relationship between biology and law, which for many centuries has been forgotten, if not systematically marginalised, in the search for "pure" categories of law that do not exist as such. Law is the science of standardisation and organisation of life, not only human life, but every manifestation of life.

4. CONCLUSION

The legal classification of animals is undergoing a profound transformation, moving from their traditional status as property toward recognition as sentient beings with

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156 See *supra* section 2.3.

157 De LEEUW, M., van WICHELEN, S. Personhood in the Age of Biolegality. Brave New Law (Cham 2020) DOI: https://doi.org/10.1007/978-3-030-27848-9

158 See generally, op. cit. DIEHL, E., TUIDER, J. (Hrsg.) (2019); VIDE, C.R. Personas, animales y derechos (Madrid 2018); NAVA ESCUDERO, C. Los animales como sujetos de derecho, dA. Derecho Animal (Forum of Animal Law Studies) 10/3 (2019) 47-68. DOI https://doi.org/10.5565/rev/da.444

159 Código Civil [C.C.] [Civil Code] art. 333 bis, 1, 2 (Spain): 1. *Los animales son seres vivos dotados de sensibilidad. Solo les será aplicable el régimen jurídico de los bienes y de las cosas en la medida en que sea compatible con su naturaleza o con las disposiciones destinadas a su protección. 2. El propietario, poseedor o titular de cualquier otro derecho sobre un animal debe ejercer sus derechos sobre él y sus deberes de cuidado respetando su cualidad de ser sintiente, asegurando su bienestar conforme a las características de cada especie y respetando las limitaciones establecidas en ésta y las demás normas vigentes.*

dignity and potentially legal personhood. This evolution is informed by historical legal traditions, contemporary ethical concerns, and scientific discoveries in biology and animal sentience.

The defining feature that distinguishes animals from inanimate objects is sentience. Although some countries have adopted reforms that have de-objectified animals in civil law, property rights still apply on a subsidiary basis. Therefore, the exercise of absolute property rights is limited by the recognition of animal sentience in animal welfare legislation. This can create interpretative problems when balancing animal welfare requirements with property rights. Furthermore, the classification of animals based on their use (for production, experimentation, shows, or as companions) is limited, since animals of the same species can play different roles.

The emerging bio-legal framework advocates for laws that reflect the biological and sentient nature of animals, challenging entrenched legal categories and promoting enhanced protections. Recognizing animals as a distinct legal category with rights aligned to their nature is essential for the future development of animal law and welfare.

The law is based on identifying and defining legal categories. Animals should be recognised as a distinct category in their own right within the law, rather than as a subcategory derived from human interests. Therefore, it is necessary to reconsider the relationship between biology and law, which has been neglected, if not systematically marginalised, in the search for 'pure' legal categories that do not exist. Law is the science of standardising and organising life – not just human life, but all life forms.

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5. BIBLIOGRAPHY

AGAMBEN, G. The open: Man and Animal, trans. by ATELL, K. (Stanford 2004)

ALEXANDRIDIS, A., WILD, M., WINKLER-HORACEK, L. Mensch und Tier in Der Antike Grenzziehung und Grenzüberschreitung (Wiesbaden 2008)

ALVARADO-VÉLEZ, J. A. Protección de los animales como sujetos de derechos. Un análisis constitucional del caso "Mona Estrellita" en Ecuador. Estudios constitucionales 2172 (2023) 290-307. https://dx.doi.org/10.4067/S0718-52002023000200290

AMMANN, C., CHRISTENSEN, B., ENGI, L., MICHEL, M. (Ed.). Würde der Kreatur – Ethische und rechtliche Beiträge zu einem unbestimmten Konzept (Zürich-Basel-Genf 2015)

ATAIDE JUNIOR, V. de P. Por um direito processual constitucional pós-humanista: *habeas corpus* para animais no Brasil e na América Latina, in Gralha Azul 12 (2022) 119-126.

ATLAS, B. M. A. Rev. Animal Rights Law: Rafael N. Fasel and Sean C. Butler (Hart Publishing 2023) 240 pp, ISBN 9781509956104 (paperback). Journal of International Wildlife Law & Policy, 27/1 (2024) 42–46. https://doi.org/10.1080/13880292.2024.2342161

BAQUERO RIVEROS, J. E. La libertad para "Chucho", el oso andino de anteojos. Comentario a la Sentencia de la Corte Suprema de Justicia, Sala de Casación Civil, del veintiséis (26) de julio de dos mil diecisiete (2017), in Derecho Animal (Forum of Animal Law Studies) 9/1 (2018) https://doi.org/10.5565/rev/da.244

BARRAUD, B. Droit public-droit privé: de la *summa divisio* à la *ratio divisio*?, in Revue de la Recherche Juridique – Droit prospectif*,* 152 (2015) 561-592, HAL ID: hal-01367507 BARREIRO FERNÁNDEZ, A., PARICIO SERRANO, J. Historia del Derecho romano y su recepción europea (Madrid 2017)

BEHRENDS, O. Die Person oder die Sache? – was stand im Mittelpunkt des klassischen römischen Privatrechts? Die Kontinuitätsfrage im Streit zwischen junger 'Neopandektistik' und nicht mehr ganz junger 'Neoromantik', in Labeo 44 (1998) 26-60

BEHRENDS O. Che cos'era il *ius gentium* antico?, in LABRUNA, L. (dir.). Tradizione romanistica e costituzione 1 (Napoli 2006) 481-514

BEHRENDS, O., KNÜTEL, R., KUPISCH, B., SEILER, H.H. Corpus Iuris Civilis. Bd. I: Institutionen (Heidelberg 1990)

BEHRENDS, O. KNÜTEL, R., KUPISCH, B., SEILER, H.H. *Corpus Iuris Civilis*. Die Institutionen (Heidelberg 1993)

BEHRENDS, O. KNÜTEL, R., KUPISCH, B., SEILER, H.H. *Corpus Iuris Civilis*. II: Digesten 1-10 (Heidelberg 1995)

BEHRENDS, O. KNÜTEL, R., KUPISCH, B., SEILER, H.H. *Corpus Iuris civilis*. III: Digesten 11-20 (Heidelberg 1999)

BELLOMO, M, L'Europa del diritto comune, 3 ed. (Roma 1989)

BENTHAM, J. Introduction to the Principles of Morals and Legislation (London 1789) XVII-1

BERNET KEMPERS, E. Neither persons nor things: The changing status of animals in private law. European Review of Private Law, 29/1 (2021), 39-70. DOI: https://doi.org/10.54648/ERPL2021003

BERNET KEMPERS, E. Estrellita and the possibility of nature-based animal rights. Global Journal of Animal Law 12/4 (2024) DOI: https://doi.org/10.71389/gjal.152403

BINDER, R. Die Würde des Tieres is antastbar, en Rechtswissenschaft. Zeitschrift für rechtswissenschaftliche Forschung 3 (2016) 497 sq.

BIRKS, P. The Roman Law Concept of dominium and the Idea of Absolute Ownership, in *Acta Juridica* 1985 1-37

BIRKS, P., MCLEOD, G. (eds.). Justinian's Institutes (London 1987)

BLATTNER, C. E. The recognition of animal sentience by the law. Journal of animal ethics, *9*/2 (2019) 121-136 DOI: 10.5406/janimalethics.9.2.0121

BOUDOU, B. Montaigne et les animaux (Paris 2016)

BUDOLFSON, M. et al. Animal welfare: Methods to improve policy and practice, in Science 381 (2023), 32-34. DOI: 10.1126/science.adi012

BRELS, S. Le droit du bien-être animal dans le monde. Evolution et universalisation (Paris 2017)

BRENNER, A. Die Würde des Lebens. Vom Selbstsein der Tiere, in MICHEL, M., KÜHNE, D., HÄNNI, J. (Ed.). Tier und Recht. Entwicklungen und Perspektiven im 21. Jahrhundert (Zürich 2012) 55 sq.

BURGAT, F. La "dignité de l'animal": Une intrusión dans la métaphysique du propre de l'homme, in l'Homme. Revue Française d'Anthropologie 161 (2002) 197 sq.

BURGAT, F. Préface au Code de l'Animal (Paris 2018) VI

BUZZELLI, D. Animali e diritto. I modi e le forme di tutela (Pisa 2023)

CAMBELL, G. L. (ed.). The Oxford Handbook of Animals in Classical Thought and Life (Oxford 2014)

CALASSO, F. Medioevo del diritto, I (Milano 1954)

CANNATA, C.A. Il terzo capo della *lex Aquilia*, in BIDR 98-99 (1995-1996) 111 sq.

CARDILLI, R. Il problema della libertà naturale in diritto romano, in Derecho Animal (Forum of Animal Law Studies) 10/3 (2019) 15-25. DOI https://doi.org/10.5565/rev/da.449

CASTIGNONE, S. (a cura di). I diritti degli animali. Prospettive bioetiche e giuridiche (Bologna 1988)

CAVANNA, A. Storia del diritto moderno in Europa, vol. 1 (Milano 1982)

CAVANNA, A. Storia del diritto moderno in Europa, vol. 2 (Milano 2005)

CERINI, D. Lo strano caso dei soggetti-oggetti: gli animali nel sistema italiano e l'esigenza di una riforma, in Derecho Animal (Forum of Animal Law Studies) 10/2 (2019) 27-38. DOI https://doi.org/10.5565/rev/da.429

CHAMBERS, Ph. G., GRANDIN, T. Guidelines for Humane Handling, Transport and Slaughter of Livestock (FAO 2011)

CHEVREAU, E. Le *ius gentium* : entre usages locaux et droit romain, in L'*imperium Romanum* en perspective. Les savoirs d'empire dans la République romaine et leur héritage dans l'Europe médiévale et moderne. Besançon : Institut des Sciences et Techniques de l'Antiquité (2014) 305-320

COING, H. German "Pandektistik" in Its Relationship to the Former "Ius Commune", The American Journal of Comparative Law 37/1 (1989) 9-15

CONTRERAS LÓPEZ, C.A. Régimen jurídico de los animales en Chile, Colombia y Argentina (Valencia 2016)

CORBINO, A. Il danno qualificato e la *lex Aquilia* (Padova 2008)

CURSI, M.F. *Iniuria cum damno*. Antigiuridicità e colpevolezza nella storia del danno aquiliano (Milano 2002)

DE BAGGIS, G. F. Arturo, Sandra, Poli y Cecilia: cuatro casos paradigmáticos de la jurisprudencia argentina, in Derecho Animal (Forum of Animal Law Studies) 8/3 (2017) 1-17

DE FONTENAY, E. Le silence des bêtes (Paris 1998)

De LEEUW, M., van WICHELEN, S. Personhood in the Age of Biolegality. Brave New Law (Cham 2020) DOI: https://doi.org/10.1007/978-3-030-27848-9

DIERAUER, U. Tier und Mensch in Denken der Antike. Studien zur Tierpsychologie, Anthropologie und Ethik (Amsterdam 1977)

DESANTI, L. La legge Aquilia. Tra *verba legis* e interpretazione giurisprudenziale (Torino 2015)

DIEHL, E., TUIDER, J. (Eds.). ¿Haben Tiere Rechte? Aspekte und Dimensionen der Mensch-Tier-Beziehung (Bonn 2019)

DI NISIO, V. *Persona.* Per una bibliografia ragionata, in Persona: Periodico di Studio e Dibattito 1 (Napoli 2012) 163-186

DI NISIO, V. *Partus vel fructus.* Aspetti giuridici della filiazione *ex ancilla* (Napoli 2017).

DRIESSEN, B. Fundamental Animal Rights in European Law, in European Public Law 23/3 (2017) 547-585

DUCK, A. *De usu et authoritate juris civilis Romanorum in dominiis principum christianorum* (London 1689)

ESBORRAZ, D. F. El nuevo régimen jurídico de los animales en las codificaciones civiles de Europa y América, in Revista de Derecho Privado 44 (2023) 51-90. DOI: https://doi.org/10.18601/01234366.44.03

ESPOSITO, R. Persons and Things: from the Body's Point of View (New York 2016)

FASEL, R., BUTLER, S. Animal Rights Law (Oxford 2023).

FAVRE, D. Living Property: A New Status for Animals within the Legal System, in Marquette Law Review 93 (2010) 1024-1025.

FAVRE, D. An International Treaty for Animal Welfare, in Animal Law 18 (2012) 237-280

FILIP-FRÖSCHL, J. *Partus et fetus et fructus.* Bemerkungen zur Behandlungen der Tierjungen im römischen Recht, in Ars boni et aequi, Festschrift für Wolfgang Waldstein (Stuttgart 1993) 99 sq.

FILIP-FRÖSCHL, J. Rechtshistorische Wurzeln der Behandlung des Tieres durch das geltende Privatrecht, in HARRER, F., GRAF, G. (Hrsg.) Tierschutz und Recht (Wien 1994) 21-35

FILIP-FRÖSCHL, J. *Apis natura fer est*. Romanistische Anmerkungen zur besonderen Natur der Biene, in Scientia et historia, Festschrift für Peter Putzer, I (Egling an der Paar 2004) 141sq.

FILIP-FRÖSCHL, J. *Libertas naturalis. Überlegungen* zur natürlichen Freiheit von Mensch und Tier. Studi in onore di Luigi Labruna III (Napoli 2007) 1851-1872.

FIORI, R. La nozione di *ius gentium* nelle fonti di età repubblicana, in PIRO, I. (a cura di). Scritti per Alessandro Corbino 3 (Tricase 2016) 109-129.

FRANCIONE, G. Animals, Property and the Law (Philadelphia 1995)

FRASER, D. Understanding Animal Welfare, in Acta Veterinaria Scandinavica 50 (2008), https://doi.org/10.1186/1751-0147-50-S1-S1

FRASER, D. Understanding Animal Welfare: The Science in its Cultural Context, 2nd ed. (Oxford-Ames, IA 2024).

FRUEHWALD, E.S. A Biological Basis of Rights, in SSRN (2009). DOI:10.2139/ssrn.1440247

GAUDEMET, J. Les écoles historiques du droit en France et en Allemagne au XIXe siècle, in Revue d'histoire des facultés de droit et de la science juridique, du monde des jurists et du livre juridique (1998) 87-124

GAVINELLI, A. KNIPINSKA, M. Animals and the Law: Current policy/legal framework at EU level, in FAVRE, D., GIMÉNEZ-CANDELA, T. Animales y Derecho (Valencia 2015) 201-210

GIGLIO, F. Pandectism and the Gaian Classification of Things, University of Toronto Law Journal 62/1 (2012) 1-28. DOI: https://doi.org/10.3138/utlj.62.1.1

GIGLIO, F. Coherence and Corporeality: On Gaius II,12–14, in SZ. 130 (2013) 127-163

GILHUS, I.S. Animals, Gods and Humans. Changing Attitudes to Animals in Greek, Roman and Early Christian Ideas (New York 2006)

GIMÉNEZ-CANDELA, M. The De-objectification of animals (I), in Derecho Animal (Forum of Animal Law Studies 8/2 (2017) 1-4. https://doi.org/10.5565/rev/da.318

GIMÉNEZ-CANDELA, M. The De-objectification of Animals II, in Derecho Animal (Forum of Animal Law Studies 8/3 (2017) 1-5. https://doi.org/10.5565/rev/da.250

GIMÉNEZ-CANDELA, M. The De-objectification of animals in the Spanish Civil Code in Derecho Animal (Forum of Animal Law Studies) 9/3 (2018) 28-47. https://doi.org/10.5565/rev/da.361

GIMÉNEZ-CANDELA, M. Bees and Covid-19: a necessary legal regulation, in Derecho Animal (Forum of Animal Law Studies) 11/4 (2020) 20-30. DOI https://doi.org/10.5565/rev/da.558

GIMÉNEZ-CANDELA, M. What is left to be said by the Law about Animals, in VITALE, A., POLLO, S. (Eds.). Human/Animal Relationships in Transformation. Scientific, Moral and Legal Perspectives (Cham 2022) 336 sq.

GIMÉNEZ-CANDELA, T. El régimen pretorio subsidiario de la acción noxal (Pamplona 1981)

GIMÉNEZ-CANDELA, T. El estatuto jurídico de los animales: aspectos comparados, in BALTASAR, B. (Coord.) El Derecho de los Animales (Madrid 2015) 167 sq.

GIMÉNEZ-CANDELA, T. Derecho Privado Romano, 2nd ed. (Valencia 2020)

GIORGINI PIGNATIELLO, G. Per un costituzionalismo dell'umiltà. Il costituzionalismo ecológico nel dialogo Nord e Sud Globale, in RESCIGNO F., GIORGINI PIGNATIELLO, G. One Earth-One Health. La costruzione giuridica del Terzo Millenio (Torino 2023) 69 sq.

GOMMER, H. A Biological Theory of Law (Seattle 2011)

GONTIER, T. Intelligence et vertus animales: Montaigne lecteur de la zoologie antique, in Rursus 2 (2017) 5sq.

GRETTON, G.L. Ownership and its Objects, in Rabels Zeitschrift für ausländisches und internationales Privatrecht / The Rabel Journal of Comparative and International Private Law, 71/4 (October 2007) 802-851, DOI 10.1628/003372507782419462

GUICHET, J.L. Rousseau, L'animal et l'homme. L'animalité dans l'horizon anthropologique des Lumières (Paris 2006)

HADJYANNI, I. The Court of Justice of the European Union as a transnational actor through judicial review of the territorial scope on the EU Environmental Law, in Cambridge Yearbook of European Legal Studies, 21 (2019) 128-161. Doi: https://doi.org/10.1017/cel.2019.4

HILD, S., SCHWEITZER, L. (Eds.). Animal Welfare: from Science to Law (Paris 2019).

HEUMANN-SECKEL. Handlexikon (Graz 1971)

JOHNSTON, D. Roman Law in Context (Cambridge 2022) 6 sq.

KALOF, L. (ed.). A Cultural History of Animals in Antiquity (Oxford 2013)

KANTOROWICZ, H. Studies in the glossators of the Roman law (Cambridge 1938; with William W. Buckland)

KASER, M., *Ius Gentium* (Köln 1993)

KITCHELL Jr., K. F. Animals in the Ancient World from A to Z (London 2014)

KORSCHAKER, P. Europa und das römische recht (München 1947)

KORSGAARD, C. A Kantian Case for Animal Rights, in MICHEL, M., KÜHNE, D., HÄNNI, J. (Ed.). Tier und Recht: Developments and Perspectives in the 21st Century (Zürich 2012) 6 sq.

KNÜTEL, R., KUPISCH, B., LOHSSE, S., RÜFNER, T., BEHRENDS, O. Corpus Iuris Civilis – Die Institutionen (Heidelberg 2013)

KOTZMANN, J., FERRERE, M. B. The Legal Recognition of Animal Sentience: Principles, Approaches and Applications (eds.) Hart Publishing (Oxford 2024) DOI:10.5040/9781509970483

KOTZMANN, J. Sentience and intrinsic worth as a pluralist foundation for fundamental animal rights. Oxford Journal of Legal Studies 43/2 (2023) 405-428. DOI: 10.1093/ojls/gqad003

KRUEGER, P. (ed.) Institutiones, in Corpus Iuris Civilis, 1 (Berlin 1954)

KURKI, V., PIETRZYKOWSKI, T. (Ed.). Legal Personhood: Animals, Artificial Intelligence and the Unborn (Berlin 2017)

LANDI, M., ANESTIDOU, L. Animal Sentience Should Be The Key For Future Legislation, in Animal L. 30 (2024) 257, https://lawcommons.lclark.edu/alr/vol30/iss2/7

LE DÉVÉDEC, N. Adolf Portmann, La forme animale, in Lectures, Les comptes rendus (2014). URL : http://lectures.revues.org/14943

LESSARD, M. Beyond sentience: legally recognizing animals' sociability and agency. Journal of Animal Ethics 14/1 (2024) 89-109. DOI: 10.5406/21601267.14.1.07

LYNCH, M., MCNALLY, R. Forensic DNA Databases and Biolegality: The Coproduction of Law, Surveillance Technology and Suspect Bodies, in ATKINSON, P., GASLEN, P., LOCK M. (eds.). The Handbook of Genetics and Society. Mapping the New Genomic Era (London & New York 2009) 283-301

LORUSSO, A. La stima del danno nel terzo capo della lex Aquilia (Madrid 2018)

LOVEJOY, A.O., JAMES, W. The Great Chain of Being: A study of the history of an idea (Cambridge/MA 1936) 55-59

MACHADO, H., COSTA, S. Biolegality, the Forensic Imaginary and Criminal Investigation, in RCCS Annual Review 5 (2013) 84ss. DOI: https://doi.org/10.4000/rccsar.490

MANTOVANI, D. I giuristi, il retore e le api. *Ius controversum* e natura nella *Declamatio maior* XIII, in MANTOVANI, D., SCHIAVONE, A. (Ed.) Testi e problemi del iusnaturalismo romano (Pavia 2007) 323 sq.

MARGUÉNAUD, J.P. L'animal en droit privé (Paris 1992)

MARGUÉNAUD, J.P. L'entrée en vigueur de "l'amendement Glavany": un grand pas de plus vers la personnalité juridique des animaux, in RSDA 2 (2014) 15sqq.

MARGUÉNAUD, J.-P., LEROY, J., BOISSEAU-SOWINSKI, L. Code de l'Animal (2024) 22-25

MELLOR, D. J. et al. The Sciences of Animal Welfare (Oxford-Ames, IO 2014)

MERRYMAN, J.H. The Civil Law Tradition. An Introduction to the legal Systems of Western Europe and Latin America (Stanford 1985)

MICHEL, M., SCHNEIDER KASSAYEH, E. The Legal Situation of Animals in Switzerland: Two Steps forward, One Step back-many Steps to go, in Journal of Animal Law 7 (2011) 1-41

MICHEL, M. Moving Away from Thinghood in Law, in LEOH – Journal of Animal Law, Ethics and One Health (2023) 29 sq.

MOMMSEN, T., KRUEGER, P. *Corpus Iuris Civilis*, I: Institutiones and Digesta (Cambridge 2014)

MUSSAWIR, E. On the juridical existence of animals: the case of a bear in Colombia's Constitutional Court, in ALVAREZ NAKAGAWA A., DOUZINAS C. (eds.) Non Human Rights. Critical Perspectives (Edgar Law 2024) 20 sq. DOI: https://doi.org/10.4337/9781802208528.00007

NAVA ESCUDERO, C. Los animales como sujetos de derecho, in dA. Derecho Animal (Forum of Animal Law Studies) 10/3 (2019) 47-68. DOI https://doi.org/10.5565/rev/da.444

NAVARRO SÁNCHEZ, D. De la *res* romana al pleno reconocimiento de la personalidad jurídica: el avance imparable del Derecho animal, in FALCON, M., MILANI, M. (a cura di). A new role for Roman taxonomies in the future of goods? (Napoli 2023) 343-374

NÖRR, D. Aspekte des römischen Volkerrechts. Die Bronzetafel von Alcantara (Munich 1989)

NUFFIELD COUNCIL ON BIOETHICS. Animal sentience and consciousness. A review of current research. Prepared by AMHED, A., CORRADI, C. (March 2022): https://www.nuffieldbioethics.org/assets/images/Animal-sentience-and-consciousness-review.pdf

OBERGFELL, I. Tiere als Mitgeschöpfte im Zivilrecht. Zwischen Rechtsobjektivität und Shadensregulierung, en Rechtswissenschaft 3 (2016) 394, 396 sq.

OLIVERA OLIVA, M. Los animals de compañia en las crisis de pareja (Valencia 2023)

ONIDA, P.P. Studi sulla condizione degli animali non umani nel sistema giuridico romano (2ªed. Torino 2012)

ONIDA, P.P. Il problema della 'personalità' degli animali: l'esempio dell'orango Sandra, in Rome and America. Diritto Romano Comune 36 (2015)

ORESTANO, R. Introduzione allo studio del diritto romano (Bologna 1987)

PARDO, M.C. Legal Personhood for Animals. Has Science made its case? Animals *13*714 (2023) 2339

PETERS, A. Vom Tierschutzrecht zu Legal Animal Studies: Forschungsdesiderate und Perspektiven, in Rechtswissenschaft 3 (2016) 325, 328-31

PETERS, A. Tierwohl als Globales Gut: Regulierungsbedarf und –Chancen, in Rechtswissenschaft 3 (2016) 382 sq.

PETERS, A. Liberté, Egalité, Animalité. Human-Animal Comparisons in Law, in Transnational Environmental Law 25 (2016) 3 sq.

PICK, A. in Bryn Mawr Review of Comparative Literature 5/2 (2006) https://repository.brynmawr.edu/bmrcl/vol5/iss2/1

PORTMANN, A. Animal Forms and Patterns. A Study to the appearance of Animals (London 1952)

PRINGSHEIM, F. Eingentumsübergang beim Kauf, in SZ 50 (1930) 333-438

RAINER, M.J. Das römische Recht in Europa, 2 (Wien 2020)

REGAN, T. The Case for Animal Rights (Berkeley 1983)

REIMERT, I., WEB, L.E., VAN MARWIJK, M. A., BOLHUIS, J. E. Towards an integrated concept of animal welfare, in Animal 17/3 (2023) https://doi.org/10.1016/j.animal.2023.100838

RESCIGNO, F. I Diritti degli Animali. Da *res* a soggetti (Torino 2000)

RICHTER, D. Die Würde der Kreatur. Rechtsvergleichende Betrachtungen, in ZaöRV 67 (2007) 317 sq.

RITVO, H. History and Animal Studies, in Society and Animals 10/4 (2002) 403-406

RITVO, H. On the animal Turn, in Daedalus 123/4 (2007) 118-122

ROCHA SANTANA, L. La teoría de los derechos animales de Tom Regan. Ampliando las fronteras de la comunidad moral y de los derechos más allá de lo humano (Valencia 2018)

SALZANI, C. Agamben and the Animal (Cambridge 2022)

SACHS, N. M. A wrong turn with the rights of nature movement. Geo. Env't L. Rev. 36 (2023) 39sq.

SAVIGNY, F.K. von. Geschichte des römischen Rechts im Mittelalter (Heidelberg 1834)

SAVIGNY, F.K. von. System des heutigen römischen Rechts, I (Berlin 1840)

SCHERMAIER, M. *Dominus actuum suorum*. Die willenstheoretische Begründung des Eigentums und das römische Recht, in SZ 134 (2017) 50 sq.

SINGER, P. Animal Liberation: A New Ethics for Our Treatment of Animals (New York 1975)

SITTER-LIVER, B. Recht und Gerechtigkeit auch für Tiere. Eine konkrete Utopie, in Tier und Recht, in Animal Law – Tier und Recht (Zürich/St. Gallen 2012) 29 – 51

STEIER, G. (Ed.) Advances in Agricultural Animal Welfare (Boca Raton 2018)

SOWERY, K. Sentient beings and tradable products: the curious constitutional status of animals under Union law, in Common Market Law Review 55/1 (2018) 55-99

STUCKI, S. Grundrechte für Tiere: Eine Kritik des geltenden Tierschutzrechts und Rechtstheoretische Grundlegung von Tierrechten im Rahmen einer Neupositionierung des Tieres als Rechtssubjekt (Baden-Baden 2016)

SUNSTEIN, C.R. NUSSBAUM, M.C. (Eds.), Animal Rights. Current Debates and New Directions (New York 2004)

TARELLO, G. Storia della cultura giuridica moderna. I Assolutismo e codificazione del diritto (Bologna 1976)

THESAURUS LINGUAE LATINAE (München 2019): https://publikationen.badw.de/de/thesaurus

THOMAS, Y. *Res*, chose et patrimoine: Note sur le rapport sujet-objet en droit romain. Archives de Philosophie du Droit, 25 (1980) 413-426

TOYNBEE, J.M.C. Animals in Roman Life and Art (Baltimore-London 1996)

van WICH LEN S., de LEEUW, M. Biolegality: How Biology and Law Redefine Sociality, in Annual Review of Anthropology 51 (2022) 383 sq. https://doi.org/10.1146/annurev-anthro-041520-102305

VASTERLING, V. Arendt's Post-dualist Approach to Nature: the Plurality of Animals, in Hannah Arendt.net 11/1 (2022) DOI: 10.57773/hanet.v11i1.461

VIDE, C.R. Personas, animales y derechos (Madrid 2018)

VILLALBA, T. 40 años de Bienestar Animal: 1974-2014 (Madrid 2015)

VITALE, A., POLLO, S. (Eds.). Human/Animal Relationships in Transformation. Scientific, Moral and Legal Perspectives (Cham 2022)

WATSON, A. (ed.). The Digest of Justinian (Philadelphia 1985)

WATSON, A. The Spirit of Roman Law (Athens, GA-London 1995)

WILDBERGER, J. Beast or God?. The intermediate Status of Humans and the physical Basis of the Stoic *scala naturae*, in ALEXANDRINIS, A., WILD, M., WINKLER-HORACEK (Ed.). Mensch und Tier in der Antike. Grenziehung und Grenzüberschreitung (Wiesbaden 2008) 49 sq.

WINKEL, L.C. Einige Bemerkungen über *Ius naturale* und *Ius Gentium*, in SCHERMAIER, M., VEGH, Z. (dir.). Ars boni et aequi. Festschrift für Wolfgang Waldstein zum 65. Geburtstag (Stuttgart 1993) 443-449

WISE, S. Rattling the Cage. Toward Legal Rights for Animals (New York 2000)

ZEIFERT, M. Basic Level Categorisation and the Law, in International Journal of the Semiotics of Law 36 (2023) 244–245. https://doi.org/10.1007/s11196-022-09928-z

ZIMMERMANN, R. *Lex Aquilia*, The Law of Obligations: Roman Foundations of the Civilian Tradition (Oxford 1996)

ZIMMERMANN, R., CREMADES UGARTE, I. Europa y el Derecho romano (Madrid 2009)

ZULUETA, F. de (ed.). The Institutes of Gaius (Oxford 1946-1953)

SECKEL, E., KUEBLER, B. *Gai institutionum commentarii quattuor* (Leipzig 1935)