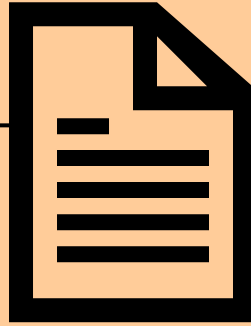


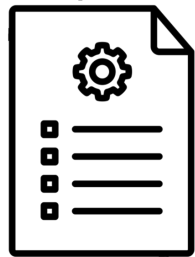
Dissecting Animal Law: identifying differences in scope, structure, language, and institutional usages

Carolina Maciel, LL.M., Ph.D., M.Sc., LL.B.
International Lawyer & Researcher

Animal Law



Scope



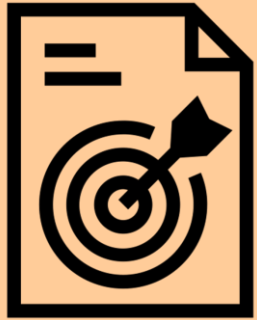
Structure



Language

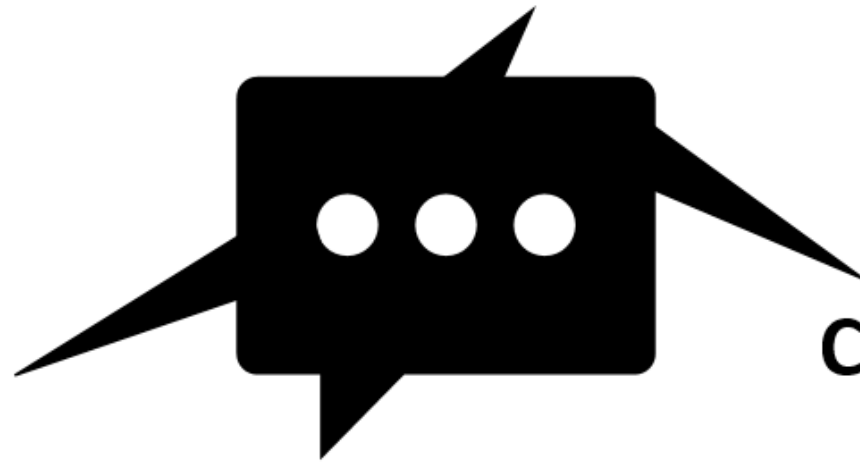


Institutional
usages



Scope

Anti- cruelty



Rights

Conservation

Welfare



Anti-cruelty

Aim to deter a violent human behavior

(human dignity -> animal integrity)

Establish a negative obligation

(restriction)



Anti-cruelty

UNITED STATES | MASSACHUSETTS STATE

1641 – The Body of Liberties – item 92.

No man shall exercise any **Tiranny or Crueltie towards any brute...** (sic)

UNITED STATES | NEW YORK CITY

1829 – N.Y. Rev. Stat. tit.6 §26

Every person who shall **maliciously kill**, maim or wound any horse, ox or other cattle, or any sheep, belonging to another, or **shall maliciously and cruelty beat or torture any such animals**, whether belonging to himself or another, shall upon conviction, be adjudged **guilty of a misdemeanor**.

UNITED KINGDOM

1822 – **Act to Prevent the Cruel and Improper Treatment of Cattle**

That if any person or persons shall **wantonly and cruel beat, abuse, or ill-treat** any horse, mare, gelding, mule, ass, ox, cow, heifer, steer, sheep or other cattle, and complaint on oath thereof be made to any justice of peace [...] such offence shall be committed to the House of Correction or some other **prison** [...] kept **without bail or mainprize** for any time not exceeding three months.



Anti-cruelty

COSTA RICA

Law 7451/1995

Article I: Families and educational institutions will promote, in children and young people, the values that support this law. In particular, the following will be emphasized:

- a. the awareness that **cruel and abusive acts against animals harm human dignity.**
- b. the promotion of respect for all living beings;
- c. the awareness that **compassion for animals suffering dignifies the human being;**
- d. the knowledge and practice of the rules governing the protection of animals

KENYA

CAP 360 – adopted in 1962, revised in 2012

Prevention of Cruelty to Animals

3. Acts and omissions which amount to cruelty and penalties therefor

(1) A person shall be guilty of an offence of cruelty if he

(a) cruelly beats, kicks, ill-treats, over-rides, over-drives, over-loads, tortures, infuriates or terrifies **any animal**; or

(b) uses an animal which is so diseased, injured or in such physical condition that it is unfit to be so used;



Conservation

Aim to deter extinction of species
(biodiversity loss)

Establish many negative obligation (restriction on the use)
some positive obligation (acquire a license)



Conservation

BRAZIL | 1967 – FEDERAL LAW 5.197

Article 1. **Animals** of any species, at any stage of their development, which naturally live outside of captivity, constituting the **wildlife**, as well as their nests, shelters, and natural breeding grounds, are the property of the State, and their use, pursuit, destruction, **hunting**, or capture **is prohibited**.

NIGERIA | 1963, LAW N. 16

Part II – prohibited animals, specially protected animals and protected animals

5(2). No person shall **hunt** or be in **possession** of any prohibited animal except in accordance with the written **permission** of the Minister under this section.

UNITED STATES | 1973 – ENDANGERED SPECIES ACT

The Congress finds and declares that:

- (1) **various species** of fish, wildlife, and plants in the United States **have been rendered extinct** as a consequence of economic growth and development untempered by adequate concern and conservation;
- (2) other species of fish, wildlife, and plants have been **so depleted in numbers** that they are in **danger of or threatened with extinction**;



Conservation

MULTILATERAL AGREEMENTS

1973 – CITES |Convention on International Trade in Endangered Species of Wild Fauna and Flora

The Contracting States,

Recognizing that **wild fauna** and flora in their **many beautiful and varied forms are an irreplaceable part of the natural systems** of the earth which **must be protected** for this and the generations to come; [...]

Recognizing, in addition, that **international co-operation** is essential for the protection of certain species of wild fauna and flora **against over-exploitation** through international trade; [...]

MULTILATERAL AGREEMENT

1992 – CBD |Convention on Biological Diversity

The Contracting Parties,

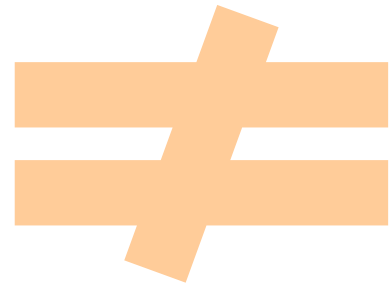
Conscious of the **intrinsic value of biological diversity** and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components,

Noting also that where there is a **threat of significant reduction or loss of biological diversity**, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat,



Rights

Animal Law



Animal Right

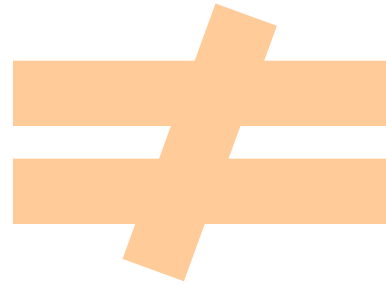
Derecho

Droit

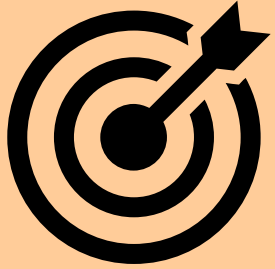
Derecho

Droit

Legal **Person**



Biological Person



Rights

Aim to preserve animals interest and dignity

Establish a distinctive legal status and outline other legal entitlement



Rights

AUSTRIA

§ 285 a: **Animals are not things**; they are protected by special laws. The provisions in force for the things apply to animals only if no contrary regulation exists.

GERMANY

Section 90 a): **Animals are not things**. They are protected by special statutes. They are governed by the provisions that apply to things, with the necessary modifications, except insofar as otherwise provided.

SWITZERLAND

Art. 641a : 1- **Animals are not objects**. 2- Where no special provisions exist for animals, they are subject to the provisions governing objects.

FRANCE

Art. 515-14: **Animals are living beings** gifted with sentience. Subject to the laws that protect the animals, they are subjected to the regime of goods.”



Rights

COLOMBIA

Ley 1774/2016 - Article 1. Object. **Animals, as sentient beings, are not considered things.** They will receive special protection against suffering and pain, particularly that which is caused directly or indirectly by humans. Therefore, in this law, certain behaviors related to animal abuse are classified as punishable offenses, and a policing and judicial penalty procedure is established.

Civil Code -> Artículo 655. Muebles. Muebles son las que pueden transportarse de un lugar a otro, sea moviéndose ellas a sí mismas como los animales (que por eso se llaman semovientes), sea que sólo se muevan por una fuerza externa, como las cosas inanimadas.

Paragraph. **Recognize animals as sentient beings.**



Welfare

Aim to mitigate suffering and promote well-being

Establish *positive duty of care obligation* in addition to
negative obligations



Welfare

EUROPEAN CONVENTION FOR THE PROTECTION OF ANIMALS KEPT FOR FARMING PURPOSES

Strasbourg, 10.III.1976

Animals shall be housed and provided with food, water and care in a manner which – having regard to their species and to their degree of development, adaptation and domestication – is appropriate to **their physiological and ethological needs** in accordance with established experience and scientific knowledge.

NEW ZEALAND | ANIMAL WELFARE ACT 1999

Article 9 Purpose

(a) requires owners of animals, and persons in charge of animals, to **take all reasonable steps to ensure that the physical, health, and behavioural needs of the animals** are met in accordance with both:

(i) good practice; and

(ii) scientific knowledge; and

(c) **imposes restrictions** on the carrying out of surgical procedures on animals; and

(f) **specifies certain minimum conditions** that must be observed in relation to the transportation of animals.



Welfare

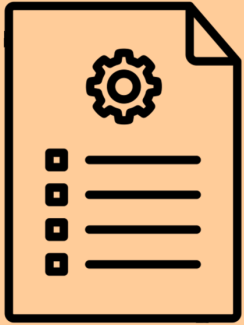
COLOMBIA | DECREE 2113/2017

- Considering that the Law 1774 of 2016, in the paragraph of Article 2, **recognizes animals as sentient beings**. Good animal welfare conditions **require the prevention** of their diseases and the administration of appropriate veterinary treatments, **proper protection, handling, and feeding**, as well as **compassionate handling and slaughter**, considering the close relationship between animal health and their welfare. [...]
- **Article 2.13.3.5.5. General Aspects:** The following general conditions will be taken into account for **animal welfare** in production systems:
 - Item 1 - Genetic selection must always **take into account** the health and **welfare of the animals**.
 - Item 11 - Owners and operator caregivers **must have** sufficient skills and knowledge **to ensure that animals** are treated in accordance with general conditions. [...]
- **Article 2.13.3.5.7. Use of Veterinary Medications.** The following general principles will be taken into account for the use of veterinary medications in animal production systems.
 - Item 2: **Do not use substances** prohibited by the Colombian Agricultural Institute (ICA).

Animal Law



- ✓ Prevent **cruelty**
- ✓ Ensure **conservation**
- ✓ Recognize **rights**
- ✓ Promote **welfare**



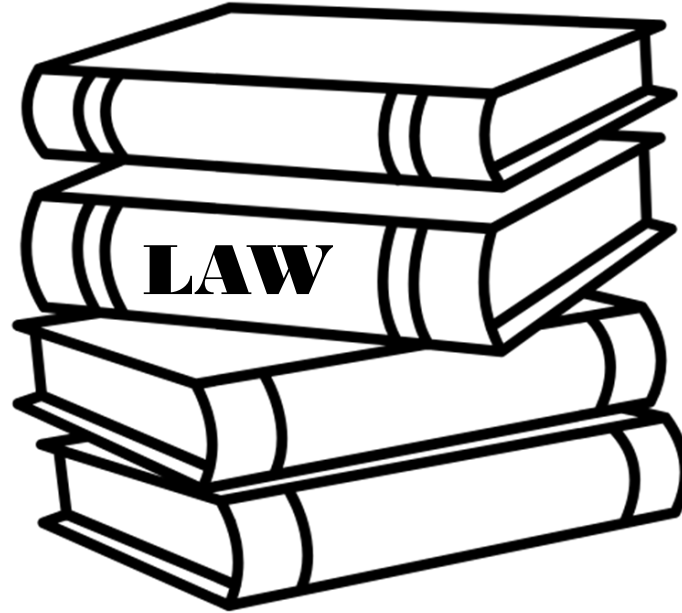
Structure

Constitutional law

Criminal law

Administrative law

Tax law



Contract law

Tort law

Family law

... law



Constitutional law

BRAZILIAN CONSTITUTION

Article 225. All have the right to an ecologically balanced environment, which is an asset of common use and essential to a healthy quality of life, and both the Government and the community shall have the duty to defend and preserve it for present and future generations.

Paragraph 1. In order to ensure the effectiveness of this right, it is incumbent **upon the Government to:**

VII – protect the fauna and the flora, with prohibition, in the manner prescribed by law, of all practices which represent a risk to their ecological function, cause the extinction of **species or subject animals to cruelty.**

SERBIAN CONSTITUTION

Article 97. Competences of the Republic of Serbia

The Republic of Serbia shall organize and provide for:

1. sustainable development; system of protection and improvement of environment; **protection and improvement of flora and fauna;** production, trade and transport of arms, poisonous, inflammable, explosive, radioactive and other hazardous substances;



Constitutional law

SWISS CONSTITUTION

Art. 80 Protection of animals

1 The Confederation shall **legislate** on the **protection of animals**.

2 It shall in particular regulate:

- a. the keeping and **care of animals**;
- b. **experiments on animals** and procedures carried out on living animals;
- c. the **use of animals**;
- d. the **import of animals and animal products**;
- e. the **trade in animals and the transport of animals**;
- f. the **killing of animals**.

3 The enforcement of the regulations is the responsibility of the Cantons, except where the law reserves this to the Confederation.

BELGIUM CONSTITUTION

Article 7bis. In the exercise of their respective powers, the Federal State, the Communities and the Regions **ensure the protection and well-being of animals as sentient beings**.

Criminal Law

Procedures

police force, public prosecutor

Standard of Proof

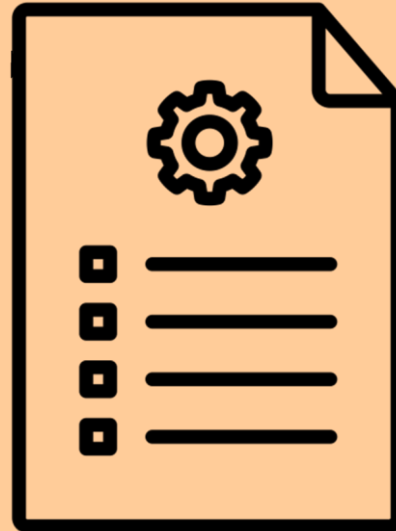
Beyond a reasonable doubt

Sanction

Fines, imprisonment, other

Purpose

Punish offenders & social deterrence



Administrative Law

Procedures

government officials (e.g. SVO)

Standard of Proof

Preponderance of the evidence

Sanction

Fines, license suspension/revocation

Purpose

Regulate and promote compliance



Criminal law

UNITED STATES | MISSOURI

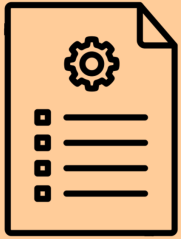
1. A person is guilty of animal abuse when a person:

(1) **Intentionally or purposely** kills an animal in any manner not allowed by or expressly exempted from the provisions of 578.005 to 578.023 and 273.030;

(2) **Purposely or intentionally** causes injury or suffering to an animal; or

(3) Having ownership or custody of an animal **knowingly fails to provide adequate care** which results in **substantial harm to the animal**.

2. Animal abuse is a **class A misdemeanor**, unless the defendant has previously plead guilty to or has been found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of this section is the result of torture or mutilation, or both, consciously inflicted while the animal is alive, in which case it is a class D felony.



Criminal law

CANADA | CRIMINAL CODE

445.1 Cruelty to Animals |Causing unnecessary suffering

(1) Every one **commits an offence** who

- (a) **wilfully causes** or, being the owner, **wilfully** permits to be caused unnecessary pain, suffering or injury to an animal or a bird;
- (b) in any manner encourages, aids, promotes, arranges, assists at, receives money for or takes part in
 - (i) the fighting or baiting of animals or birds, or
 - (ii) the training, transporting or breeding of animals or birds for the purposes of subparagraph (i);
- (c) **wilfully**, without reasonable excuse, administers a poisonous or an injurious drug or substance to a domestic animal or bird or an animal or a bird wild by nature that is kept in captivity or, being the owner of such an animal or a bird, **wilfully** permits a poisonous or an injurious drug or substance to be administered to it;
- (d) promotes, arranges, conducts, assists in, receives money for or takes part in any meeting, competition, exhibition, pastime, practice, display or event at or in the course of which captive birds are liberated by hand, trap, contrivance or any other means for the purpose of being shot when they are liberated; or
- (e) being the owner, occupier or person in charge of any premises, permits the premises or any part thereof to be used for a purpose mentioned in paragraph (d).



Administrative law

BRAZIL | DECREE 9013/2017

Article 1 This Decree **provides for the regulation of industrial and sanitary inspection** of products of animal origin established by Law No. 1,283, of December 18, 1950, and by Law No. 7,889, of November 23, 1989.

§ 1 The activities referred to in the main clause, **under the competence of the Union**, shall be **carried out by the Ministry of Agriculture, Livestock, and Supply**.

Article 12 The industrial and sanitary inspection and supervision of products of animal origin encompass, among other things, the following procedures:

VIII - evaluation of the welfare of animals intended for slaughter;

Article 88. The establishment is required to adopt measures to **prevent mistreatment of animals** and to implement actions aimed at the **protection and welfare of animals**, from loading at the source to the moment of slaughter.

Article 496. Violations of the provisions of this Decree include, among others specified:

VIII - Disobeying or failing to observe the animal welfare principles set forth in this Decree and in complementary regulations concerning products of animal origin;



Administrative law

BRAZIL | IN 19/2023

Regulates the administrative process for investigating administrative infractions for conduct and activities harmful to the environment.

Chapter II - Competences

Article 7 The state superintendencies of IBAMA carry out environmental inspection actions within their respective administrative jurisdictions.

Article 13. In the first instance of **administrative proceedings**, it is the responsibility of the **authority designated** by the President of IBAMA to adjudicate environmental infraction notices.

Chapter III - Environmental **penalties** and **precautionary measures**

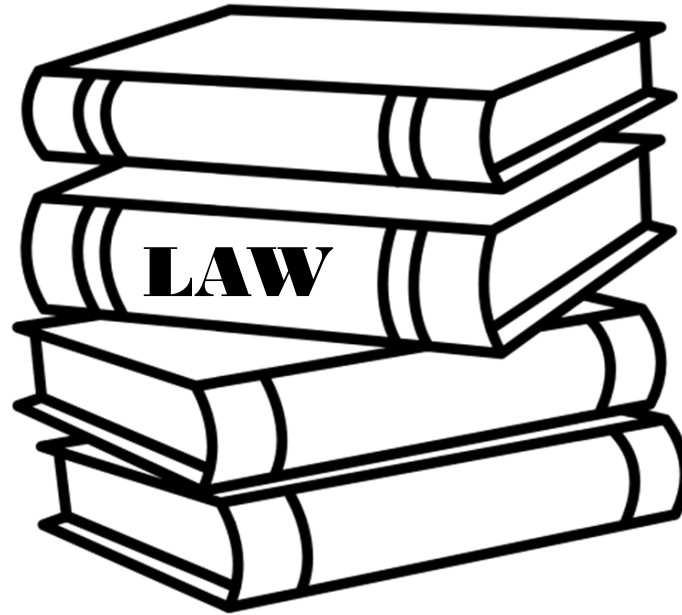
- **seizure of animals, products**, and by-products of fauna and flora, as well as other products and by-products involved in the infraction, instruments, gear, equipment, vehicles, and vessels of any nature used in the infraction;
- destruction or rendering useless of the product;
- **suspension of sale and manufacture of the product;**

Constitutional law

Criminal law

Administrative law

Tax law



Contract law

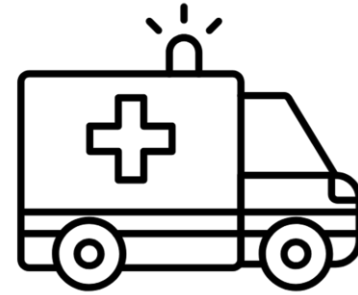
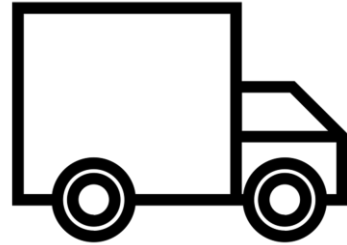
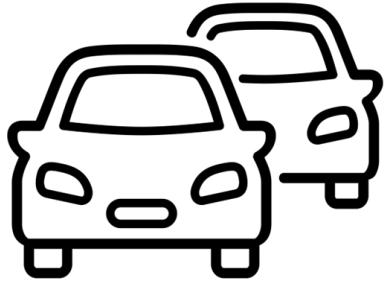
Tort law

Family law

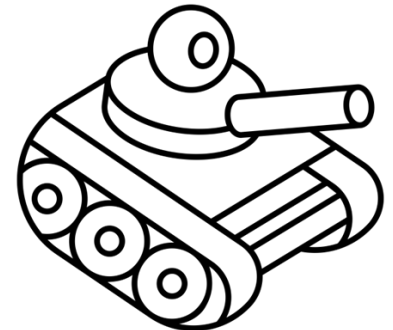
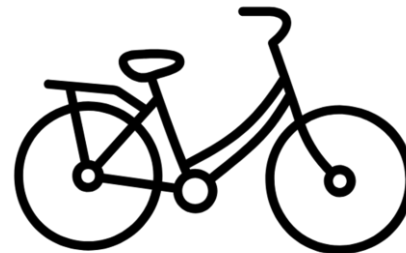
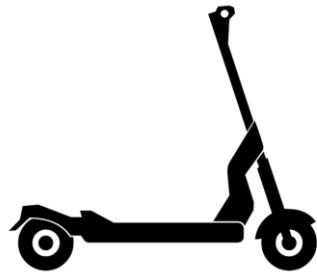
... law



Language



Vehicles are not allowed in the park.



Vehicles are essentially **any means of transport** or conveyance used for transporting people or goods. They can vary widely in **size, purpose, and mode of propulsion**.



Language

KENYA | PREVENTION OF CRUELTY TO ANIMALS ACT

Chapter 360 360 – adopted in 1962, revised in 2012

Part I – preliminary

2. Interpretation

In this Act, except where the context otherwise requires :

- **“animals”** - means a living vertebrate animal including any mammal, bird, **reptile, amphibian and fish.**

RS - BRAZIL | Decree Animal Health

Article 11. For the purposes of this Regulation, the following basic definitions are established:

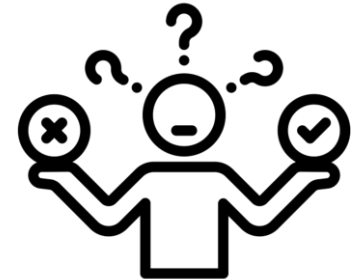
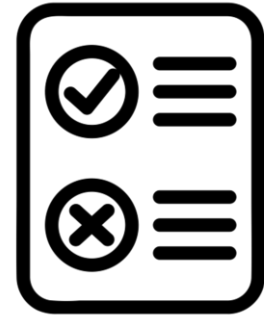
- **XV. Legislation:** set of laws, as well as decrees, agreements, adjustments, covenants, conventions or international treaties and complementary standards on a given subject;
- **XVI - World Organization for Animal Health (OIE):** international standard-setting body...
- **XXV ...**

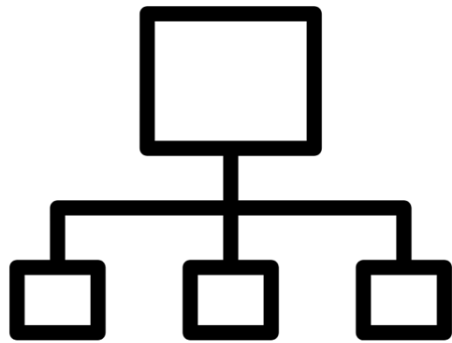


Language

- Maximum 60 km/h
- Maximum 60 km/h | Minimum 30 km/h
- Maximum 60 km/h for cars | Maximum 50 km/h for trucks

- Slow down, dangerous ahead.
- Slow down when passing a working construction zone.

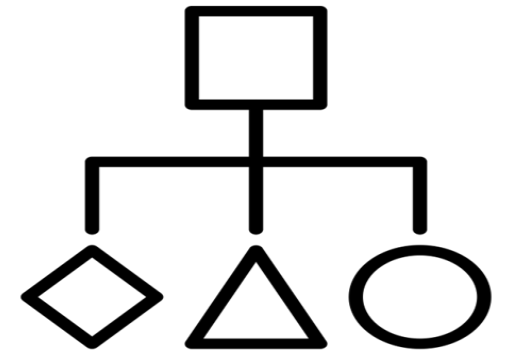




Her beauty, like a flower in full bloom,
A sight so pretty, none could ever compare,

In every glance, she banished all the gloom,
A vision rare, beyond compare.

O gorgeous maiden, fairest in his sight,
Her grace and elegance a wondrous light.





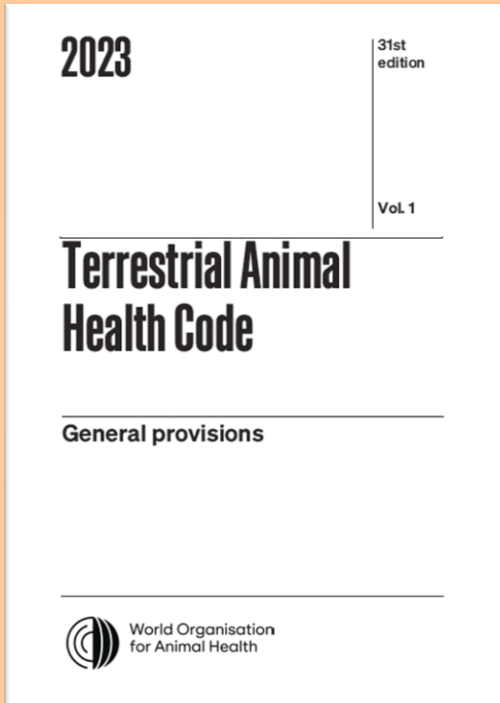
Language

Balancing Prescriptivity and Flexibility

- ✓ Specific vs. Generic Words
- ✓ Rules vs. Standards Style
- ✓ Consistent Usage vs. Meaningful Variation



Institutional Usages



- National governments
- Other intergovernmental organizations



National governments

Legislative power

Brazil - State Law n. 15.226/2014

Establishes the State Animal Protection Code, within the scope of the State of Pernambuco.

Art. 2 It is prohibited:

VI - sacrifice animals with **poisons or other methods not recommended by** the World Health Organization - WHO and **World Animal Health Organization - OIE**, and regulated by the Federal Council of Veterinary Medicine in prophylaxis programs for rabies, leishmaniasis or any other zoonosis with a fatal risk.



National governments

Legislative power

Brazil - State Law n. 10.486/2016

Provides for animal health protection in the State of Mato Grosso and provides other measures.

Art. 2º It is the responsibility of the Agricultural Defense Institute of the State of Mato Grosso - INDEA/MT, through its **official veterinarians**, to analyze the epidemiological situation, plan, articulate, standardize, coordinate and execute animal health defense and other activities that are conferred or delegated, **in line with policies** to protect the environment, public health and animal welfare, **in accordance with the recommendations of the International Animal Health Code** of the **World Organization for Animal Health (OIE)** and the standards of the Ministry of Agriculture , Livestock and Supply.

Sole paragraph INDEA/MT is responsible for **regulating** Animal Health Defense in the state territory.



National governments

Executive power

IN 46/2018

Article 1. Establish the Technical Regulation for the Export of Live Cattle, Buffalo, Sheep, and Goats, Intended for Slaughter or Reproduction.

Article 9. For aspects related to animal welfare concerning the stages of preparation and export of live animals, **the recommendations described in the Terrestrial Animal Health Code of the World Organisation for Animal Health (OIE) shall be considered.**



National governments

Executive power

CHILE | Decreto 28/2012

In view of the provisions of Law No. 20,380 of 2009 on the Protection of Animals; [...] and **the provisions of the Terrestrial Animal Health Code of the World Organisation for Animal Health (OIE) of 2012.**

Considering:

That the Agricultural and Livestock Service has among its objectives to contribute to the development and improvement of animal health and the control of agricultural products subject to regulation under legal and regulatory standards.

That the **World Organisation for Animal Health** has defined an important link between animal health and animal welfare.

That the **World Organisation for Animal Health** considers the general aspects concerning the welfare of animals in industrial establishments intended for the benefit of different species and categories of animals.



National governments

Executive power

Brazil | Ordinance 711 - Swine 4.1.3 - Floor.

- a) Constructed of impermeable, non-slip, and shock- and acid-resistant material;
- b) **Slope of 1.5 to 3%** (one and a half to three percent) towards the collection channels, **to ensure proper drainage of wastewater**. These channels will have a concave bottom, **with a slope of 3%** (three percent) towards the collectors.
- **To facilitate daily cleaning**, they will be covered, when necessary, with **removable grates or perforated metal sheets**.
- The channels should have their **edges reinforced with metal angles**, which will also serve as slots for the grates or covering sheets.

WOAH TAHC Article 7.13.14. Flooring, bedding, resting surfaces

In all production systems, pigs need a well-drained, dry and comfortable place to rest [...]

Floor management in indoor production systems can have a significant impact on pig welfare. Flooring, bedding, resting surfaces and outdoor yards **should be cleaned** as conditions warrant, to **ensure** good hygiene, **comfort and minimise risk of diseases and injuries.**

Floors should be designed to minimise slipping and falling, promote foot health, and reduce the risk of claw injuries.

[...]



National governments

Judicial power

South Africa High Court | Case n. 995/2020

It is hereby ORDERED that:

2. The Seventh Respondent (“the Department”) is ordered to monitor the removal of the sheep from Castledale feedlot and the loading on the Al Messilah, and the planned transport of the sheep to Kuwait **with specific reference to the prescriptions contained in the OIE Chapter 7.2. Transport of Animals by Sea**, and particularly the following provisions:

- Article 7.2.2(2)(a)-(h)
- Article 7.2.3(1)(b)(i) – (iv) and (c)
- Article 7.2.3 (2)(a)-(h)
- Article 7.2.4(1) –(3)
- ...



National governments

Judicial power

Brazil Federal Court | Civil Public Action | Case n. 5000325-94.2017.4.03.6135
25ª Vara Cível Federal de São Paulo

There is also the **Terrestrial Animal Health Code of the OIE (World Organisation for Animal Health)**, which sets **clear standards regarding the responsibilities of exporters concerning rest periods, stocking density, and the provision of food and water**. Despite being a signatory to the OIE, Brazil does not comply with several articles of the Terrestrial Animal Health Code (Chapter 7.2), which establishes in General Considerations – Exporters, importers, animal owners, and facility managers are jointly responsible for the overall health of the animals, their fitness for travel, and their welfare during the journey, even if the services are outsourced.



International organisations

International Organisations for Standardization



ISO/TS 34700:2016

Animal welfare management — General requirements and guidance for organizations in the food supply chain

Application of this document is limited to aspects for which process or species-specific chapters are available in the **OIE TAHC**.



International organizations

United Nations Environment Programme



UN Environment Assembly 5 (UNEA 5.2)

Resolutions adopted in March 2022

Animal welfare–environment–sustainable development nexus

1. Requests the Executive Director of the United Nations Environment Programme, subject to the availability of financial and human resources, **to produce a report**, in close collaboration with the Food and Agriculture Organization of the United Nations, the World Health Organization and the **World Organization for Animal Health**, as well as with the **One Health High-Level Expert Panel**, **on the nexus between animal welfare, the environment and sustainable development** by analysing the nexus between animal welfare, the environment and sustainable development, identifying key partners and stakeholders to consult, where relevant, in the preparation of the report, and preparing a summary of the findings for consideration by Member States;



International organizations

World Trade Organization



WORLD TRADE
ORGANIZATION

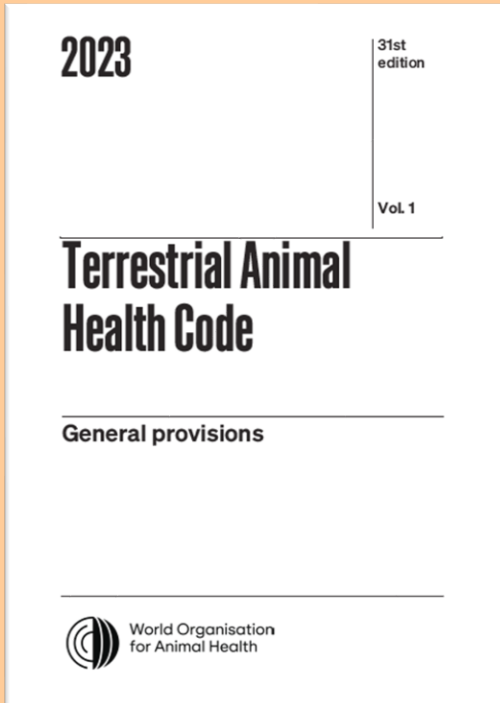
SPS Agreement | Relevant International Standards

To harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on **international standards, guidelines or recommendations**, where they exist, except as otherwise provided for in this Agreement ...

... for animal health and zoonoses, the standards, guidelines and recommendations developed under the **auspices of the International Office of Epizootics**.

TBT Agreement | Relevant International Standards

Where technical regulations are required and **relevant international standards** exist or their completion is imminent, Members shall use them, or the relevant parts of them, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems.



- National governments
 - ✓ Legislative
 - ✓ Executive
 - ✓ Judiciary

- Other international organizations
 - ✓ ISO
 - ✓ UNEP
 - ✓ WTO

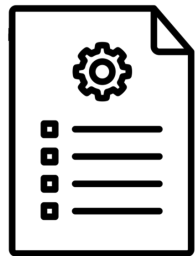
Take away message

Animal law is diverse and varies significantly across different aspects.

As you **discuss**, **read**, and **write** about animal law, keep these differences in mind to ensure effective and relevant engagement with the field.



Scope



Structure



Language



Institutional
usages

Thank you.

Sources and Credits

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Carolina Maciel

carolina@tmconjur.com.br