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Scope of the Jurisdictional Guarantee of Habeas Corpus in the Context of Animal Welfare. Sentence No. 253-20-jh/22

Alcance De La Garantía Jurisdiccional Del Hábeas Corpus En El Marco Del Bienestar Animal. Sentencia No. 253-20-Jh/22

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Abstract

The legal system, specifically outlined in the Law of Jurisdictional Guarantees and Constitutional Control, establishes that the Habeas Corpus action aims to protect the freedom, life, physical integrity, and other related rights of a person deprived or restricted of liberty, by a public authority or by any person. This research aims to analyze the scope of the application of the jurisdictional guarantee in the context of animal welfare. Starting with the study of the case of a woolly monkey named "Estrellita," who had lived for 18 years in a human dwelling with a woman who perceives herself as her mother. The corresponding pronouncement of the Constitutional Court of Ecuador, recognizes the scope of the rights of Nature, considering the interspecies principle and ecological interpretation. Additionally, it addresses the general guidelines issued for the admissibility of constitutional guarantees in favor of wild animals like the woolly monkey "Estrellita."

Keywords: *habeas corpus, interspecies principle, principle of ecological interpretation, jurisdictional guarantees, animal welfare, wild animals.*

Resumen

El ordenamiento jurídico, específicamente el contenido en la Ley de Garantías Jurisdiccionales y Control Constitucional establece que la acción de Habeas Corpus, tiene por objeto proteger la libertad, la vida, la integridad física y otros derechos conexos de la persona privada o restringida de libertad, por autoridad pública o por cualquier persona. Esta investigación tiene por objeto analizar el alcance de la aplicación la garantía jurisdiccional en el contexto del bienestar animal. Partiendo del estudio del caso de una mona chorongo denominada "Estrellita", que había vivido 18 años en una vivienda humana con una mujer que se percibe como su madre. El correspondiente pronunciamiento de la Corte Constitucional del Ecuador, que reconoce el alcance de los derechos de la Naturaleza atendiendo al principio interespecie y el de interpretación ecológica. Además, los lineamientos generales que emiten para la procedencia de garantías constitucionales a favor de animales silvestres como la mona chorongo "Estrellita".

Palabras clave: *habeas corpus, principio interespecie, principio de interpretación ecológica, garantías jurisdiccionales, bienestar animal, animales silvestres.*

Palabras Clave: *988 Legal Analysis of Compound Interest in Ecuador*

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Introduction

The Ecuadorian Constitution, in its preamble, refers to: "nature, Pacha Mama, of which we are a part and that is vital for our existence," and declares that "with a deep commitment to the present and the future," the sovereign people of Ecuador "decide to build a new form of citizen coexistence, in diversity and harmony with nature, to achieve good living, *sumak kawsay*" Constitution of the Republic (2008).

The above-mentioned reference allows to see that the subjects within the protective scope of the Constitution are not limited to those with the legal capacity to exercise rights and obligations (individuals), but through a phenomenological shift, the Constitution since 2008 embraces within its normative framework the entire reality, seen as a vital community in constant interrelation and evolution. It recognizes, with the status of legal subjects, not only individualized natural and juridical persons but also communities, Indigenous peoples, Afro-Ecuadorian people, Montubio people, communes, and Nature, which will be the subject of analysis in this research.

According to Gudynas, E. (2011), doctrinally, "One of the most important consequences of this conception of good living is the recognition of the rights of nature."

The comparative legislation regarding nature within the constitutional framework states: that the resources of nature are no longer at the arbitrary disposal of men and women but under their care. The Constitution does not reduce the protection of the environment or any of its components to a liberal view, in which human beings can dispose of other living beings or natural resources as they please. Instead, it recognizes that the connection between them is preceded or conditioned by guidelines or requirements that limit their freedoms and duties, ensuring the protection of environmental diversity and integrity (Article 79 of the Constitution). To achieve this, the Charter charges the State with planning, i.e., determining the formulas from which the management and utilization of such resources can take place to achieve not only sustainable development but also their conservation, restoration, or substitution (Article 80)." Colombian Constitutional Court. Sentence T-760 of 2007.

Article 83.6 of the Constitution establishes a duty of Ecuadorians "to respect the rights of nature, preserve a healthy environment, and use natural resources in a rational, responsible, and sustainable manner." Constitution of the Republic (2008)

The constitutional provision dictates mandatory compliance with two basic principles: the principle of intergenerational responsibility, which states that the elements provided by Nature must be used to satisfy the needs of society, but always observing a mandate of intergenerational responsibility. In this way, satisfying the needs of the present generation cannot compromise "the ability of future generations to meet their own needs"; and an ecological development principle, whereby the use of elements of Nature under no circumstances can jeopardize "its existence and the maintenance and regeneration of its vital cycles, structure, functions, and evolutionary processes."

This implies that the principles mentioned should not only be understood and interpreted from a human dimension but also from an ecological perspective. Therefore, the use of elements of Nature is not only subject to a mandate to maintain and ensure the well-being of future human generations but also to the intrinsic conservation and valuation of Nature.

In this regard, the Inter-American Court of Human Rights has recognized the obligation and necessity to protect Nature considering the elements and components that make it up:

The right to a healthy environment as an autonomous right, unlike other rights, protects the components of the environment, such as forests, rivers, seas, and others, as legal interests in themselves, even in the absence of certainty or evidence of the risk to individual people. It is about protecting nature and the environment not only because of their connection to human utility or the effects that their degradation could cause on other rights of individuals, such as health, life, or personal integrity but also because of their importance to the other living organisms with whom we share the planet, also deserving protection in themselves. In this sense, the Court notes a trend to recognize legal personality and, therefore, rights to nature not only in judicial decisions but even in constitutional provisions. Inter-American Court of Human Rights. (2017)

Therefore, the Ecuadorian legal system, as well as comparative legislation, acknowledges that Nature, at all levels of ecological organization, is protected by the Law. To address the issue of the scope of the application of the jurisdictional guarantee in the context of animal welfare, based on the study of the case of a woolly monkey named "Estrellita," on SENTENCE NO. 253-20-JH/22 of the Constitutional Court, this Court makes some considerations about animals as subjects of rights, which are summarized and outlined below:

The Court warns that animals should not be protected solely from an ecosystemic perspective or with a view to human needs but primarily from a perspective that focuses on their individuality and intrinsic value. Constitutional Court of Ecuador (2022)

According to Zaffaroni (2011), doctrinally, "animals are protected not only based on their ecosystemic contribution but also as living beings, individually considered." In this context, the highest judicial body states that animals are subjects of rights, and the judgment must verify whether the rights of Nature protect a particular wild animal like the monkey "Estrellita." In the Court's view, animal rights are held by specific members exclusively from the animal kingdom, while the rights of Nature address, in a more general sense, the existence of all natural species, not just animals. They also have to do with the maintenance and reproduction of their relationships and processes within their respective ecosystems, including abiotic elements. Under these considerations, it is clear that animals in Ecuador enjoy special constitutional and legal protection, as the valuation made by the constituent regarding Nature shares a common axiological foundation with animal rights.

In this sense, one of the main consequences of the non-taxability of the rights of Nature is the duty not to limit them to a closed catalog or *numerus clausus* structure. Instead, they should be identified in the form of legal protection with an open clause. This means that it is not restricted to guaranteeing the rights listed in positive legal bodies but, instead, recognizes all those rights that, although not explicitly stated in a legal body, are suitable for the protection of Nature. Constitutional Court of Ecuador (2022)

To determine the scope of the constitutional guarantee of habeas corpus in the context of animal welfare, allowing the identification of whether the rights of Nature extend to the protection of a wild animal, such as the monkey "Estrellita," the Court's criteria must be analyzed based on the interspecies principle and the principle of ecological interpretation as principles of interpretation and understanding of their rights.

Gonzalez (2020). The interspecies principle means that "animals cannot be seen as subordinate or as tools, and their needs and desires must be taken seriously through changes in perceptions and practices, and regulation and enforcement." "Therefore, the legal consecration of a principle of ecological and interspecies solidarity allows the realization, in Law, of the aspiration

to reconcile the interest of conserving the biosphere, as species and ecosystems, and the interest of non-human animals, as sentient individuals, under a logic of optimization, and not exclusion."

The interspecies principle establishes a principle through which the protection of animals is ensured with a concrete focus on the characteristics, processes, life cycles, structures, functions, and evolutionary processes that differentiate each species.

Gonzalez (2020). The principle of ecological interpretation of animal rights reflects the need for each animal to be analyzed based on the levels of ecological organization that contain it, that is, as part of a population, a community, and an ecosystem. Consequently, according to this principle, public authorities will be obliged to ensure that the biological interactions of different individuals, populations, and communities of animal species within an ecosystem maintain their natural balance.

As a result, the rights to life, physical integrity, and others must be interpreted based on the interspecies and ecological interpretation principles since biological interactions form the basis of the interdependence, interrelation, and balance of ecosystems.

Although Article 43 of the Law on Jurisdictional Guarantees and Constitutional Control, regarding the object of the habeas data action, establishes: "Article 43.- Object.- The habeas corpus action aims to protect the freedom, life, physical integrity, and other related rights of the person deprived or restricted of liberty, by a public authority or by any person, such as (...)" Law of Jurisdictional Guarantees and Constitutional Control (2009), the judgment acknowledges that this judicial protection mechanism goes beyond to safeguard the rights of animals, as in the case of the woolly monkey "Estrellita".

Therefore, with the considerations mentioned above, the purpose of this research is to analyze Judgment No. 253-20-JH/22, in which the Constitutional Court recognizes the rights of animals, responding to an adjective dimension by which they can, regardless of the actions and resources available in ordinary justice, achieve the protection of their rights through jurisdictional guarantees according to the object and specific claim, acknowledging these guarantees through the understanding of the inter-species and ecological interpretation principles.

Development

A) Materials and Methods

For the development of this research, a bibliographic-documentary design was used to consult digital and printed materials as secondary sources, which provided information regarding international legal instruments and the rights of nature (wild animals), analyzed from the principles of inter-species and ecological interpretation, to understand the scope of the jurisdictional guarantee of Habeas Corpus.

Likewise, documents of comparative legislation were analyzed where there is recognition of the rights of Nature, in countries such as Chile, Argentina, Colombia, and Uruguay, arguments that were presented in the sentence under investigation.

Regarding the type of research, a descriptive approach was assumed, as the definitions of habeas corpus, rights of nature, inter-species principles, and ecological interpretation were presented, as well as what is stated by international conventions in defense of animal welfare.

The data and information collection instruments used were content sheets and summary strategies, as well as comparative matrices that allowed the compilation of legal and doctrinal aspects related to the study's subject.

Subsequently, to proceed with the analysis of the information gathered in the documentary approach, tools such as content analysis and hermeneutics were applied. This involved evaluations of theoretical and doctrinal positions related to the research subject.

Consequently, hermeneutics allowed for the interpretation of international and national legal instruments related to the topic being addressed. It was important to determine the scope of application and guarantees of legal norms related to the jurisdictional guarantee of Habeas Corpus in the context of animal welfare.

B) Results

It is important to bring up the content of Article 10 of the Constitution of the Republic of Ecuador (2008), which specifically states the following:

Principles of Application of Rights Art. 10.- Individuals, communities, peoples, nationalities, and groups are holders of and shall enjoy the rights guaranteed by the Constitution and international instruments. Nature shall be subject to those rights recognized by the Constitution.

The recognition of rights for nature and wild animals, responding to an adjectival dimension, allows, regardless of the actions and resources available in ordinary justice, the protection of their rights through the jurisdictional guarantees established in the Law of Jurisdictional Guarantees and Constitutional Control. According to the specific object and claim, habeas corpus is recognized as a way to safeguard the freedom of wild animals through an understanding of the principles of interspecies and ecological interpretation.

In summary, in this judgment, the Ecuadorian state and its various institutions are obligated to promote the fulfillment of the rights of nature. The Court, in its resolution, has ordered the drafting of a bill on animal rights, which should not only include rights but also the principles outlined in the analyzed judgment, including the minimum criteria or parameters established, summarized as follows:

- i. Animals are subjects of rights protected by the rights of Nature.
- ii. Animals are subjects of rights protected under the rights of Nature through the unrestricted application of the principles of interspecies and ecological interpretation.
- iii. Animal rights must also respond to an adjectival dimension, whereby they can - regardless of the actions and resources available in ordinary justice - achieve the protection of their rights through jurisdictional guarantees according to the specific object and claim, such as the guarantee of habeas corpus.
- iv. For the custody or care of wild animals, their insertion or permanence in their natural habitat must be prioritized, and this alternative must be evaluated first; if this is not possible, suitable measures for ex-situ conservation will be adopted. Any measure must be motivated, and both its adoption and execution must safeguard the protection of the animal, considering its particular circumstances so that it can thrive. In the case of custody or care of a wild animal by a person or entity, the established guidelines must be observed, which are generally summarized as follows:
 - a) Animals, wherever they are, must have access to water and suitable food to maintain their health and vigor.

- b) The environment in which they live must be suitable for each species, with adequate shelter and rest conditions. They must be allowed freedom of movement.
- c) Adequate sanitary conditions must be ensured for animals to protect their health and physical integrity.
- d) Animals must be guaranteed sufficient space and social conditions to ensure the possibility of the free development of their animal behavior.
- e) Animals must be guaranteed life in an environment free from disproportionate violence and cruelty, fear, and distress.
- i. If no other alternative is possible, and it becomes necessary to restrict the freedom of movement of the wild species or to issue any measure with such an objective or result, the guidelines established in the judgment must be observed, which are as follows:
 - a) Any decision resulting in the restriction of the right to free movement of wild animals must be sufficiently justified.
 - b) The justification must demonstrate why the measure pursues a legitimate purpose and is appropriate, necessary, and proportionate. Consequently, arguments must be presented explaining why restricting the animal's movement is the most efficient and effective measure to safeguard its life and integrity, as well as the absence of less burdensome measures.
 - c) Such decisions must involve a comprehensive evaluation of the individual circumstances and the animal's condition, including, at least, an analysis of the physical condition, living conditions, level of imprinting with its keepers, signs of mistreatment, beatings, or torture, the degree of orientation, the extent of loss of instinctive reflexes, the level of aggressiveness, and the apparent reasons why the wild animal is in the possession of a human. This evaluation should also indicate whether there are indications that the animal poses a biological risk.
 - d) The report arising from the evaluation mentioned in the previous paragraph should indicate whether the animal's keeper could *prima facie* meet the requirements for obtaining a license or authorization for wildlife possession.
 - e) In cases of flagrancy related to crimes against wildlife, competent public authorities may adopt the most suitable and proportionate measures to safeguard the integrity of the animal, including ordering its separation from the alleged offenders; however, immediately afterward, the evaluations outlined here must be carried out. Constitutional Court of Ecuador (2022).

In this sense, the analysis of Judgment No. 253-20-JH/22 is presented below, focusing on its factual and legal elements related to the research topic proposed in this investigation:

Content Analysis Matrix of the Sentence

Table 1. Procedural event. Sentence NO. 253-20-JH/22. Constitutional Court

Cause NO. 253-20-JH/22 Content Category

Procedural event Ana Beatriz Burbano Proaño (hereinafter, "the plaintiff") is a 57-year-old woman who self-identifies as the "mother and caregiver of Estrellita, a woolly monkey, 'Estrellita.'"

On September 28, 2018, a police report was filed, informing about the follow-up to the complaint carried out with officials from the Ministry of the Environment, determining that:

On September 29, 2018, the Ministry of the Environment, through a Technical Report, concluded that "wildlife is observed on the terrace of the identified residence, and due to the characteristics of the individual, it is determined that it is a specimen corresponding to the *Lagothrix sp* species (Woolly monkey)" and recommended mainly that "MAE and UPMA personnel will monitor the specimen."

The Ministry of the Environment, in coordination with the Prosecutor's Office, the Environmental Protection Unit (UPMA), Criminalistics, and the Special Operations Group (GOE), on September 11, 2009, proceeded to the retention of Estrellita.

In the words of the petitioner, on "September 11, 2019, [her] house was raided, and Estrellita was abruptly separated from the environment that had welcomed her all her life."

By order of September 16, 2019, the Ministry of the Environment ordered: (i) initiate administrative procedure No. 34-PNT-2019 against the plaintiff, (ii) summon the plaintiff and grant her a period of 10 days to respond, (iii) inform the plaintiff of the principle of the burden of proof reversal, (iv) order the retention of Estrellita, and (v) arrange for the custody of Estrellita at a management center authorized by the National Environmental Authority.

By resolution of January 14, 2020, the Ministry of the Environment resolved: "1) Declare [the plaintiff] responsible for committing the very serious offense established in Article 318, numeral 2 of the Organic Environmental Code, in concordance with the provisions of Article 136 of Book IV of Executive Decree 3516; 2) Impose on [the plaintiff] the fine of (...) (\$3940.00) (...); 3) Confiscate the specimen of wildlife."

Death of Woolly Monkey Estrellita

According to the administrative process, the Technical Report No. MAE-DPAT-UPNT-V.S-2020-09-EL dated January 28, 2020, formally mentions the death of Estrellita, stating that "(at 4:00 p.m. on October 9, 2019."

The Action of Habeas Corpus

On December 6, 2019, the plaintiff filed a habeas corpus action against the Ministry of the Environment, Mr. Jesús Orlando Vega Marín, owner of the Ecozoológico San Martín de Baños, and the Attorney General of the State, among other things, emphasizing that:

The habeas corpus action was assigned, by draw, to the Multicompetent Judicial Unit based in the canton of Baños (hereinafter, Judicial Unit), Tungurahua province, which summoned the parties to a public hearing.

On December 11, 2019, the Judicial Unit issued the dismissal order. On the same day, Ana requested the revocation of the hearing summons order and appealed the dismissal order, alleging a lack of notification.

On January 27, 2020, the Criminal Chamber of the Provincial Court of Tungurahua⁴¹ (hereinafter, Criminal Chamber) in a judgment resolved to declare the nullity of the process from page 12 onwards, establishing that a new day and time should be set to hear and resolve in the first instance what corresponds.

On February 11, 2020, the Judicial Unit summoned the parties to a public hearing to be held on Friday, February 21, 2020.

On February 20, 2020, the Ministry of the Environment sent certified copies of the administrative process No. 34-PNT-2019 to the Judicial Unit.

On February 21, 2020, the summoned hearing took place, in which Ana's defense lawyers mainly stated:

"Unfortunately, today we learned the news that the little monkey has died, for this reason, I want to request the order of a new autopsy to order the habeas corpus, we want to see the

body, unfortunately, due to this abrupt separation, she could not continue with her life, unleashing this painful feeling."

In that hearing, the representatives of the Ministry of the Environment determined fundamentally that:

"They informed your honor with the complete content of the file, in which, in the execution part, the status of the specimen is urged, warned, and confirmed, they became aware on January 29, 2020, (...) unfortunately, in these cases and others, it is unknown that the objective is called the natural heritage of the state, the diversity that accumulates wildlife has no context of animals being domestic that do not contribute to the ecosystem, that they are domesticated, specifically the guarantee system establishes the right to defense (...) had 10 days to appear (Ana) which was on October 10, from that date, she has never appeared again (...) today they want to argue that procedural fraud has been committed, the only thing that has been complied with is the law (...) so it is requested to dismiss the action, the habeas corpus has been denatured, it is not fulfilled in this case (sic)."

On February 26, 2020, the Judicial Unit rejected the habeas corpus action and emphasized that "(t)he extraction of wildlife, among other circumstances, is used for domestication with the consequent teaching of human habits."

Ana filed an appeal against the judgment of February 26, 2020, which was admitted on March 4, 2020.

On June 10, 2020, the Specialized Chamber of Criminal, Military, Police, and Transit Matters of the Provincial Court of Justice of Tungurahua⁴⁶ (hereinafter, Criminal Chamber) in a judgment, resolved to dismiss the appeal, ratifying the first-instance judgment, and due to the actions of both the plaintiff and the defendants, ordered the Judicial Council to conduct the relevant investigations. It mainly based its decision on:

"In this case, it is observed that the active legitimized, without knowing the reality of the alleged victim, has proceeded to file a Habeas Corpus action in favor of the extinct woolly monkey known as 'Estrellita,' who died on September 9, 2019, (...) In reality, it could no longer even have an aspiration, as the alleged victim has died, whose jurisdictional protection is sought.

On July 3, 2020, the plaintiff filed an extraordinary protection action signed with No. 810-20-EP. Plaintiff

Complaint Ministry of the Environment

Raid on Monkey Estrellita.

Sanctioning Administrative Procedure

Administrative procedure resolution.

Habeas Data Action.

Habeas Data action draw.

Order to dismiss

Declaration of Nullity

Public hearing

Response from the Ministry of the Environment.

Habeas Corpus action hearing.

Appeal.

Habeas corpus action resolution.

Factual foundations of the plaintiff. The context of the habeas corpus action was presented in defense of a wild primate, of the species *Lagothrix lagothricha* or Humboldt's woolly monkey, named Estrellita. The woolly monkey had lived for 18 years in a human dwelling with a woman who perceives herself as its mother, a situation known to public authorities, leading to the initiation of an administrative procedure to grant custody of the wild specimen to a Management Center authorized by the National Environmental Authority.

Ultimately, the habeas corpus seeking the wildlife possession license and the return of the woolly monkey was denied. This decision was based on the authorities' consideration of the need to protect nature, as asserted by the Environmental Authority, and because the habeas corpus was filed after the woolly monkey had already died. Arguments put forward by the plaintiff.

Arguments of the Amicus Curiae In the amicus curiae brief, the PAE Foundation points out that this case is of substantial importance in the development and promotion of "animal rights." Additionally, it suggests that this case could be a jurisprudential milestone for the regulation and exercise of the relationships between humans and other species, and consequently, the development of the rights of nature established in the Constitution.

Researcher Viviana Morales, in the amici curiae brief, among other considerations, stated that:

The constitutional recognition of the rights of nature and the various guarantees and mechanisms of citizen participation recognized by the Constitution have become suitable tools to vindicate the claims of both animal welfare and fundamentalist groups. Since 2008, animal rights activists have advocated for the protection of animals through the discourse of animal rights and animal welfare, all in the light of the rights of nature. Arguments put forward by the PAE FOUNDATION.

Arguments Put Forward by Researcher Viviana Morales

Fundamentals of Law Article 83.6 of the Constitution establishes a duty for Ecuadorians "to respect the rights of nature, preserve a healthy environment, and use natural resources in a rational, sustainable, and sustainable manner." Hence, the judgment of the extraordinary protection action assesses whether constitutional protection extends to wild animals, in the scope of the application of the habeas corpus jurisdictional guarantee.

Constitution of the Republic of Ecuador

Decision The Constitutional Court, in accordance with the provisions of Article 436, numeral 6 of the Constitution, and Article 25 of the LOGJCC, resolves:

1. Revoke the judgments issued in the habeas corpus case No. 18102-2019-00032 and issue the review judgment in its place.
2. Declare the violation of the rights of Nature primarily due to the events that led to the death of the woolly monkey named Estrellita, as developed in this judgment, and establish various reparative measures. Resolution Accepting the Extraordinary Action of Protection Case No. 253-20-JH/22

Source: Constitutional Court, 2022

Interpretation

The judgment under analysis originates from the filing of an extraordinary action for protection against the habeas corpus judgment requested by the plaintiff on behalf of a woolly monkey named "Estrellita," who had lived for 18 years in a human dwelling with the woman who brought the action and perceives herself as its mother. This situation was known to the judicial authorities, leading to the initiation of an administrative procedure carried out by the environmental authority. The result of this procedure was the decision to grant custody of the wild specimen to a Management Center duly authorized by the National Environmental Authority. The habeas corpus, which sought the wildlife possession license and the return of the woolly monkey, was denied considering the need to protect Nature by the Environmental Authority and because it was presented when the woolly monkey had already died.

The sentence, whose nature is binding, bases its criteria on what is determined in article 83.6 of the Constitution, stating that it is the duty of Ecuadorians "to respect the rights of nature, preserve a healthy environment and use natural resources in a rational, responsible, and sustainable manner."

It is also necessary to indicate that two principles are considered for the determination of the violation of the rights in the judgment that denies the Habeas Corpus action: the interspecies principle and the ecological interpretation principle. Both principles state that the elements provided by Nature must be used to satisfy the needs of society, observing a mandate of intergenerational responsibility. According to this mandate, meeting the needs of the present generation cannot compromise "the ability of future generations to meet their own needs." Another principle is ecological development, according to which the use of elements of Nature under no circumstances can jeopardize "its existence and the maintenance and regeneration of its vital cycles, structure, functions, and evolutionary processes." This allows to conclude that these principles should not only be interpreted or understood from a human perspective but also from an ecological perspective. Therefore, the use of elements of Nature is not only subject to a mandate to maintain and ensure the well-being of future human generations but also to the intrinsic conservation and valuation of Nature.

Consequently, the judgment of the Constitutional Court warns and states that Nature, viewed from all its levels of ecological organization, is and must be protected by the Law through its various legal mechanisms.

C) Discussion

The analysis of this sentence allows to specify that nature is a subject of rights in itself, sharing this protection with all its members, elements, and factors. It is clear that, in an unrestricted sense, the Law protects both Nature seen as the universality of beings, phenomena, and biotic and abiotic elements that coexist, interact, and manifest on Earth, as well as Nature in each of its individualizable members or elements.

The sentence determines the recognition of the rights of nature and also presents itself as a possibility to transform reality in the context of animal welfare. It allows the delineation of the actions by the authorities (Ministry of the Environment) responsible for overseeing the care and protection of species (living beings). By declaring the violation of the rights of Nature primarily due to the events that led to the death of the woolly monkey named Estrellita, it sets a precedent through the provision of various reparative measures.

In general, it has been established that wild animals can be subjects of the habeas corpus guarantee in cases where their freedom has been unlawfully restricted, such as in situations of wildlife trafficking or animal abuse. Some Constitutional Courts in countries like Colombia and Ecuador have recognized wild animals as subjects of this guarantee and have pointed out that it is possible to file a habeas corpus on their behalf. However, the specific scope of this guarantee for wild animals is still a matter of discussion, and its practical application remains a work in progress. In general, the habeas corpus guarantee for wild animals is considered to protect their freedom and well-being, and its application should consider the particularities of each case and the corresponding environmental legislation.

Conclusions

The effects generated as a result of Sentence No. 253-20-JH/22 from the Constitutional Court paved the way for a legal framework based on the protection of the rights of wild animals as sentient beings.

Regarding the rights of nature and the habeas corpus action, through this judgment, nature is recognized as a subject of rights, and the possibility of filing a habeas corpus action in its defense is established. This action allows for the recovery of freedom in cases of illegal detentions related to nature. In other countries, such as Colombia, habeas corpus actions have been filed in defense of animals, recognizing them as sentient beings and subjects of rights. However, there is still much to advance in the recognition and protection of the rights of nature and their practical application in legal practice.

The judgment represents a significant advancement in the recognition of the rights of nature in general. It has been established that wild animals can be subjects of this guarantee in cases where their freedom has been unlawfully restricted, such as in situations of wildlife trafficking or animal abuse. However, the specific scope of this guarantee for wild animals is still a matter of discussion, and its practical application remains a work in progress.

In Ecuador, the State must continue to generate public policies that, in conjunction with international organizations and within the framework of legal regulations, seek to protect the rights of nature in a general context. Additionally, efforts should be made to prevent acts like the one involving the monkey "Estrellita."

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