

## **К вопросу о развитии российского законодательства в сфере защиты животных**

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## **On the Development of Russian Legislation in the Field of Animal Protection**

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**Mahatma Gandhi: «The greatness of a nation and its moral progress can be judged by  
the way its animals are treated».**

For the first time ever legislation prohibiting cruelty to animals was adopted in the UK. In 1822, Parliament passed the Richard Martin Act to prevent the ill-treatment of cattle.

In Russia the first attempt to issue a framework law on the treatment of animals was made in 1999. The current bill was submitted to Parliament in the spring of 2011. The law has passed a lot of approvals, but needless to say that it was adopted thanks to the persistence of the animal protection community. In the autumn of 2017, animal rights activists held a two-week hunger strike at the entrance to the State Duma demanding to adopt the law. This happened after the sensational acts of cruelty to animals and the publication of videos and photos of their torture on the Internet.

The public supports many of the measures proposed by the state, but at the same time the law «On responsible treatment of animals and on amendments to certain legislative acts of the Russian Federation» raises many questions.

Analyzing the provisions of the European Convention for the Protection of Pet Animals (hereinafter – the Convention) signed by France, Germany, Greece, Spain, Sweden, Switzerland, Turkey and others, we can conclude that some provisions of the Russian Animal Law comply with

the international practice. Thus, the Convention proclaims the basic principles for animal welfare: nobody shall cause a pet animal unnecessary pain, suffering or distress and nobody shall abandon a pet animal. For the first time in Russia, the law establishes the provision that animals are creatures capable of experiencing emotions and physical suffering, and the person is responsible for their fate. Also, the Act prohibits any actions that can cause pain to animals, in particular, it is now illegal to carry out animal fights, transfer animals from the shelter to the laboratory for experiments.

In Russian Civil Law, animals are classified as things. In our opinion, animals should be recognized as subjects of law. But such change in legislation should occur when society understands the need for such step, and problems with stray animals will not be so topical.

However despite the positive aspects, there are some ambiguities in terms of the mechanisms for implementing the norms. Under the new Russian law, the owners are obliged to ensure that the animal had no unwanted offspring. At the same time, it is now prohibited to cast a pet under the threat of punishment, because it puts its life and health in danger.

A logical question then arises: how, for example, it will be regulated in rural areas? Needless to say that animals are not sterilized there, and unnecessary offspring is either killed or cast into the street (if owners are not found, which is a rare occurrence). Under the new law, there is another opportunity to get rid of unwanted offspring: to transfer it to an animal shelter. But will there be enough shelters and financial resources for the maintenance of all "unwanted" pets? Thus, we come to the conclusion that this rule will not work, as the subjects of the offense will be almost all the inhabitants of rural areas. Undoubtedly, it comes into contradiction with the norms of morality, but, unfortunately, there is no real means to stop the cruelty to animals yet.

Let us turn to the question of the suppression of stray animals. International practice provides for the right of states to take measures to reduce the number of homeless animals. For example, the Convention says that if a state considers that the numbers of stray is a threat to society, that is, is a problem, it shall take the appropriate legislative and/or administrative measures necessary to reduce their numbers in a way which does not cause avoidable pain, suffering or distress. The experience of countries that have coped with the problem of homeless animals has been studied, systematized and compiled into one document «An investigation of stray dog and cat population control practices across Europe».

The Russian law on animals proposes to catch stray animals and bring them to shelters. There is another controversial issue: trapping, sterilizing, vaccinating and returning animals back to

the street (the TSVR method) as the primary method of dealing with stray dogs is the actual legalization of the free life on the streets packs of stray animals.

In the regions of Russia where the TSVR method is used, stray dogs remain a significant number: by its essential characteristics the method of TSVR is unable to solve the problem of homelessness, it is just an attempt to prevent it.

Thus, it is necessary to talk about the shortcomings of the mechanism of addressing the homeless animals challenge. The method of TSVR opponents submit that sterilization does not guarantee decrease in animals' aggressiveness. In Moscow, the program was carried out from 1998 to 2009, until it was discontinued due to its inefficiency, a threat to public health (outbreaks of rabies), and the destruction of the wild red book fauna of city parks by sterilized, neglected dogs. The issue of illegal killing of stray dogs in many cities by such groups of people as doghunters is also acute.

Thus, it is advisable to propose the adoption of laws of subjects and municipalities for the protection of pet animals, creation of state veterinary clinics that provide free veterinary care and an increase in the number of shelters financed by a special tax.

Among other things, the law now establishes the duty of the government to compile a list of potentially dangerous dogs. They are forbidden to be walked without a muzzle and leash, except their owners' fenced areas. However dogs' owners continue to insist that "dangerous breeds" do not exist and it all depends on the upbringing of an individual dog, that is another cause for controversy in the discussion of the law by the public.

Some problems are related to the lack of sanctions for violation of a provision of the Act. For example, the duty to «clean up animal's excrements» and to walk them only in the designated areas of the municipality. It is almost totally senseless since there is a serious lack of such places. However, punishment for violations of this kind is not yet established.

We propose the creation of automatic devices with disposable packages and special urns, as well as an increase in the number of sites where animals could be walked. The only problem is financing.

A controversial issue is the ban on contacting zoos. Their activities are prohibited, but the same law allows the organization of events (shows), "which provide for physical contact of

spectators or visitors with animals", but in such cases a special zone should be equipped for an animal to be able to hide from visitors.

A complete ban on euthanasia has no precedent at all. There is a lack of places in shelters for animals in Russia, still, even the most dangerous dogs with inappropriate behavior will have to be kept there till the end of their lives. Where can one get large financial resources, given that the municipalities and public organizations do not have them? Places in shelters are sorely lacking even for the rescue of adequate animals that can not survive on the streets. It is known that in other States, the gradual process of abolishment of euthanasia was supported by many years of comprehensive efforts to eliminate the objective reasons for the need to euthanize animals. In Russia this problem was "solved" in the blink of an eye.

Attention should be paid to the achievements of the world community in the development of legislation on animals. At the moment, the most ambitious law on the protection of animals is the law of Austria, the Austrian Animal Welfare Act 2004. The Act prohibits inflicting unjustified pain, suffering, injury, or fear on an animal, though there are exemptions for hunting and fishing. The Austrian Animal Welfare Act 2004 also bans fur farming and the use of wild animals in circuses and banned using chimpanzees, gorillas, and orangutans in experiments. Violators are subjected to fines of \$2,420, and in cases of extreme cruelty they can be fined up to \$18,160 and have their animals seized by the authorities.

Profile legislative acts of Great Britain in the considered area are the Law on Domestic Animals of 1951, the Law on Breeding of Dogs of 1973 and 1991, the Animal Welfare Act 2006. The Animal Welfare legislation of the UK has stricter penalties for both cruelty and negligence of animals. Punishments include a lifetime ban from owning pets, a 51 week maximum jail term, and fines amounting up to £20,000.

For the first time in the European countries at the constitutional level, the duty to ensure the well-being of animals was fixed by Switzerland. In 1994, a referendum held in Switzerland changed the status of animals from "things" to "feeling" creatures.

The German Constitution reads «The state takes responsibility for protecting the natural foundations of life and animals in the interest of future generations». The vigorous activity of public organizations (Tierschutzverein) – Societies for the protection of animals led to the adoption of specific measures for the protection of animals. The Animal Welfare Act establishes fines for violations of the rules for handling animals, and also establishes special taxation.

Thus, more complex and effective integrated approaches to solving the problem of stray animals are needed, combining irrevocable trapping, a system of shelters, sterilization of owned animals, homeless animal prevention and all other measures that are used in other States.

In our opinion, it is necessary to take into account the provisions of the European Convention for the protection of domestic animals on animal breeding: «any person who selects a pet animal for breeding shall be responsible for having regard to the anatomical, physiological and behavioural characteristics which are likely to put at risk the health and welfare of either the offspring or the female parent». The Convention also establishes age restrictions: «no pet animal shall be sold to persons under the age of sixteen without the express consent of their parents or other persons exercising parental responsibilities».

Development of a civil society is a complicated matter implying involvement of all life facets. Humane and responsible attitude to animals is one of them. It is necessary to take measures that could give our population a real desire to change the current situation by introducing, for example, special taxes on animal welfare, as is enshrined in other European states.

It should be noted that the biggest step we have already made – we started discussing this problem at the legislative level. A journey of a thousand miles begins with a single step.

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