

SANDRA – COMMENTS ABOUT THE RULING

Procedural features. Scientific relevance in the evidentiary process. *Dr. Noelia Villarino-Sandra Judicial Team*

The ruling in "Sandra's Case" and the entire process undertaken to reach it is, from a procedural perspective, innovative at the time it was handed down and deserves that we analyze the most peculiar aspects of the case.

In its initial state, a broad active legitimation was recognized, that is, the plaintiff, Dr. Gil Domínguez and the Association of Officials and Lawyers for Animal Rights (AFADA), both assumed the representation of Sandra and request, in addition, the participation of the Tutelary Public Ministry, with the understanding that Sandra could not exercise her rights on her own. The first ones were admitted as plaintiff and the case was forwarded to the corresponding Tutelary attorney to take the intervention that it considered; which was declined by the acting Advisor, considering that it exceeded its scope of action. In both cases, the position adopted by the Court was broad by application of the principle *in dubio pro actione* and by application of the Constitutional regulations that provide that ***the amparo action will be devoid of procedural formalities that affect its operation and that it can be promoted by "any inhabitant and legal persons defending collective rights or interests."***

Already in the probationary stage, new difficulties were noted, given that Argentina, a country where there was only one orangutan, had no experienced professionals (apart from the employees of the former Buenos Aires Zoo) who could assess the situation of Sandra objectively and impartially in order to guide the Court, as unbiased experts or *amicus curiae*.

Along these lines, a proposal from the plaintiff was submitted to interview **3 experts who were outside the country**, and who had deep knowledge and extensive experience on the subject: Gary Schapiro, John Thompson and Leif Cocks. The peculiarity is that one of them lived in the US, another in Canada and the last one in Australia, which generated new difficulties: the economic difficulty of transferring these professionals, the problem of coordinating their agendas with the times of the case and finally the language barrier.

Thus arose, an innovative and eccentric proposal of the actors: to **carry out the interviews remotely**, via Skype, which in that year of 2015 was unthinkable and was not provided for in the local Procedural Code (Buenos Aires City Law N° 189), which was recently modified to include and accept the electronic case file and all its singularities.

Once the petition was substantiated, the defendant expressed its opposition and did not come up with an alternative proposal. Therefore, the Court accepted the request of the plaintiffs by application of the principle of evidentiary breadth, and in that line requested the installation of this tool on the Court's computers.

From the procedural point of view and in order to guarantee bilaterality and the right of defense in trial in its broadest expression, the plaintiffs were required to submit in advance the curriculum vitae of the proposed experts, report their email addresses to where Communication would be established and a certified translator and interpreter was summoned to attend the meeting and translate the questions and answers of all those present at the moment. In addition, the hearings were set taking into account the Procedural code and court business hours in coordination with the time difference of the place of residence of each expert and, among other issues, the parties and their own attorneys were expected to attend in person; and the filming of the hearings, which were finally added to the cause. **This was a technological event and an innovative step in the judicial process.**

Another item to highlight is found within the ruling of Judge Liberatori when she provided that **the Government of the City of Buenos Aires should guarantee Sandra the best possible well-being.**

Being able to give concrete content to the expression "greatest possible well-being", as an indeterminate but determinable concept, was hard work and had several aspects to unravel. Each of those involved in the case (plaintiff, defendant, amicus curiae) interpreted the concept in a different way. For example, for some the best option was a Sanctuary in Sorocaba, Brazil, for others it was Rainfer in Spain, for others it was the Center for Grate Apes in the US, where Sandra is currently located.

In order to establish the meaning of “greatest possible well-being” for Sandra, the following questions were formulated: **How can we determine with certainty and scientific rigor if Sandra should and can travel, and if so, where?** It should not be overlooked that in such an innovative issue there were no precedents or standardized methods to answer these questions.

We must also highlight that **any evaluation that was to be carried out referred to Sandra as an individual**, not only as an orangutan, but as Sandra the orangutan, unique with her own particular characteristics and with her own needs, in addition to those typical of her species.

Let's go to the first question, the individual orangutan Sandra, should she travel? Does she need it?

To answer this, **the Judge turned to technical professionals, PhDs.** Ricardo Ferrari and Aldo Giudice, who made an extensive observation of Sandra in the Ecopark. They took **behavioral indicators** to determine Sandra's needs, thus they observed and recorded how much time she dedicated to her activities: enrichment, feeding, resting, sleeping, etc. Behavioral indicators are objective items that allow the comparison between the behavior of an individual with that of another of the same species, gender and age. Their conclusions were presented in writing in the file and explained in a hearing in front of all those involved in the case. Thus, it was determined that Sandra needed an improvement in her quality of life that would allow her to carry out the behaviors typical of her species that she was prevented from due the lack of availability within the enclosure she had in Buenos Aires Ecopark. **Then, it was concluded that Sandra's trip to a destination that allowed her to develop her own natural behaviors was necessary, that is to say, it was part of the concept of “greater possible well-being”.**

To clear the question **"what is the most appropriate and convenient destination for Sandra"**, PhDs. Ferrari and Giudice were required to develop a **series of standards or parameters**, based on international protocols that allow an objective comparison between the proposed destinations and conclude which one of them would be chosen. Thus, a list of items was drawn up that made it possible to compare the conditions that each proposed place offered. The comparison of the conditions offered allowed to

conclude in the case that the best destination for Sandra was the one that - in the end- she was happily able to access: the Center for Grate Apes, in Florida, USA, that is, the place that guaranteed the best possible well-being for Sandra.

The last aspect to unravel was the great question that we debated so many times and kept us awake so many nights: Can **Sandra travel, will she endure the flight, the hours of confinement, the quarantine imposed by the country of destination prior to sending her to the Center for Grate Apes?**

Then again, the court requested the collaboration of the Universities (in this case, the UBA) and their most prestigious professionals to **carry out medical studies** that allowed everyone to know in detail Sandra's state of health and evaluate if a trip of these characteristics, with the risks involved, was an option for Sandra.

But in addition, it was essential for Judge Liberatori and the entire team involved, to maximize the provisions, to carry out all the possible steps that allow for the greatest assurance that Sandra met the sanitary conditions required by the country of destination, because **otherwise, the consequences would be fatal.**

For this, we had to inquire about what were the necessary analyzes, how they should be carried out, which professionals should participate for each specialty. Sandra had to be anesthetized, since it was the only way to carry out complete and detailed studies like the ones that were required. We were present, observing the entire process in the operating room, behind glass, we proceeded to seal the samples taken at that time (some for analysis and others for protection), the entire procedure was also recorded by filming, which is reserved since it is a sensitive content. The result was successful and convincing: and this was expressed by the Vice Dean of the Faculty of Veterinary Sciences, PhD. Nélida Gómez: **Sandra was in a position to travel.**

And so, the content of that initial concept was determined, the greatest possible well-being that should be guaranteed to this orangutan ceased to be an abstract and interpretable concept, to become the beginning of Sandra's journey towards her future, a better life than the one she had. But, as we know, does not compare with the one that she should have had and we humans took away.

This was the crowning achievement of the work that organizations for the defense of animal rights have carried out, in the case, AFADA; the kick off for a jurisprudential change, which continued with many others: Cecilia, multispecies families, restrictive protection measures in favor of animals. **The very first step in creating a world where we all fit, a less cruel world.**

The Legal Perspective

Dr. María José Fernández - Sandra Judicial Team

The case of orangutan Sandra began on March 10, 2015 as a result of an amparo -a case that due to its characteristics is a quick and expeditious action due to the quality of the rights at stake- presented by the members of the Association of Officials and Lawyers for Animal Rights (AFADA) and Dr. Andrés Gil Domínguez, against the Government of the City of Buenos Aires (GCBA) and the Zoological Garden of the City of Buenos Aires (currently named Ecoparque), for understanding that was violating the right to freedom and the right not to be considered an object or thing susceptible of property and the right not to suffer any physical or mental damage from the orangutan Sandra, they requested that "*Sandra be released and relocated to a Sanctuary according to its species where it can develop its life in a real state of well-being*", it is settled in the First Instance Court of Administrative and Tax Litigation No. 4 in charge of Judge Elena Liberatori.

After all the elements gathered in the case were evaluated, on October 21, 2015, Judge Liberatori issued her ruling of the case and resolved to allow the amparo action promoted by the plaintiffs and: 1) recognize the orangutan Sandra as a subject of law, in accordance with the provisions of Law 14,346 and the Civil and Commercial Code of the Argentine Nation regarding the non-abusive exercise of rights by those responsible - the concessionaire of the Buenos Aires Zoo and the Autonomous City of Buenos Aires; 2) Order that the amicus curiae experts prepare a report resolving what measures the City Government should adopt in relation to orangutan Sandra. This Technical report will be binding; 3) The government of the City of Buenos Aires must guarantee Sandra adequate habitat conditions and the necessary activities to preserve her cognitive abilities.

To decide in this way the ruling performs a legal analysis through two main points

In the first place, the decision proposes to clarify if the orangutan Sandra has rights and if this implies recognizing her character as a subject of non-human rights. And secondly, if it is appropriate to proceed with their release or transfer, and if this is possible taking into account the particular circumstances of the case.

First challenge of the sentence, its Legal Frame: Is Sandra a subject of law?

The first question analyzed by the ruling is Sandra the orangutan is a subject of law or a mere object; Although today maintaining that an animal has rights is something that is more visible, back in 2015 there was still no national jurisprudential background in this regard, or regulations that specifically support it.

On the other hand, the fact that Sandra was a subject of rights, it seemed obvious to the common sense, however from a legal point of view the ruling had to carry out a necessary study to decide to which category Sandra belonged.

Thus, a ruling by Court II of the Federal Criminal Cassation Chamber was taken into account - another jurisdiction other than the Contentious and Administrative Court of the City - composed by Judge Angela Ledesma, Judges Pedro David and Alejandro Slokar, who back in December 18, 2014, within the framework of a habeas corpus filed by the same actors, they had said that "*... based on a dynamic and not static legal interpretation, it is necessary to recognize the animal as a subject of rights, since the subjects Non-humans (animals) are holders of rights, so their protection is imposed in the corresponding jurisdiction (Zaffaroni, E. Raul and et. Al., "Criminal Law, General Part", Ediar, Buenos Aires, 2002, p 493; also Zaffaroni, E. Raul, "La Pachamama y el humano", Ediciones Colihue, Buenos Aires, 2011, p. 54 ff) "*

As justification, the cassation ruling refers to two doctrinal works by the jurist and former member of the Supreme Court of the Argentine Republic Dr. Eugenio Raúl Zaffaroni, (Zaffaroni, Eugenio Raúl, Criminal Law - General Part, Ediar, Buenos Aires, 2002, and also, Idem, La Pachamama y el humano, Ediciones Colihue, Buenos Aires, 2011).

There, Zaffaroni expresses that in his opinion the legal right in the crime of mistreatment of animals is none other than the right of the animal itself not to be the object of human cruelty, for which it is necessary to recognize its character as subjects of rights.

And the aforementioned author observes that the current Argentine positive law (Law 14346 of November 5, 1954) recognizes the animal as the owner of the legal right of abuse, assigning it the character of *victim*, which he points out as an extremely interesting intuition given its date of sanction (Eugenio Raúl Zafaroni, *La Pachamama and El Humano*, page 55, Ediciones Colihue).

Judge Liberatori concludes in the case that Sandra is a non-human person, and therefore subject to rights and consequent obligations towards her by the part of human persons.

And applying the dynamic and non-static interpretation of the laws, it was based on the following national legal precedents:

- 1) The provisions of the art. 1 of Law 14346 (November 5, 1954) establishes "*Anyone who inflicts ill-treatment or makes a victim of acts of cruelty to animals will be punished with imprisonment for fifteen days to one year.* "

Emphasizing in the text the use of the word "victim" in relation to the mistreatment that an animal can be inflicted -only- by human persons since the recipient of the penalty provided for in the rule is precisely a human being.

And it also mentions the correlative legal protection to be exercised in the courts in the face of this situation of mistreatment of the animal or "non-human person".

In this sense, it is recognized that the animal is not a human property, but a living and sentient being. From the point of view of the Penal Code, then, the animal would have rights that cannot be violated (Mónica B. Cragnolini, *Subjectivity: its relevance in the rights of "non-human persons"*, *Unesco RedBioetica Magazine, Red Latinoamericana y del Caribe de Bioethics / UNESCO Year 9, Vol. 2, No. 18, July - December 2018, Page 62*).

The sentence takes the term "*non-human person*" following Valerio Pocar in his work "*Non-human animals. For a sociology of rights*", Ed. Ad-Hoc, First Edition January 2013.

In turn, the ruling will observe that Law 14346 does not distinguish between domestic or captive animals - as in the case of Sandra locked up in the Zoo

of the Autonomous City of Buenos Aires, so a first conclusion is that, in this case in particular, it is possible to fully apply this Law.

- 2) On the other hand, the ruling indicates that the provisions of Article 10 of the Civil and Commercial Code of the Nation are applicable "... *the Law does not protect the abusive exercise of rights, this happens when the purposes of the legal system are contrary or the limits imposed by good faith, morals and good customs are exceeded. Imposing the obligation to the judge to order what is necessary to avoid the effects of the abusive exercise or the abusive legal situation, and if it corresponds to try to restore the previous state of fact*".

And based on this, it had to be verified if the conditions of Sandra's captivity contradict the purposes taken into account in Law 14346, of not inflicting suffering on a living being, coming from the Zoo and GCBA.

The sentence will reaffirm the notion that the legally protected interest of the Law is not the property of a human or legal person, but the animals themselves, holders of their rights against certain human behaviors. To later warn about the public interest committed to not tolerate criminally reprehensible human conduct as a democratic society.

An absolutely deconstructive and antispeciesist vision arises from such affirmations, by virtue of which it is observed that facing the question of the rights of other animals means precisely also facing the crucial knot of human rights (conf. Valerio Pocar, *Los Animales Non Human*, page 2, ed. 2004).

In this sense, Sandra's jurisprudential antecedent evidenced the contradictions present in legal doctrines, and this allowed " ... *to discover the hidden antinomies in our language and thought ... that is behind, ...*" (Jack M. Balkin in his text "Deconstructive Practice and Legal Theory"), which will later be addressed in greater detail in the Anthropological Axis.

Then, based on the interpretation of the cited national norms, Sandra is considered a "non-human person", and according to this categorization, the sentence examined which rights Sandra owns, clarifying that a hasty and

decontextualized statement should not be made that Sandra then is the owner of all the rights of human persons.

But what it is about is to recognize Sandra her own rights as part of the obligation to respect life and her dignity of "being sentient", a new categorization that has been introduced by the January 2015 reform of the Civil Code in France.

Sandra's ruling somehow anticipates the discussion that we see today when it is proposed to expand the rights of other animals, and include them as subjects of rights in the substantive codes or in the National Constitutions, for example in September of 2020, when the authorities of the canton of Basel, in northwestern Switzerland, decided to consult with the public to decide whether to grant constitutional rights to primates, many doubts arose regarding what rights would be recognized, "*... it would not make sense to guarantee to primates a certain religious freedom (...) Schneider explains: "Fundamental rights should contribute something to animals. When someone insults primates or insults others as primates, it does not affect the primates themselves, because they do not understand it. Nor do we want to give primates the right to marry or send chickens to school to enable their education (...) in particular the text of the initiative requires that "the rights of non-human primates to life and to physical and mental integrity "*

(<https://www.20min.ch/story/haben-affen-in-basel-bald-menschenrechte-581046338538>)

An important issue that Judge Liberatori's ruling highlights is that if we take our Civil Code, the legal recognition of Sandra as a Non-human person, incorporates a categorization that does not change the existing one in the code between goods and people, leaving no room for doubts when she points out that the rights to life and the dignity of living being related to human persons do not prevent it from being analogically extended to other animals, in this case to Sandra, when she invests the condition of "sentient being" that is compatible perfectly with the Argentine Civil and Commercial Code.

And this is where Sandra's precedent also becomes relevant, the "sentience" appears that from science had already been linked to other animals, but which is now taken by justice as a criterion, and as an important element from a

perspective moral to attribute to the treatment and the rights that corresponded to Sandra the highest level according to her own characteristics.

In correlation with this criterion, it is worth mentioning that recently, on May 26, 2021, the " *Proclamation of the Charter of the Right of the Living* " took place in simultaneous transmission to the whole world, in association with the United Nations Harmony with Nature program. This instrument aims to inspire institutional reforms in France and abroad, it fits into this perspective by recalling certain forms of solidarity and the need to maintain a balance between the interests of human beings, animals and nature. The first chapter gave rise to a proposal to draft a text of law aimed at integrating the concept of a non-human natural person in the French legal system. The second was marked by the proclamation, on March 29, 2019, of the Toulon Declaration. In legal response to the Cambridge Declaration of July 7, 2012, it has since been mobilized around the world by actors who want to change the legal status of animals. The third chapter of the trilogy concluded with the revelation of the "Charter of the Living Right", whose objective is to inspire reforms and integrate the legal systems of the different states. The objective of the letter is to achieve harmony between human beings, animals and Nature, it intends to integrate the various legal systems of the world in order to establish for the future the principles and keys to interpret the law of the living (article 1).

Second Challenge of the judgment: Practical Consequences of the Judgment

As for the second axis of the ruling, the challenge of delimiting the practical consequences or the contents, which entailed declaring Sandra as a subject with rights, and therefore with the right not to be subjected to mistreatment or acts of cruelty.

There, the reports of international experts regarding the physical and mental characteristics and cognitive abilities of orangutans are taken into account; being sentient, thinker, and intelligent, genetically similar to human beings, being three-dimensional, for which being deprived of her freedom causes her suffering; and together with the aforementioned legal provisions, it is concluded that Sandra has the right to enjoy the highest quality of life possible for her particular and individual situation.

And that this should tend to avoid any type of suffering that is generated by the interference of human beings in her life. Recognitions that could be achieved during the process of execution of the ruling: making improvements in her enclosure, increasing her activity through enrichments, balancing its diet, controlling its health, everything that culminated happily with the transfer of Sandra, on September 26 2019, to the Center of Great Apes sanctuary, founded in 1997 by Patty Ragan in Wauchula, Florida.

It is important to report the procedural work carried out in Sandra's case, without it obtaining the information and data that allowed us to know Sandra's true physical and mental situation, and the necessary measures to attend her well-being would not have been possible; Said procedure constitutes a true judicial know-how in cases where the rights of other animals kept in zoos, aquariums, "marine parks" are involved.

Final conclusion

In conclusion, we can say that Sandra's ruling founds a precedent that dramatically changes Argentine jurisprudence -which until then treated animals as movable things- categorizing the orangutan Sandra and animals as a non-human person, as sentient beings. that they must enjoy inviolable rights, such as the right to life, liberty, physical and mental health and to no longer suffer or be mistreated " *in response to the vulnerability of their subjectivity or individual conscience (...) sentience generates different vulnerabilities, and therefore distinctive protection needs through inviolable rights* "(Sue Donaldson, Will Kymlicka, *Zoopolis. A Political Theory for Animal Rights*, pages 69 and 74, first edition Buenos Aires, November 2018, Editorial Ad-Hoc).

At a national level, this important jurisprudential antecedent was adopted and the criterion used in legal strategies for the defense of other animals, as for example in the TITA case, in the ruling of June 10, 2021, Judge Gustavo Castro declared responsible for the crimes of " *abuse of authority in an ideal contest with damage* " to Elías Saavedra, a provincial policeman who during the first week of lockdown due to the coronavirus shot the dog Tita, daughter of a family from Playa Unión, Chubut Province at point-blank range, The Judge found the defendant guilty, condemning him to one year in prison and two years of special disqualification. In said judgment Tita was considered a subject of rights, the judge held that " *in our country, this recognition as subjects of animal rights arose jurisprudentially from the ruling of the Orangutan Sandra* " and their particularities were taken into account as member of a multispecies family.

Sandra's ruling was also the precedent for the Mara case in Tucumán, where on May 27, 2021 Judge Carolina Ballesteros issued a perimeter to the man who abused the female dog Mara, and said measure also included two other dogs that they were put up for adoption. In order to decide, the judge mentioned that animals are part of this world and are lives that must be protected. Animals are subject to law and there are numerous rulings that provide for it -just to mention a few- the one about the orangutan Sandra and the dog named Chocolate.

At an International level, the precedent set forth by Sandra's case was also used in cases related to the rights of other animals, for example in the Case of the Bear named Chucho in Colombia, he was granted an habeas corpus and his transfer was ordered to another space, in the ruling it was argued that "*animals are holders of legally relevant interests for our legal system, interests that can be called rights*", basing their position, among others, on "*Experiences of comparative law, such as that of the orangutan Sandra* "

On May 21, 2020, the High Court of the Capital of Pakistan, Islamabad, issued a ruling stating that "without any doubt" animals have legal rights and that their welfare has become a human rights issue. This sentence orders the release of the elephant Kaavan and with it, all the animals in the Marghazar zoo.

An important part of the judgment issued by the Islamabad Court has been the analysis of comparative jurisprudence regarding the existence of animal rights: among which is Sandra's antecedent and points out that this was the first case where a court recognized to one of the animal species that had rights and, therefore, its personality.

Taking into account that jurisprudence is always a source of law that is taking more quickly the changes that occur in the collective conscience regarding the rights that need to be legally protected, the legislative power should take note of this and carry out the legislative modification needed and include other animals specifically as sentient beings subject to rights and obligations on the part of humans towards them and guarantee their due protection.

The recognition of the rights of other animals challenges us, because it also leads us to ask ourselves about the appropriate forms of interaction between humans and animals that respect the rights of the latter. Ending the relationship of human exploitation of animals is a necessary beginning, but we also need to know what kind of non-exploitation relationships might exist between humans and animals. and what kind of positive obligations do we owe to animals, be they those under our care, those that are in symbiotic relationship with us or the most distant and independent. (Sue Donaldson,

Will Kymlicka, *Zoopolis. A Political Theory for Animal Rights*, page 94, first edition Buenos Aires, November 2018, Editorial Ad-Hoc).

Anthropology and the interdisciplinary perspective

Lic. Lucia Guaimas - Sandra Judicial Team.

In this paper, an attempt will be made to account for the interdisciplinary perspective that was expressed in the ruling of Sandra's case. The context in which this perspective was introduced will be explained. And in turn, it will be intended to provide elements that add to the explanation of the arguments made in the Judgment. In order to explain it, the writing will be divided into thematic axes that will allow an account of how the ideas were developed.

Social Darwinism

Back in 2015, Judge Liberatori made a visit to the National Library where she saw real life scale images of native peoples.

These images are part of Social Darwinism, which is a pseudoscientific theory of the late nineteenth and early twentieth centuries, where it was thought that human society was governed by the evolutionary theory, more specifically in Herbert Spencer's idea of the survival of the most suitable, placing the Aryan man in the upper stratum and below him, as less evolved other members of human society such as native peoples, people with different skin color, women. Ratier (2010)^[1] notes that "the extrapolation of these concepts to the sociological sphere offered an excellent justification for racist theories and social inequalities, then evident." (2010: 18)

The native peoples were considered "barbaric", that had to be fought by the referents of the "civilized" people. These were part of the foundations of the so-called "desert campaign." Already back in 1875, Former Argentinian President Nicolás Avellaneda pointed out that: "... suppressing the Indians and occupying the borders does not imply in other terms but to populate the desert ..." (Auza, 1980: 62)^[2] .

Ratier points out in this regard:

"This concept of 'barbaric', as opposed to that of 'civilization', gave support to a whole policy founded on the scientific field, on the evolutionary theory, then in vogue. (...) The 'savages' or the 'barbarians'

were dehumanized and incorporated into the kingdom of nature, denying, in fact, all cultural creativity. For this reason, they were studied by 'naturalists', (...) and ethnology was incorporated, together with geology, zoology and botany, to the treatises of natural sciences. For this reason, too the Buenos Aires *Zoo Magazine* published monographs on indigenous peoples. " (Ratier 2010: 18, 19)

Illustrative about the mentality back in that time is what José Ingenieros points out about the inhabitants of San Vicente Island in his travel chronicles:

"Laws cannot modify biological and social phenomena; They should only limit themselves to interpreting them, adapting to them. (...) Human rights may be fair for those who have reached the same stage of biological evolution; but, strictly speaking, belonging to the human species is not enough to understand these rights and use them. Can these blacks' vote equal Spencer's? The men of the white races, even in their lowest ethnic groups, are an abyss from these beings, who seem closer to anthropoid apes than to civilized whites. Its anthropological type is simian, to such a degree that it is difficult to conceive by looking at the trading cards in anthropology treatises or museum skull collections. To the natural inferiority of his bony framework, add all the features that express his genuinely animal mentality: attitudes, gestures, language, tastes, aptitudes, feelings of a domesticated beast and, finally, his own *standard of life*. , which, out of pity, would embarrass Dubois' own anthropopite. " (Engineers José, 1905: 21-28) ^[41]

There are also historical studies of how women have been considered inferior. In Roman society, all differences in the legal status of women were justified by their "inherent natural inferiority ", such as their congenital weakness, the limits of their intellectual conditions, their ignorance of the law, which is why in many cases he had a legal guardianship. (Duby, 1992)^[41]

Moreover, Social Darwinism was the trigger to think about the animal question and our relationship with Sandra specifically and with animals in general. In addition, thinking about how the scientific paradigm was changing and how Social Darwinism was abandoned, served us as an example to account for how society builds the ways of classifying. And how they respond to a particular historical moment.

Denaturation or Deconstruction of Categories or Ways of Thinking

The ruling also analyzed the fact that any way of classifying and categorizing the world is a social construction. And these modes of classification respond to a particular way of appropriating reality.

Therefore, far from being *natural* and static, the categories are *essentially* dynamic and changing according to the social context that has produced them. The modifications that certain categories may undergo throughout a socio-historical period, and the fact that the same category can be conceptualized differently in the same period according to different societies or social groups, are signs precisely of the social character of the themselves.

Social categories are "essential notions that dominate our entire intellectual life (...) they are solid frames that delimit thought" (Durkheim 1993 (1912): 8) ^[15]. These frameworks of understanding are produced collectively. The individual is preceded by a world conceptualized, classified and previously organized. Durkheim warns that precisely because they are social they are not *perpetual* or *natural*, but vary according to the socio-cultural systems that engender them.

Faced with this, the notion of deconstruction developed by Derrida can be introduced and proposed (Sztajnszrajber, 2018)^[16]. He maintains that there is nothing outside the text. In other words, everything is mediated by language, therefore it is a human construction. In this sense, regarding the Law, it says that its interests, decisions and arbitrariness can be shown (Sztajnszrajber, 2018).

In the ruling it was also pointed out that "Law, like every category and way of classifying and ordering daily life, is a social construction. On this basis, we argue that who should be the beneficiaries of certain rights and who should not, is an aspect that can be modified" (Guaimas, 2015)^[17]

In this way, understanding and realizing that the ways to categorize and classify contain specific power relations, which in turn can provoke relations of inequality, domination and subjugation of living beings, will allow us the possibility of changing certain ways of seeing and acting on our daily life and about the lives of other humans and non-humans.

Both Philosopher Judith Butler (2017)^[18], as the philosopher Monica Cagnolini (2016)^[19] coincide, in the way of analyzing the ways in which we humans think about ourselves and how we think about the other. The two agree that this other would not only be animals that do not have rights because they are not biological creatures comparable or assimilable to humans, but also all humans who are not considered as such, since they are not recognized by the dominant norms. As for example are diversities or impoverished sectors of society. In this way it is established that there are lives that are more worth living than others, both human and non-human.

Relationship of the environment and the beings that inhabit it

In the judgment, reference was also made to the constitutional texts of Bolivia and Ecuador, how it is tacitly mentioned in one and expressly in another, the fact that the Earth has rights, making reference in this way that every living being has rights. (Zaffaroni, 2013)^[10]

Dr. Zaffaroni has brought in his book *La Pachamama y el Humano* (2013) the idea of Gaia:

"The perspective of an ethic from within Gaia and as part of it configures a new paradigm -without the intention of abusing the word-, since it implies recognizing the rights of all other entities that share the earth with us and recognizing them -at least - their right to existence and the peaceful development of their lives. " (Zaffaroni, 2013: 84)

This introduces the idea that other ways of relating to our environment are possible. For example, from numerous investigations it can be realized that there are different ways of relating to the environment and not all modes of relationship entail extermination, extractivism or dispossession (Harvey, 2007)^[11] like the ones we are used to in the western society in which we live.

An example is the research of the French anthropologist Philippe Descola (1986, 2004)^[12] who have studied in depth the "relationship of nature with culture" taking the case of the Achuar society (Jibaro group that lives in the Amazon), point out that this society has a particular way of relating to its environment, allowing it to be seen as a continuum. Furthermore, the author refers to the fact that what in the western world is called nature, for the Achuar is the object of a social relationship by turning it into an extension of the family world, it becomes something truly domestic even in its most inaccessible redoubts. In other words, there is neither a break nor a domination of one sphere over another.

Descola develops the idea of "Well Living" to account for how this way of life develops to explain from the economic point of view, one of the criteria is to ensure the balance of domestic reproduction by exploiting only a small part of the factors of production available. And in terms of hunting, they kill, but cleanly and without useless suffering; bones and remains are treated with dignity; and it is sought not to give in to boasting.

Swedish anthropologist Kaj Arhem (2001)^[13] , on the other hand, studied the Makuna society who, from their ecocosmology, highlight the responsibility of humans towards the environment and the interdependence of nature and society. They argue that the interconnected totality of beings that make up

the living world must be maintained and reproduced; in other words, the world must be 'maintained'.

It has already been mentioned above but it is desired to emphasize this idea: *understanding and realizing that the ways to categorize and classify contain specific power relations, which in turn can provoke relations of inequality, domination and subjugation of living beings, will allow us the possibility to change certain ways of seeing and acting on our daily life and on the lives of other humans and non-humans.*

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