

Take Companion Animals as an Example to Explore the Legislative Dilemma of Animal Welfare

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Abstract: By comparing the current animal protection laws and regulations at home and abroad, this paper points out the existing problems and legal gaps in China's animal protection laws and regulations, and focuses on summarizing the disputes and dilemmas in China's animal welfare legislation, namely the disputes in rights and the disputes in utilization and protection. This paper analyzes the meaning and feasibility of the theory of "abolition of use" and "limited use" in academic circles and briefly analyzes the impact of animal welfare issues on China's foreign trade and international cooperation, explains the necessity and importance of animal welfare legislation, and puts forward legal solutions with high feasibility. Then, taking companion animals as an example, combined with the previous analysis of the current situation of China's domestic law, specifically explained the disputes in the rights of companion animals and the dilemma of power empowerment, and put forward the problems in the utilization and protection of companion animals through practical examples, and finally put forward a more specific and comprehensive solution.

Keywords: Animal protection, animal welfare, animal welfare legislation, companion animals

1. Introduction

Through the analysis of the current situation and historical origin of the field of animal welfare, this paper studies the attitudes and development process of animal protection vertically and discusses the animal protection system itself in the UK and China horizontally.

The Origins of the British Animal Protection Movement in the 19th Century mentioned that the situation of animals in a country is closely related to the degree of social civilization of the country, and the essence of animal protection is to restrict the bottom line of human morality. In the 18th century, some upper-class people in the UK believed that "it is nothing wrong to exchange the blood and life of animals for the brief smile of human beings", which further confirmed the importance of animal protection to the human moral sense, which correlates with the view of the British Field Sports quoted in this paper: "Let those who are hostile to cockfighting vent their hatred on dog fighters and bullfighters, who are the most wicked and savage scoundrel [1]." Darwin also pointed out that "caring for animals is the moral progress of human beings". In the 18th and 19th centuries, Britain regarded itself as a "civilized country", and the gap between this and the

poor living conditions of animals played a direct role in promoting the rise of the British animal protection movement, and provided inspiration for domestic animal protection.

With China as the core and aiming at China's domestic animal protection issues, the structure of "China's Animal Welfare Status Analysis and Legislative Proposals" adopts a relatively simple model of defining problems, analyzing problems, and solving problems. Firstly, the origin and development history of animal welfare is introduced, the current situation of animal welfare and existing laws and regulations are briefly introduced. After defining the relevant concepts, the controversy on animal welfare legislation is analyzed, and finally, the countermeasures on animal welfare legislation are proposed. The feature of this document lies in its writing background. This document is a funded project of the Zhejiang Animal Husbandry Industry Technology Project, and most contributors have more relevant technical research backgrounds. Therefore, this document is more scientific and uses a large number of technical terms and scientific language, which makes the whole document more practical. After the introduction of the origin and history of animal welfare, the relevant animal welfare of farm animals and laboratory animals has been introduced at great length [2]. The advantage of this introduction model is that it clarifies the relevant welfare status of farm animals and laboratory animals, but the disadvantage is that it lacks the introduction of other animal categories such as companion animals, which is highly professional but not comprehensive. Finally, farm animals and experimental animals are also highlighted in the controversy analysis and legislative countermeasure discussion [2], and accompanied by a large number of scientific terms, once again reflecting the strong professionalism and practicality of this document.

2. The Controversy over Animal Welfare Legislation

2.1. The Controversy over Animal Rights

One way to achieve animal protection is through the granting of animal rights, which can save animals from suffering and abuse. However, it is difficult to grant animal rights, so the legislation of animal protection is also difficult to carry out. It is difficult to realize the granting of animal rights because it is likely to subvert the basic framework of human laws. In China, the subjects of rights stipulated by the constitution and laws are citizens and the state, and animals do not belong to this category. Existing legal provisions tend to categorize animals as resources. The dispute over the subject of rights is difficult to resolve.

And it is difficult for animals to realize their rights on their own. We can only realize the protection of animals by adding obligations to human beings so that human beings can become the "moral agents" of animals, to realize the exercise of animal rights. From the perspective of the relationship between rights and obligations, rights and obligations are interdependent, animals cannot exercise their rights autonomously, let alone fulfill their obligations. If animals are only granted rights without obligations, it is also a challenge to the legal framework, and there will be great disputes and difficulties in the passage of legislation. To sum up, whether animals belong to the scope of the subject of rights, how to exercise animal rights, and whether obligations should also be stipulated for granting animal rights are the three main disputes and difficulties in animal welfare legislation.

From the perspective of system theory philosophy, Animal Welfare Legislation from the Perspective of System Theory mentions at the beginning that for a society or ecosystem, the ability to continue to evolve, the ability to self-develop, and the degree of self-organization show a positive correlation. In terms of the overall structure, the discussion of the literature focuses on the necessity and possibility of animal welfare legislation and the legal status of animals. The whole article discusses the legal qualifications of animal welfare legislation well, which makes up for the lack of discussion in animal welfare legislation to a great extent. In addition to the traditional dichotomy of

animal subject and object, knowledge can also be effectively obtained from outside the legal field, such as system theory philosophy or other circles of knowledge, to enrich the vision of animal welfare legislation [3]. Finally, it concludes the practical feasibility of animal welfare and emphasizes that the solution to these legal paradoxes does not completely negate the dichotomy of subject and object. On the contrary, it aims to eliminate the antagonism between the subject and the guest, from the subject and the guest antagonism to the subject and the guest correlation under the system thinking paradigm. A good solution to the problem of the legal status of animals is proposed.

Similarly, in *On the Legal Status of Animals and the Approach to Legal Protection*, it is pointed out that China's civil law regards animals as general objects of legal relations, which are restricted by factors such as social and cultural background, public cognition level, economic and social development level, etc. At present, there is no special animal protection law [4]. Then, from the source of a subject-object dichotomy, it begins to describe the changes in the relationship between human beings and animals and the proposal of various theories, and also synthesizes various theories, from biocentrism to ecocentrism to animal rights theory, and directly and demonstrated whether animal rights are moral rights or legal rights.

2.2. The Debate on the Use and Protection of Animals

Animal welfare aims to protect the life, life, and body of animals, but human production and life are inseparable from the use of animals, so animal protection and animal use have become the main contentious points of animal welfare. There are two views on these two differences, abolishing the utilization theory and the limited use theory.

As the name implies, the abolition of animal use is to abolish it altogether. The limited use theory does not prohibit the use of animals but requires that the protection of animals should go beyond the use of animals. At present, the laws and regulations of various countries tend to be limited utilization theory, protect their living environment, strictly require the use of animal behavior in the process, rational use when necessary and gradually dilute the use of animals. Some researchers have proposed a minimal use theory, which calls for limiting the commercial use of animals. In practice, this theory proposes to lead the industry transformation and abolition of the commercial use of animals, and ultimately abolish the commercial use of animals [5].

The theory of limited use is highly feasible and has guiding significance for legislation. The theory of limited use advocates the protection of animals while taking into account the interests of human beings, mainly emphasizing the restriction of commercial use and the requirement of rational use. In our country, the current Wildlife Protection Law explicitly prohibits wildlife trading. The commercial exploitation of animals has indeed caused great harm to animal groups, not only threatening their lives but also threatening their living environment, making many species endangered. The prohibition of commercial exploitation is also a practice of the concept of harmonious coexistence between man and nature.

3. To Establish and Improve the Animal Welfare Legal System

3.1. The Necessities

In the context of trade globalization, the international community has paid more and more attention to animal welfare issues in some bilateral agreements. When China tries to sign bilateral agreements with other countries, if other countries have requirements for Chinese animal welfare laws and regulations, it will be difficult to push forward the agreements. China has a large gap in laws and regulations in this area, and it is very difficult to establish an animal welfare system in a short period, it will also meet great challenges when it is implemented. Therefore, the issue of animal

welfare legislation is not only related to China's economic issues but also to China's international cooperation [6].

Establishing a sound animal welfare legal system is essential, and it will be a long and arduous road. The animal welfare laws and regulations in European countries are very sound, because the exploration of animal protection in those countries started early, and people also established this concept earlier. Chinese people have little understanding of the concept of animal welfare and its popularity is not high. Some people even reject the issue of animal welfare, believing that giving more welfare to animals will sacrifice human interests [7]. In China's current laws, there are very clear provisions for the protection of wild animals, and the attention paid to companion animals, stray animals, and other animal groups is insufficient.

3.2. Solutions

Nowadays, many scholars have put forward legislative suggestions in the field of animal welfare, but there are still deficiencies in quantity and quality, so it is still necessary to find effective solutions to establish a sound animal welfare legal system.

The team members have reviewed a large number of literature, different kinds of literature have different focuses, and naturally, many different types of solutions with different focus directions have been proposed. Solutions are mainly divided into two aspects: the legal method and the comprehensive method. In terms of legal methods, a scholar's solution in the direction of the Constitution is relatively novel. This paper will first focus on the introduction, and then the case study will focus on the introduction of comprehensive methods.

The central point of this scholar is that the structure of social sentiment and constitutional norms that Germany faced at the time was very similar to the current situation in China. Therefore, based on the constitutional text of the People's Republic of China and combined with the German experience, he makes a comprehensive analysis and draws corresponding conclusions on the status quo of norms, interpretation expectations, and possible responses of the constitutional order on this issue.

For the establishment of an animal welfare legal system, the first is to determine a pure animal protection consciousness. This undoubtedly puts forward a good solution to the current animal welfare system, which does not take environmental protection as the ultimate goal but takes animal protection as the ultimate goal. Through this method, more powerful animal welfare protection can be achieved [8].

Secondly, the law should express a strong expectation that the interpretation space of pure animal protection should be expected, and legislators should focus on the appeals of the animal welfare system to respond reasonably. By comparing and using the two paths of amending the Constitution and central or local legislation, lawmakers can confirm the necessity of the consistency of legal order, broaden their thinking to the field of constitution, and trace the source of rights, to completely establish a sound animal welfare legal system from a legal perspective.

4. A Case Study of Companion Animals

4.1. The Actualities

Currently, most of China's domestic laws related to the protection of companion animals are related to epidemic prevention, medical treatment, and feed, or some provisions indirectly related to the welfare of companion animals are only scattered in some other legal norms, without forming systematic provisions [9]. On the whole, China's domestic laws on companion animal welfare mainly focus on management and restriction, and its management is more important than its welfare. The starting point and landing point of legislation is only for the interests of human beings [10], and

rarely touches the welfare of companion animals themselves. Therefore, in terms of the current legislative status at the national level, China's companion animal welfare legislation is still blank [10].

4.2. The Controversy of Companion Animal Welfare Legislation

4.2.1. The Controversy Over Companion Animal Rights

(1)The controversy that companion animals belong to resources or subjects

The first is the controversy over whether companion animals are resources. In this aspect of the discussion, the panelists believe that animals should be regarded as special objects in the category of property and resources, and at the same time, they should actively establish the correlation between subjects and objects, closely connect animals with humans, and let humans act as the rights of animals as life. Animals, like us, can feel pain and have consciousness, companion animals can still accompany humans, provide partners for human spiritual needs, can establish emotional relationships with humans, such as friendship, family love, and dependence on humans, such emotional animals should not be regarded as general resources, property. Referring to relevant foreign provisions in this regard, the German Civil Code stipulates that "animals are not objects" [11].

(2)The issues of companion animal rights exercises

Although animals have feelings, emotions, and consciousness, they do not have thoughts like human beings, so they cannot exercise their rights autonomously. For companion animals, their owners can protect their rights and interests in the process of raising them and can defend their rights on behalf of them, but if they are abandoned, their rights cannot be exercised and cannot be maintained. Although there are stray animal rescue centers that can take care of these animals and adopt them later, there are still many stray animals, unable to ensure the needs of food, health, and shelter, and stray dogs are also exposed to abuse and life-threatening problems. Human beings care for companion animals out of morality, even if there is an owner who can not guarantee their rights. For example, the "backyard cat" is not cultivated by the formal cattery, but some people to cultivate breed cats and some cats gathered together to breed and breed. The environment of the "backyard cat" culture medium is very poor, life health can not be guaranteed and the health can not be guaranteed. Many breed cats are born with genetic defects, and their health is also a big problem.

4.2.2. Problems in the Utilization and Protection of Companion Animals

Companion animals in this aspect of the dispute are not much, because people in the raising of pets, more care rather than use, the problem in this area is more in the use of some businesses for animals.

As an example of the "backyard cat" mentioned earlier, in the pet market in China, the source of cats is mainly divided into formal cattery breeding, family breeding, and factory breeding. Among them, the most guaranteed and the highest degree of eugenics is regular cattery breeding. The cat bred by the factory is the "backyard cat", the "backyard cat" After breeding is selected, selected good, and shipped to the market, which is the small stall selling cats that we see in the night market, sold at a low price, the rest of the cats continue to stay in the factory as a fertility machine to breed and give birth, although the price of these sold cats is low, but many have great health problems. Some of the niche breeds we see now are bred in this way, and although they look cute, they have genetic defects, and they will suffer more pain if they have feelings. In this breeding model, over time, the cats in the factory become related, and inbreeding greatly increases the incidence of genetic diseases. In this case, such exploitation by the merchant is completely contrary to the requirements of animal welfare, and may even have an impact on the species, and the owners of

"backyard cats" not only harm the animals but also violate the rights of the people who purchase the animals.

4.3. The Solutions of Companion Animal Welfare Legislative

Based on the comprehensive approach proposed to strengthen the early control, based on the Reflection and Improvement of Legislation on the Protection of Companion Animal Welfare in China, the protection of companion animal welfare needs to strengthen the early control and clarify the legal responsibility.

The implementation of the legal method is discussed in the previous article, and the comprehensive method is discussed below. The comprehensive approach mainly includes discussions on matters other than the constitution and laws, especially various approaches to consider the effect of social governance around early control.

Scholars Cheng Xiyun and Ding Yujuan conducted in-depth discussions on control in detail in the Reflection and Improvement of Legislation on the Welfare Protection of Companion Animals in China, focusing on the question of how to strengthen the early control of breeders and buyers of companion animals [10].

Breeding site access mechanism: The breeding site is required to apply for a breeding license, and its environment is required, such as moderate temperature and humidity, sufficient light, disinfection and hygiene, regular ventilation, and so on.

Strict audit of the buyer's identity and breeding ability: Breeders should strictly audit the buyer's identity and breeding ability when selling companion animals to ensure that the animals can be properly cared for after sale.

Microchipping and immunization: When companion animals are sold, each animal is microchipped and immunized to ensure its health, and quarantine measures are implemented.

Strengthen the management of breeding obligations of breeders: ensure that companion animals have a good living environment and activity space, get timely treatment when sick, and avoid random abandonment. Encourage breeders to raise animals in a civilized manner and reduce social contradictions caused by raising companion animals.

To sum up, strengthening the early control of the breeders and buyers of companion animals can be achieved through the access mechanism, auditing the identity and feeding capacity of the buyer, injection chip and immunization, and strengthening the management of breeding obligations of the breeders. Of course, at the same time, it is necessary to establish a legal system with companion animal welfare as the core, comprehensively consider the judicial effect and social effect, and achieve good governance effect.

5. Conclusion

This paper mainly takes companion animals as an example to explore the legislative dilemma of animal welfare. In the first part, the paper focuses on the legislative disputes and the methods to establish a sound system. After applying this method to examples, the paper makes a detailed discussion on the legislative dilemma of companion animals. In the past few decades, the academic community has discussed the issue of animal welfare legislation, and other countries have also had corresponding demonstrations, but China has lagged in this area. Of course, considering China's national conditions and current social stage, animal welfare legislation is not the most urgent problem to be solved. However, through the study of relevant issues, the panelists can confirm that animal welfare issues have gone far beyond the meaning of the act of welfare for animals itself, which is a comprehensive issue related to the effect of social governance. The realization of relevant breakthroughs can produce positive feedback and good results in many aspects.

Authors Contribution

All the authors contributed equally and their names were listed in alphabetical order.

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