

## THE LEGAL PROTECTION OF HORSES: THE ANALYSIS OF THE ENVIRONMENTAL CRIMES LAW AND ITS EFFECTIVENESS

### A PROTEÇÃO JURÍDICA DOS CAVALOS: A ANÁLISE DA LEI DE CRIMES AMBIENTAIS E SUA EFETIVIDADE

### LA PROTECCIÓN JURÍDICA DE LOS CABALLOS: EL ANÁLISIS DE LA LEY DE DELITOS AMBIENTALES Y SU EFECTIVIDAD



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#### ABSTRACT

The purpose of this study is to reflect on the legal protection granted to horses in Brazil, in light of the Environmental Crimes Law (Law No. 9.605/1998). The research is based on the following question: although Brazilian legislation effectively guarantees protection to these animals, why do various forms of exploitation of this species still occur? The hypothesis considered is that, although environmental legislation represents a significant advancement in the Brazilian legal system, its effectiveness still faces structural shortcomings and the need for revision of legal norms, in order to ensure better cultural and social control that affects the real protection of horses. The main objective of this study is to analyze the effectiveness of the Environmental Crimes Law with regard to the protection of horses in Brazil. More specifically, it seeks to: (i) present the historical evolution of animal protection within the Brazilian legal framework; (ii) examine environmental case law applicable to the guardianship of horses; (iii) discuss practical cases of abuse, such as their use in carts and in vaquejadas; and (iv) reflect on the obstacles and prospects for making this protection more effective. The specific objectives are: to understand the historical evolution of animal protection in Brazil; to analyze the Environmental Crimes Law and its amendments; to study practical cases of horse exploitation, such as work in carts and their use in vaquejadas; and to reflect on the challenges and prospects for the effectiveness of this protection. The methodology adopted is exploratory, qualitative, descriptive, and explanatory in nature, based on bibliographic, documentary, and historical research, as well as case law analysis, using current legislation, judicial decisions, and specialized doctrine as sources. The results indicate that, although Brazilian legislation has advanced in the legal protection of animals, the effectiveness of the law is superficial and often ineffective. This is essentially due to the lack of proper enforcement, the leniency of the penalties applied, and conflicts between environmental protection and cultural and economic considerations. It is concluded that the legal protection

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of horses in Brazil needs to be strengthened through stricter enforcement and penalties, with the proper application of sanctions and the encouragement of cultural changes that recognize animals as sentient beings.

**Keywords:** Environmental Legislation. Protection. Horses. Animal Law.

## RESUMO

A proposta desse trabalho é uma reflexão para a proteção jurídica conferida aos cavalos no Brasil, à luz da Lei de Crimes Ambientais (Lei nº 9.605/1998). A pesquisa parte do seguinte questionamento: embora a legislação brasileira garanta, de fato, uma proteção a esses animais por que ainda se sucede diversas formas de exploração a essa raça? A hipótese considerada é a de que, embora a legislação ambiental represente um avanço significativo no ordenamento jurídico brasileiro, sua efetividade ainda encontra falta de estrutura e revisão das normas legais, a fim de manter melhor controle cultural e social que comprometem a real tutela dos cavalos. O objetivo principal deste trabalho é analisar a efetividade da Lei de Crimes Ambientais no que se refere à proteção dos cavalos no Brasil. De modo mais específico, busca-se: (i) expor a evolução da história do anteparo animal na estrutura jurídica brasileira; (ii) verificar a jurisprudência ambiental cabível à curatela dos cavalos; (iii) debater casos práticos de abuso, como o uso em carroças e em vaquejadas; e (iv) ponderar sobre os obstáculos e perspectivas para tornar essa proteção mais eficaz. Como objetivos específicos, busca-se: compreender a evolução histórica da proteção animal no Brasil; analisar a Lei de Crimes Ambientais e suas alterações; estudar casos práticos de exploração de cavalos, como o trabalho em carroças e a utilização em vaquejadas; e refletir sobre os desafios e perspectivas para a efetividade dessa proteção. A metodologia adotada é de natureza exploratória, qualitativa, descritiva, e explicativa, fundamentada em pesquisa bibliográfica, documental, histórica e análise de jurisprudência, utilizando-se como fontes a legislação vigente, decisões judiciais e doutrina especializada. Os resultados obtidos indicam que, embora a legislação brasileira tenha avançado na tutela jurídica dos animais, a efetividade da norma é superficial e muitas das vezes ineficaz. Isso decorre essencialmente devido à carência de fiscalização adequada, à brandura das penalidades aplicadas e as discordâncias entre a proteção ambiental e disposição de ordem cultural e econômica. Finda-se que o amparo jurídico dos cavalos no Brasil necessita ser fortalecido através de fiscalizações e punições mais rigorosa, no qual a praticabilidade adequada das penas e estímulo a alterações culturais que viabilizem a comprovação dos animais como seres sencientes.

**Palavras-chave:** Legislação Ambiental. Proteção. Cavalos. Direito Animal.

## RESUMEN

La propuesta de este trabajo es una reflexión sobre la protección jurídica conferida a los caballos en Brasil, a la luz de la Ley de Delitos Ambientales (Ley n.º 9.605/1998). La investigación parte del siguiente cuestionamiento: aunque la legislación brasileña garantice, de hecho, una protección a estos animales, ¿por qué aún se producen diversas formas de explotación de esta especie? La hipótesis considerada es que, aunque la legislación ambiental represente un avance significativo en el ordenamiento jurídico brasileño, su efectividad aún enfrenta la falta de estructura y revisión de las normas legales, a fin de mantener un mejor control cultural y social que compromete la real tutela de los caballos. El objetivo principal de este trabajo es analizar la efectividad de la Ley de Delitos Ambientales en lo que se refiere a la protección de los caballos en Brasil. De manera más específica, se busca: (i) exponer la evolución histórica de la protección animal en la estructura jurídica

brasileña; (ii) verificar la jurisprudencia ambiental aplicable a la tutela de los caballos; (iii) debatir casos prácticos de abuso, como el uso en carretas y en vaquejadas; y (iv) reflexionar sobre los obstáculos y perspectivas para hacer esta protección más eficaz. Como objetivos específicos, se pretende: comprender la evolución histórica de la protección animal en Brasil; analizar la Ley de Delitos Ambientales y sus modificaciones; estudiar casos prácticos de explotación de caballos, como el trabajo en carretas y su utilización en vaquejadas; y reflexionar sobre los desafíos y perspectivas para la efectividad de esta protección. La metodología adoptada es de naturaleza exploratoria, cualitativa, descriptiva y explicativa, fundamentada en investigación bibliográfica, documental e histórica y en el análisis de jurisprudencia, utilizando como fuentes la legislación vigente, decisiones judiciales y doctrina especializada. Los resultados obtenidos indican que, aunque la legislación brasileña ha avanzado en la tutela jurídica de los animales, la efectividad de la norma es superficial y, en muchas ocasiones, ineficaz. Esto se debe esencialmente a la carencia de fiscalización adecuada, a la levedad de las sanciones aplicadas y a las discrepancias entre la protección ambiental y disposiciones de orden cultural y económico. Se concluye que el amparo jurídico de los caballos en Brasil necesita ser fortalecido mediante fiscalizaciones y sanciones más rigurosas, con la aplicación adecuada de las penas y el estímulo a cambios culturales que permitan el reconocimiento de los animales como seres sintientes.

**Palabras clave:** Legislación Ambiental. Protección. Caballos. Derecho Animal.

## 1 INTRODUCTION

Horses have repeatedly over the centuries had absolute relevance to populations in general, whether as means of transportation, in farming, in military activities or in cultural traditions. In Brazil, they are still assiduously used for the work of carts, in urban and rural areas, as well as in sports and entertainment practices, such as vaquejada. It is in these environments that these animals are often subjected to situations of exploitation and mistreatment, which raises doubts about the real effectiveness of the legal protection that is guaranteed to them.

The Federal Constitution of 1988 was an important milestone when it determined, in article 225, that the public power and the community have the duty to protect the environment and prevent cruelty to animals. Based on this principle, Law No. 9,605/1998, known as the Environmental Crimes Law, was created, which typifies harmful conduct against animals and provides sanctions for those responsible. However, in practice, the application of this law still faces difficulties, especially when it involves cultural traditions or social conditions that justify the intensive use of horses.

In view of the above, the question that drives this research is: can the Brazilian legislation really protect horses efficiently, or is its execution still restricted? The assumption adopted is that, although the legislation represents considerable progress, its capacity for resolution is reduced to the detriment of impediments such as the lack of inspection, the leniency of punishments and the weight of economic and cultural traditions.

The full purpose of this work is to discuss the feasibility of the Environmental Crimes Law with regard to the protection of steeds in the Brazilian territory. From a more specific perspective, it seeks to: (i) present the historical evolution of animal protection in the Brazilian legal system; (ii) examine the environmental legislation applicable to the guardianship of horses; (iii) discuss practical cases of exploitation, such as the use in carts and in vaquejadas; and (iv) reflect on the challenges and perspectives to make this protection more effective.

The methodology used is exploratory, qualitative, descriptive, and explanatory, based on bibliographical, documentary, historical research and analysis of jurisprudence, using as sources the current legislation, judicial decisions and specialized doctrine.

The preference for the theme is justified by the insufficiency of commitment to the application of the rules that prohibit cruelty to animals and by the importance of raising awareness in the community about the recognition of horses as sentient living beings, which deserve effective protection. Thus, the present study seeks to contribute to the legal and social debate on the defense of animal rights in Brazil.

The work was divided into three main parts: the first recalls the evolution of the legal protection of animals in Brazil; the second develops the effectiveness of horse protection; and the third exposes the challenges and perspectives for strengthening this tutelage. Concluding the research with the final considerations and the bibliographic references used.

## **2 FROM TRAILS TO COURT: THE HISTORICAL EVOLUTION OF THE LEGAL PROTECTION OF ANIMALS IN BRAZIL**

It is common knowledge that since primordial times, animals have been seen as instruments of work or sources of food. The horse, in particular, played a central role in global social formation, and consequently also in the construction of Brazilian history — serving in agriculture, transportation, wars, and cultural manifestations. However, the transition from the status of "thing" to "sentient being" occurred slowly and gradually, following the maturation of legal and environmental thinking in the country.

The first major event in favor of the animal cause in Brazilian territory was Decree No. 24,645/1934 signed by Getúlio Vargas, in which it prohibited cruelty against animals, despite being seen as something visionary, far ahead of its time, it did not have a constitutional character, only administrative.

However, it was only in 1916, with the Civil Code, that animals began to be considered movable goods — that is, properties that can be owned, bought and sold. This nomenclature persisted for decades, evidencing the absence of a legal awareness aimed at protecting animal welfare. It was only with the Federal Constitution of 1988 that Brazil began to adopt a new perspective, recognizing the importance of fauna as an environmental heritage and prohibiting cruelty against animals (Brasil, 1988).

Ataíde Júnior (2018) points out the importance of the 1988 Constitution, by legitimizing the rule prohibiting cruelty in article 225 § 1, item VII:

(...) The final part of this constitutional clause enshrines the rule of prohibition of cruelty. It should be noted that the prohibition of practices that subject animals to cruelty is a constitutional command different from the public duty to protect fauna and flora against practices that endanger their ecological function. From this derives the separation, although not absolute, between Animal Law and Environmental Law. In Constitutional Animal Law, the non-human animal is an individual; in Constitutional Environmental Law, the non-human animal is a component of fauna and biodiversity, an element of Nature, with relevance to the maintenance of an ecologically balanced environment (2018, p. 52, *Revista Brasileira de Direito Animal*, volume 13, number 03).

From this milestone, complementary legislation began to incorporate principles of direct protection of animals. Law No. 9,605/1998, known as the Environmental Crimes Law,

was the first law to criminalize mistreatment, providing penalties for those who practiced acts of abuse or mutilation (Brasil, 1998). In addition, it is important to emphasize that the rule was established as an extension of environmental law, and still remains as inserted within this legislation in article 225 of the Federal Constitution of 1998, where animals are protected as part of the fauna, and not as subjects of law.

Zambam and Andrade (2016, p. 143) point out that "human beings and animals, in certain historical periods and cultures, according to the criterion chosen by the dominator, are subjugated (objects) or protected (subjects of law)".

Thus, despite the formal advance, the legal system still has gaps in the practical implementation of this protection, in which it would change an entire perspective of society towards animals, being treated as subjects of law there would be mechanisms that would ensure their value and their own interests.

Another important fact was the Universal Declaration of Animal Rights, proclaimed by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1978, which influenced several constitutions and laws around the world. The document recognizes that all animals have basic rights to life, liberty and protection from human suffering. In the Brazilian nation, this principle has driven social movements and NGOs to influence more humanitarian legislation, especially with regard to horses used in cargo and entertainment activities.

In the following reasoning, Machado (2024) covers this idea by stating that:

(...) The cruel act committed against the animal is the one that causes it, or can cause pain, bodily incapacitation and even death. There was a time when animals were classified as things, but the deepening of ecological awareness and the evolution of law made it possible to conceptualize animals as sentient beings. (2024, p. 171, Brazilian Environmental Law, 30th Edition)

Thus, it is noted that the trajectory of animal protection in Brazil is contemplated by gradual achievements, the result of the intersection between legal advances, social awareness and international pressures. However, the distance between the legal text and everyday reality is still abysmal, especially with regard to horses, which continue to be exploited under various cultural and economic justifications.

Pegorini and Gehelen (2024, p. 2734) add "The Environmental Police agents claim that this is a discussion that society should have, they also claim that no one is arrested for this crime, and in practice, the criminal signs a term of commitment and is released."

Therefore, it is evident the lack of commitment of government institutions to implement effective measures applicable to people who infringe environmental law, and who continue to

practice these criminal acts, being aware that they have gone unpunished for their crimes, since there is no adequate penalty.

## 2.1 THE SCIENTIFIC AUTONOMY OF ANIMAL LAW IN BRAZIL

As previously mentioned, although it is still legally inserted in the scope of Environmental Law, there is an emancipatory doctrinal and jurisprudential movement that seeks to consolidate Animal Law as an autonomous branch of legal science. Such a movement is born from the need to recognize that animals have intrinsic value and their own interests, which cannot be reduced to ecological balance or environmental heritage.

Contemporary doctrine has argued that the protection of animals cannot be limited to the ecocentric paradigm, which sees the environment as an integrated system, prioritizing the stability of the whole to the detriment of the individual. Animal Law, in turn, approaches a biocentric perspective, according to thinkers such as Trajano and Gordilho, all living beings are bearers of value in themselves, regardless of their usefulness to human beings or to the maintenance of the ecosystem.

The author Tagore Trajano is one of the main voices of this emancipatory movement, according to him: "the non-human animal has its individuality recognized, occupying a natural locus in the Brazilian legal system. From these considerations, it can be said that legal science is witnessing the emergence of a new branch of Law: Animal Law" (Trajano, 2013, p. 26). This statement breaks with the anthropocentric and instrumental tradition, introducing a new logic of protection: that of interspecies justice, which recognizes in animals a form of otherness worthy of legal protection.

Trajano (2013) also adds that:

(...) The Federal Constitution makes it possible to break with the environmental perspective of animals as natural resources available to human beings. The animal emancipates itself when it is treated by its own constitutional norm, changing its legal status from a transindividual good with a diffuse character to the holder of a new legal relationship, between humans and non-humans. (2013, p. 86, Animal Law and Legal Education: Formation and Autonomy of a Post-Humanist Knowledge)

This distinction is critical as it marks the transition from an ethic of conservation to an ethic of compassion and moral recognition. What is sought is not only to keep nature balanced, but to ensure that every sentient individual has the right to exist free from unjustified suffering.

In the same vein, Heron José de Santana Gordilho (2017) points out:

(...) The recognition of animals as sentient or sentient beings means their inclusion in our sphere of morality, at least in the sense moderately related to humans, as claimed by Peter Singer's liberationist theory or by the theorists of extended anthropocentrism, but it does not represent in any way the recognition of animals as subjects of law. (2017, p. 266, Journal of Economic and Socio-Environmental Law)

This philosophical differentiation is directly reflected in the scientific construction of Animal Law. While Environmental Law has as its main purpose the ecological balance and the healthy quality of human life, Animal Law turns to the ontological dignity of sentient beings, understanding that suffering, freedom and physical and psychic integrity are not exclusive to the human species.

From this conception, Animal Law begins to demand its own legal categories, such as the idea of non-human personality, animal moral damage and diffuse interspecies interests, concepts that go beyond the classic framework of environmental law. This theoretical transformation has also been reflected in jurisprudence: Brazilian courts have gradually recognized the legal status of animals, as observed in decisions that grant judicial guardianship to dogs, horses and primates that are victims of abuse.

In this context, the proposal for scientific autonomy is not only formal, but also epistemological. It represents a new way of thinking about Law, based on its own ethical, philosophical and legal premises, which move away from the anthropocentric view and approach a post-humanist hermeneutic.

As Gordilho (2017) points out:

(...) In the same direction moves the theory of extended anthropocentrism, which claims the inclusion of nature and animals in our circle of morality, since man has the moral obligation to respect nature, even when it goes against his interests. (2017, p. 264, Journal of Economic and Socio-Environmental Law)

Scientific autonomy, therefore, seeks to consolidate a coherent and sensitive legal system, in which animals are considered subjects of law – and not mere objects of environmental protection. This change also implies a revision of the traditional categories of Civil and Criminal Law, since the recognition of animal sentience challenges the concept of "property" and requires new parameters of legal and moral responsibility.

In addition, Animal Law assumes an interdisciplinary role, dialoguing with ethics, philosophy, biology, constitutional law and international law, which reinforces its independent scientific character. The plurality of its sources and methods confirms that it is a field in consolidation, but with theoretical and practical foundations solid enough to be detached from Environmental Law.

Thus, it is evident that the rupture between Environmental Law and Animal Law is not only a matter of thematic delimitation, but a civilizational advance that seeks to promote interspecies justice. The legal protection of animals goes far beyond the preservation of the environment: it recognizes the value of life itself, defending a more ethical, empathetic and plural society.

In short, Animal Law is consolidated as a new legal paradigm, founded on biocentric ethics and the ontological dignity of sentient beings. Its scientific autonomy not only expands the scope of legal protection, but redefines the very concept of justice, making it more inclusive and compassionate in the face of the multiple forms of life that share the planet with human beings.

## 2.2 STRUCTURAL CHALLENGES OF ANIMAL PROTECTION IN BRAZIL

The effectiveness of legal protection for animals in Brazil comes up against multiple structural challenges, which cover legislative, institutional, political, economic and cultural aspects. Although the country has a relatively advanced regulatory framework, the abyss between theory and practice still reveals a deficient and fragmented system, incapable of ensuring animals – especially horses – a dignified and effective protection.

The first obstacle is of a normative and conceptual nature. The Brazilian legal system still does not expressly recognize animals as subjects of rights, treating them, as a rule, as moving goods. This classification, inherited from the Civil Code of 1916, perpetuates a patrimonialist logic that ignores the sentience and intrinsic value of animal life. Although article 225 of the Federal Constitution of 1988 represents an advance in prohibiting cruelty against animals, its application remains linked to environmental law, and not to an autonomous field of protection. Thus, the animal is seen as part of the fauna — a component of the ecosystem — and not as an individual endowed with its own value.

Trajano (2013) observes that:

(...) Animal law is not only composed of rules of a holistic, animalistic or ecological nature, but also of sectoral rules of environmental, criminal, civil, administrative relevance and rules that can only be defined as aimed at the protection of animals from the concrete case. (2013, p. 25, *Animal Law and Legal Education: Formation and Autonomy of a Post-Humanist Knowledge*)

This lack of normative independence, or of its own statute in this case, causes Animal Law to be treated in a restricted and non-punitive way, limiting the scope of sanctions and the recognition of the animal victim as a protected subject.

Another challenge lies in the insufficient institutional structure. The public agencies responsible for implementing animal protection policies — such as IBAMA, the State Secretariats of the Environment and some municipalities — face a lack of human, financial and technical resources. The inspection power is limited, concentrated in a few regions and, most of the time, directed to wild fauna. Domestic animals and animals for economic use, such as horses, are on the margins of state action. In many Brazilian cities, there are no police stations specialized in environmental crimes or prosecutors' offices with exclusive attribution for animal guardianship, which results in low effectiveness in the investigation of crimes provided for in Law No. 9,605/1998.

In *Faciplac Magazine*, according to Lima (2021) "the evolution of criminal protection of the environment has occurred due to today's society, where the consequences of technologies imply a preventive and precautionary action of Criminal Law". This finding is proven in practice: when an animal is a victim of mistreatment, the State's responses — when they exist — are late, fragmented and insufficient, reflecting a system without purpose and determination to fulfill its function, which is often done only because of popular pressure.

In addition to the legal and institutional deficiencies, there is a deep-rooted cultural component that perpetuates animal exploitation from the perspective of tradition. The anthropocentric culture, which has predominated since the beginning of colonization, in which it places the human being above other beings, including the very environment in which he lives, attributing to animals a utilitarian and subordinate role. This view reinforces the idea that animal suffering can be relativized in the face of economic or regional interests. Practices such as *vaquejadas*, rodeos and the use of horses in urban carts are emblematic examples of this sociocultural resistance to ethical and legal evolution.

The article entitled *Relevant characteristics of the facilities and management of public animal shelters in the state of Paraná, Brazil, for animal welfare*, written by Arruda *et al* (2019) explains the current situation of several states, and how the lack of state structure directly implies that exploitation continues:

(...) In order to end the mistreatment of carters' horses, some municipalities in Paraná have municipal legal support to prohibit or regulate the use of animal-drawn vehicles, such as Curitiba (Law 14741/15), Foz do Iguaçu (Law 3512/08), Ponta Grossa (Law 9010/07), Paranaguá (Law 382/05), Pinhais (Law 1374/12), São José dos Pinhais (Law 1330/09) and Apucarana (Law 218/12). The objective in these municipalities was not fully achieved due to other socioeconomic and political factors and insufficient oversight. (2019, p. 235, *Arq. Brás. Med. Vet. Zootec.*, v.71, n.1)

Furthermore, Trajano (2013, p. 48) notes in his research on the formation and autonomy of a more humanistic knowledge, there is a lack of incentive, structural sensitivity,

and thus adds that "the interests of non-humans emerge, in the first moments, in a strictly anthropocentric formula, derived from the concepts of human life and dignity, and only later are perceived in the constitutional text under biocentric features". Thus, structural change does not depend only on the elaboration of new laws, but on a moral and philosophical transformation in the way society understands its relationship with other species.

Deficient environmental education further aggravates this scenario. There is a lack of consistent educational policies that address respect for animals as an ethical and citizen issue. Most public campaigns are limited to topics such as recycling or preservation of natural resources, neglecting animal welfare. This lack of awareness contributes to the normalisation of ill-treatment and the invisibility of non-human victims. As Marques (2022, p. 1156) points out, further highlights the correlation between the lack of applicability planning and how the state ignores the need for environmental regulation: "Brazilian legislation fails to make explicit the interconnection between environmental and animal standards (...), requiring it from licensing agencies is a challenge because its employees are guided by the Principle of Legality and do not take any action that is not expressly provided for by law".

Finally, there is the political and economic obstacle, which manifests itself in the resistance of sectors that profit from animal exploitation. The lobby of the rural entertainment industries, betting and events such as rodeos and vaquejadas exerts a strong influence on the public power, hindering the advancement of bills aimed at animal protection. On many occasions, cruelty is legitimized under the argument of "cultural preservation", transforming pain into spectacle and negligence into tradition.

The sum of these factors — lack of legal autonomy, institutional deficiency, state inertia, anthropocentrism, and economic influence — creates a fragile and contradictory animal protection system. Laws exist, but they are not applied uniformly or effectively. Institutions are created, but they lack structure and political priority. And society recognizes animal rights, but still lives with practices that deny them on a daily basis.

### **3 BETWEEN THE LAW AND THE LATIGO: THE INEFFECTIVENESS OF INSPECTION IN THE LEGAL PROTECTION OF HORSES IN BRAZIL**

The legal protection of horses, although provided for in Brazilian legislation, faces serious obstacles in its practical implementation. The discrepancy between the legal framework and the reality of mistreatment reveals the insufficiency of inspection, the absence of administrative structure and social tolerance towards the exploitation of these animals.

According to article 225 of the Federal Constitution of 1988, "everyone has the right to an ecologically balanced environment [...] it is incumbent on the public power to protect the

fauna and flora, prohibiting, in accordance with the law, practices that subject animals to cruelty" (Brasil, 1988). This rule, of a principled nature, confers on the State the duty to guarantee the welfare of animals. However, practice is far from theory.

Fiorillo (2024) states that "as environmental challenges become increasingly complex, it becomes imperative that Environmental Law adapts to new realities, developing a normative framework that not only responds to immediate conflicts, but also anticipates future crises." This inefficiency is due to the lack of inspection agencies, the lack of technical resources and the little training of professionals who work in complaints of mistreatment. In many municipalities, occurrences are archived due to lack of veterinary reports or adequate testimonies.

Sirvinskas (2018, p. 743) reinforces that "Brazil is rich in natural resources of all kinds and has a large territorial extension that is difficult to monitor. Federal, state and municipal environmental agencies are insufficient to meet the environmental demand that arises daily, coming from all over the country". In practice, those responsible for crimes of mistreatment receive lenient sentences, converted into community service, symbolic donations, or simply provide clarifications and are released, which does not generate pedagogical effect.

Another aggravating point is the cultural weight of traditional practices, such as vaquejada, rodeo and the use of carts. These activities, under the argument of cultural preservation or economic subsistence, end up being tolerated by the government. Sirvinskas (2016, p. 136) observes that "cruelty is the act of being cruel, it is the pleasure of causing pain or shedding blood. Under the pretext of encouraging cultural manifestations, (...) to satisfy the economic and personal interests of a community".

In 2016, the Federal Supreme Court (STF) recognized, in the judgment of ADI 4983, that "the protection of cultural heritage cannot override the prohibition of cruel practices against animals" (STF, 2016). However, even after this decision, inspection in the regions where these practices occur remains fragile.

Machado (2013) summarizes the problem by stating that:

(...) One of the duties of the public servant is to promote the investigation of the environmental administrative infraction (art. 70, paragraph 3, of Law 9.605/98). Brazil has been characterized by impunity in all fields. Laws do not fulfill their role because the people in charge of their execution, including legal operators, fail." (2013, p. 346, Brazilian Environmental Law)

Therefore, the ineffectiveness of enforcement does not result from the absence of laws, but from the lack of integration between environmental agencies, lenient penalties and

the absence of continuous public policies. As long as animal protection is treated as a secondary issue, horses will continue to be victims of institutional and social neglect.

In addition to institutional obstacles and state omission, it is necessary to recognize that the inefficiency in the legal protection of horses also stems from a social structure that normalizes their exploitation. These animals are widely used in traction activities, transportation, leisure and even high-performance sports competitions, but they are rarely seen as subjects of autonomous legal protection. The predominant logic is utilitarian, in which the value of the horse is measured by its strength, speed or profitability, and not by its sensitivity and right to well-being.

The lack of specific public policies for horses aggravates the problem. There are no consistent programs at the national level for the reception, rehabilitation or readaptation of horses that are victims of abuse. Existing initiatives almost always come from non-governmental organizations and independent protectors, who work with scarce resources and face bureaucracies to formalize rescues and hold aggressors accountable. Thus, the State ends up transferring to civil society a duty that is essentially public: the effective guardianship of animals.

Fischer and Meirelles (2019, p. 1585) observe that "recognizing nature as vulnerable to the interests of man, punishes the environmental impact in the criminal and administrative spheres". In other words, as long as the justice system continues to interpret environmental norms from a human-centered perspective, animals will remain on the margins of effective guardianship.

An emblematic example is in urban areas, where the use of horses in carts and gathering activities is still common. Although there are municipal laws that prohibit or restrict animal traction, the absence of economic alternatives for carters and the lack of inspection make the rule innocuous. These animals work exhaustively under the sun, without adequate rest, balanced food or veterinary care, often in a state of extreme thinness and with open wounds. This reality exposes the contradiction between the normative ideal of protection and the daily tolerance of cruelty.

In addition, there is a significant gap in the training of law enforcement professionals. Police officers, environmental inspectors and members of the Public Prosecutor's Office rarely receive specific training on animal rights or equine welfare. This technical deficiency compromises the judgment of situations of mistreatment and perpetuates the legal invisibility of horses. According to a survey carried out by the Public Security Observatory of São Paulo (2025), there was an eight percent increase in reports of mistreatment compared to 2024,

which does not mean an increase in crimes, but perhaps means a greater mobilization of the population.

Another sensitive point is the lack of recognition of horses as sentient beings in the Brazilian legal system. Although science has already amply proven its ability to feel pain, fear and pleasure, legislation still generically frames them as "moving goods". This patrimonial classification prevents the advancement of a more humanized and appropriate protection of the nature of these animals. As Trajano (2019, p. 163) points out, "the material source for the beginning of research, which recognizes animals as subjects of rights, was the work carried out jointly between animal protection societies, activists, teachers, students, and other civil society actors".

Finally, it is essential to understand that the inefficiency of the legal protection of horses is not limited to normative or administrative failures, but reflects an ethical and civilizational problem. Institutional neglect is a symptom of a culture that naturalizes exploitation in the name of human convenience. Overcoming this paradigm requires a profound change in the legal and social mentality – a shift from anthropocentrism to biocentrism – in which animal life is respected for its own sake, and not only as an instrument of man. Only when there is an integration between public policies, ethical education and institutional commitment will it be possible to transform the norm into practice, and legal recognition into effective protection. Until this happens, the horses will continue to suffer in silence, carrying on their backs the weight of human indifference and state inertia.

#### **4 SUFFERING DISGUISED AS CULTURE: CRUELTY IN SPORTS AND SLAVE LABOR WITH HORSES**

The relationship between humans and horses, historically marked by utilitarianism and domination, still reflects a cultural heritage of exploitation legitimized by tradition. Practices such as vaquejada, rodeo, competitive horseback riding, and urban or rural traction work perpetuate a form of suffering disguised as customary, where the animal is reduced to the condition of an instrument and its pain is made invisible under the mantle of culture.

Cultural discourse, often invoked as a defense, serves as a moral shield for the continuity of practices that violate ethical and constitutional principles. Sirvinskas (2018, p. 502) warns that "Animals, pets or not, need the same care as a child". This reflection dialogues directly with the decision of the Federal Supreme Court in ADI 4983, which considered unconstitutional the law that authorized vaquejada in Ceará, recognizing that animal suffering is not justified by the allegation of cultural manifestation (STF, 2016).

However, the distance between the norm and practical reality remains abysmal. In many Brazilian cities, horses continue to be exploited in degrading conditions — exhausted in competitions that push their physical limits or subjected to exhausting journeys pulling carts, often without water, food or rest. The absence of effective public policies, added to social connivance, creates a scenario of institutionalized impunity.

The naturalization of the pain of these animals reveals a worrying symbolic dimension: the trivialization of suffering in the name of human entertainment. Meirelles (2019, p. 1598) explains that "If the animal is seen as an object of rights, it is just something on which interests and rights attributed to some subject, the human being (natural person) or the legal entity, fall." In this context, violence against horses is normalized, and the law — when it is not silent — is consolidated in a mild or ineffective way.

The situation is aggravated in peripheral and rural areas, where the exploitation of horses for the transport of heavy loads is justified as a means of subsistence. The lack of economic alternatives and social inclusion policies turns cruelty into routine. The State, failing to offer viable options, reproduces a cycle of exploitation that affects both man and animal, configuring a double social exclusion. As Marques (2022, p. 1142) observes, "In Brazilian law, the prohibition on cruel treatment is based on the presumption that animals are sentient, that is, they feel pain, fear, anxiety, anguish and that, for these reasons, imposing suffering on them is a reprehensible conduct."

It is imperative to understand that cruelty is not limited to explicit acts of physical violence, but also manifests itself in negligence, exhaustion and indifference. A hungry horse, tied up in the sun for hours, or forced to compete injured, is the victim of a society that has not yet recognized the intrinsic dignity of animal life. Omission, therefore, is a silent form of cruelty — and institutional silence, an act of complicity.

Overcoming this situation requires more than legislation: it requires cultural change, ethical education and a new paradigm of coexistence between species. As Sirvinskas (2018, p. 79) directs "biocentrism, in turn, seeks to reconcile the two extreme positions, placing the environment and man at the center of the universe, it is important to emphasize that not only man is the recipient of environmental protection, but all forms of life". Adopting this perspective means breaking with the anthropocentric tradition and recognizing that true civilizational evolution is not in domination, but in respect.

In a country of continental dimensions like Brazil, the challenge is even greater. The inspection of mistreatment is decentralized and ineffective, as it depends, to a large extent, on municipal secretariats and environmental police, which face financial and structural

limitations. In many cases, the responsibility falls on NGOs and volunteers, who, without government support, act in a punctual and precarious way.

Furthermore, the exploitation of horses is associated with a utilitarian mentality that persists even in legal and administrative sectors. There is also the difficulty of recognizing the horse as a subject of law and not only as a moving good. This archaic conception prevents the advancement of public policies that prioritize animal welfare and the dignified collection of horses in a situation of abandonment.

Another relevant factor is the economic discourse that tries to legitimize suffering under the pretext of income generation. Events such as rodeos and vaquejadas move millions of reais annually, involving sponsorships, tourism and competitions. However, this argument ignores that economic profitability cannot override the dignity of life. The Constitution is clear in prohibiting practices that subject animals to cruelty, and profit can never be a justification for the violation of fundamental rights.

The fight against cruelty, therefore, must occur on multiple fronts: legal, social, educational, and political. It is essential that Brazilian legal education includes the study of Animal Law in its curricular matrices, training professionals capable of understanding the ethical nuances of this protection. In addition, awareness campaigns and programs to replace carts with sustainable vehicles can transform local realities without marginalizing families who depend on this type of transport.

As Gordilho and Borges (2018) point out, the animals used in vaquejadas and tournaments have their lives compromised by the risks of their exploitation:

(...) Irreparable damage to the horses used in the activity: tendonitis, tenosynovitis, exostosis, focal and stress myopathies, fractures and tarsal osteoarthritis. In view of the empirical data evidenced by the research, the cruel treatment given to the animal species involved is indisputable". (2018, p. 211, Animal Law and the unconstitutionality of the 96th Amendment to the Constitution)

This means that, more than punishing, the Law must educate and reorient social behaviors, resignifying the way humans relate to other species.

Therefore, closing the discussion on the protection of horses in Brazil is, in fact, initiating an invitation to collective reflection. The struggle for the realization of Animal Law goes beyond the legal sphere and reaches the moral field of humanity. As long as suffering continues to be confused with culture, and forced labor with necessity, we will remain trapped in a model of civilization that legitimizes the pain of the defenseless.

The emancipation of Animal Law, in this sense, emerges as a movement of historical and ethical reparation. To free horses from exploitation is to free humanity from its own

callousness. When society understands that respect is not an obstacle to progress, but its true foundation, we will finally be faced with a justice that does not distinguish species, but recognizes in all of them the same right to exist in peace.

## 5 FINAL CONSIDERATIONS

The present research aimed to analyze the legal protection of horses in Brazil, focusing on the effectiveness of Law No. 9.605/1998 (Environmental Crimes Law) and the gaps between the normative framework and its practical application. Based on the assumption that the Brazilian legal system recognizes the constitutional obligation to protect fauna, and prohibits cruel practices against animals — according to article 225, paragraph 1, item VII, of the Federal Constitution — we sought to understand why, despite this legal advance, horses continue to be victims of mistreatment, exploitation and institutional negligence.

The first specific objective consisted of analyzing the historical evolution of animal legal protection and its transition from the anthropocentric to the biocentric paradigm. It was found that, although the 1988 Constitution has inaugurated a new era of environmental protection and animal ethics, the Brazilian legal culture is still strongly rooted in a utilitarian view, in which animals are perceived as goods with no intrinsic value. From the dialogue with authors such as Gordilho (2018) and Trajano (2013), it is concluded that the realization of animal rights depends on a change in an ethical and philosophical perspective, in which biocentrism and ecocentrism replace traditional anthropocentrism, recognizing the value of all forms of life.

The second specific objective sought to identify the structural challenges that compromise the effectiveness of protective legislation. The analysis showed that the main cause does not lie in the absence of standards, but in the lack of inspection mechanisms, technical training and integration between the agencies responsible for the application of environmental and criminal laws. In addition to the lack of specialized police stations, the insufficiency of veterinary reports and the tendency to file complaints reveal a fragile and disjointed state structure. As Sirvinskas (2018) pointed out, the penalties provided for in Law No. 9,605/1998 are lenient and rarely produce a pedagogical effect, perpetuating a cycle of impunity.

The third specific objective aimed to investigate the persistence of horse exploitation in cultural and labor practices, addressing animal suffering disguised as tradition. The research showed that activities such as vaquejada and the use of carts in urban areas, expressing a whole cruelty socially legitimized under the argument of culture and economic necessity. The judgment of ADI 4983 by the Federal Supreme Court was a milestone in

stating that cultural heritage cannot override the prohibition of cruel practices. However, the persistence of these practices proves that the judicial decision, although emblematic, is still not enough for a social and state transformation.

Thus, the investigation revealed that the inefficiency of the legal protection of horses in Brazil is multifactorial, resulting from the sum of administrative deficiencies, lack of political will and a deep-rooted cultural obstacle. The discourse of tradition and subsistence acts as a moral justification for the continuation of exploitation, which reinforces the need for integrated public policies, capable of reconciling social justice and animal ethics.

Based on the analysis carried out, it is concluded that for the effective protection of horses requires a structural and cultural reform, as raised in the fourth objective, the journey must be supported by three fundamental pillars: ethical education, institutional strengthening, normative review and continuous inspection. The inclusion of the animal theme in school curricula and in the training of public agents, in addition to the creation of police stations and prosecutors specialized in crimes against animals and the increase in penalties for mistreatment are essential measures for the consolidation of effective protection.

Thus, it is essential that the State promotes socioeconomic alternatives for populations that depend on working with horses, especially carters and rural workers, such as electric carriages, motorized or non-motorized tricycles, and tin horses, ensuring that animal protection does not become social exclusion. True legal and moral progress consists in harmonizing human and non-human well-being, recognizing that both are part of the same ecosystem of vital interdependence.

Finally, this research reaffirms that the protection of horses is a reflection of the degree of civilization of a society. As long as animal pain continues to be confused with tradition and suffering is tolerated in the name of culture, the Law will remain short of its mission of promoting full justice. The adoption of the biocentric paradigm and the implementation of the constitutional principles of dignity and interspecies solidarity represent, therefore, not only a legal advance, but an ethical imperative.

Only when society understands that animal life has value in itself – and that respect for this life is a condition for environmental and moral balance – will it be possible to achieve what the constitutional text idealized in 1988: an ecologically balanced environment, free of cruelty, where the horse and all living beings can exist with dignity.

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