

NOTE:

Legislation animalistic in Nicaragua and other initiatives

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Nicaragua has carried out a complicated process to have a modern Act, Act 747 of the Protection and Welfare of Animals Domestic and Domesticated Wild put in force. This note gives a short summary of the initiatives, backgrounds and prospects connected with the process.

Background

In 1941 Nicaragua stunned the world when adopting Act 688, the Code of Defense and Protection of Animals¹, creating in 1942 the Humane Society of Managua. This was a modern law. For instance, the article 23 declared that *"those who drive car or motorcycle and run over any kind of cattle in the city or roads, must stop to meet the injured animal..."* Unfortunately, after pioneering this law, the animal law went into default. Until the year 1977 when Nicaragua subscribed the *Universal Declaration of Animal Rights* sponsored by UNESCO and ratified by the United Nations (UN) in London. This, one can claim, was a result of the 'change of mind' in the country. However, Article 102 of the Constitution La Gaceta N° 94 from 1987 also states that "natural resources are national heritage...", which indicates the desire to protect all animals in the country.

During these thirty years of democracy, the Ministry of Agriculture and Forestry (MAGFOR) has dedicated effort to the legislation of animal welfare. Merely to establish health campaigns to species of economic interest, such as Law 291 Basic Law Animal and Plant Health from 1988. Especially Municipalities Act 40, General law of environment and natural resources 217, Municipalities Act and its regulation 261 and Special law of crimes against environment and natural resources 559 are of national importance of the preservation and protection of all natural resources. Moreover, the Ministry of environment and natural resources (MARENA), has done a great work to present aspects of the impact on the environment and forestry. Yet, what it comes to animals, the work has been limited to the regulation of farm iguanas², reptiles in general³, and limitation of the consumption of sea turtle eggs and on standards for trafficking.⁴ Unfortunately, the work of MARENA has little or no direct impact on the protection of animals or on the care of their welfare. The Ministry of Health for its part, in 2005 adopted a standard by which dogs cannot

¹ La Gaceta, N° 3, January 7, 1941

² La Gaceta, N° 240, October 18, 1980

³ NTON 017 07-02 Nicaraguan Mandatory Technical Standard for the Prevention and Control of Urban Rabies.

⁴ La Gaceta, N° 106, May 16, 1977

go outside without mask strap⁵, thus ensuring a decrease in cases of people bitten by potentially aggressive dogs.

Initiatives

History of the Law on Protection and Welfare of Wild and Domesticated Pets 747

In 2004, the Humane Association and the group of veterinarians from the The University of Comercial Science (UCC) presented to the National Assembly a draft Bill on Protection and Animal Welfare, which was left in oblivion by lawmakers. From there, a group of animal activists led by the signatory of this note promoted marches, sit-ins, concerts and festivals for the rights of animals. But it was not until 2006 the first steps towards concrete legislation could be noted. The Mayor of Granada, a department of Nicaragua, adopted a municipal ordinance proposed by the signatory in association with the American group PATH,⁶ on Health Security Control Cars and trucks⁷ that promotes animal welfare in working horses.

In 2007, the Environment Committee of the National Assembly asked the signatory to organize a referendum on the draft of the protection and welfare law and a forum which presents three different initiatives deputies. Consultation was organized by relying on the newspaper "Diario Hoy" and the segment "Animal World" on Channel 2. The forum was done on the premises of the UCC with the participation of over 300 delegates from 37 public and private institutions. The meeting resulted in consensus of a unified project that was returned to the National Assembly.⁸ Furthermore, in 2008 The National Assembly hired an international expert to review and improve the drafting. Published in the Gazette the new Penal Code⁹, Act 641, which includes in its Chapter IV, Article 391 animal abuse. In 2009 the Environment Committee of the National Assembly made various consultations and on the initiative of the Environmental Youth Club (CJA) a meeting with all stakeholders related to animals in Ofiplaza was held to discuss the law.

In January of 2010 a non-profit organization Foundation A.Mar.Te.¹⁰ was established. A.Mar.T. is an organization that gathers and calls for the vast majority of animal groups in Nicaragua. Foundation A.Mar.Te. is dedicated to gather signatures to force the National Assembly to discuss the law. The same year A.Mar.T. presented 12,000 signatures for the assembly and organized several marches, sit-ins, concerts, festivals walkways and animal rights, lobbying the National Assembly to approve the law. Successfully, on January 10th 2010 Nicaragua signed by the Foreign Ministry the Universal Declaration of Animal Welfare becoming the sixth country in the world and first Latin American country to sign. The five freedoms of the Universal Declaration of Animal Welfare thereby became the basis of the Future Law 747. In June 2010 the Foundation A.Mar.Te. presented for the National Assembly a proposal to create the "Nicaraguan Animal Day". Finally, the National Assembly approved 4 October as the "National Day of the Protection and Welfare of Domestic Animals".¹¹ In December 2010 the first joint operation for animal abuse in cooperation

⁵ NTON 24-002 - 05 Nicaraguan Mandatory Technical Standard for the Prevention and Control of Urban Rabies.

⁶ People Protecting Animals & Their Habitat, USA

⁷ Municipal ordinance n° 99-2006

⁸ Rimbaud E. Ley de Protección y Bienestar Animal: primera aproximación, *Informe Uruguay*, October 2009

⁹ La Gaceta, n° 87, May 9, 2008

¹⁰ www.fundacionamarte.org.

¹¹ Article 79 of Law 747

with the Attorney General's Office, National Police and Foundation A.Mar.Te. was held. This resulted in the first dog seized by abuse, and the same day, the National Assembly began to discuss the Law 747 of the Protection and Welfare of Animals Domestic and Domesticated Wild.¹²

Hence, animal welfare expressed by the reform of the Penal Code, the signing of the Universal Declaration of Animal Welfare, the approval of Law 747 and the appointment of the October 4 as Animal Protection Day, can be evaluated as State Policy in Nicaragua.

Prospects

Nicaragua after Law 747

One of the interesting aspects of this new law is that it establishes *biocidio* (spanish term) as a crime, meaning that it is a crime in Nicaragua to cause harm to *any life*. This new perspective is interesting and deserves a study in itself to expand the definitions and the basis for this type of crime.

Today, although Nicaragua has a specific law for the protection of animals it is partly inadequate. For instance, the law excludes cockfighting from its sphere, which is unacceptable from an animal right point of view. Furthermore, MAGFOR has not carried out their responsibility to legislate effective regulation by the law.

At the moment A.Mar.Te. Foundation is negotiating with the National Assembly about three reforms: 1) statement by the National Assembly that lists all the animals that are endangered as national heritage, 2) law reform transit, 431, making it clear that an animal injured by a human must be provided first aid and that the accident has to be reported, and 3) to ban animal circuses in the country.

Ignorance of the law by the National Police is another major challenge that A.Mar.Te. Foundation is trying to solve. There is ongoing training of the police regarding to the compliance of the law. In other words, how and when the police should act. Moreover, civil society needs education concerning the contents of the law. Also judges and prosecutors need education how to apply the law in legal proceedings.

There is much work ahead. Thus, the most important thing is to create awareness of animals as sentient beings and their welfare conditions.

¹² La Gaceta, N° 96, May 25, 2011