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The Lack of Empathy among Citizens and its Impact on Infractions Against Urban Fauna

La Falta De Empatía De Los Ciudadanos Y Su Incidencia En Las Contravenciones Contra Animales Que Forman Parte De La Fauna Urbana

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Abstract

This research examines the lack of empathy among citizens and its influence on infractions involving urban fauna from a qualitative perspective. It also seeks to determine the causes of animal abandonment and mistreatment in the city of Riobamba. It is known that since 2014, with the implementation of the Comprehensive Organic Penal Code, for the first time in Ecuador, actions of mistreatment, abandonment, death, and injury to urban fauna animals have been classified as contraventions. These actions are sanctioned with community service at shelters or animal welfare organizations. The lack of empathy, values, and self-respect have led humans to commit degrading acts against the most innocent beings. As a result, a clear explanation of the procedure to follow when witnessing a contravention will be provided. Animals have rights and should be respected, whether one agrees with it or not.

Keywords: Contraventions, abuse, abandonment, empathy.

Resumen

La presente investigación explora desde el punto de vista cualitativo a la falta de empatía de los ciudadanos y su incidencia en las contravenciones de fauna urbana, así como también determina las causas del abandono y maltrato animal en la ciudad de Riobamba. Se conoce que desde 2014 con la implementación del Código Orgánico Integral Penal, por primera vez en el Ecuador se logra la tipificación de las acciones de maltrato, abandono, muerte y lesiones de los animales de la fauna urbana, más conocidos como contravenciones. Los mismos se sancionan con trabajo comunitario en albergues o fundaciones animalistas. La falta de empatía, de valores y de respeto por sí mismo, han llevado al ser humano a cometer actos denigrantes en contra de los más inocentes. Como resultado, se explicará de forma clara cuál es el procedimiento en caso de conocer sobre una contravención. Los animales tienen derechos y deben ser respetados, estén de acuerdo o no.

Palabras Clave: Contravenciones, maltrato, abandono, empatía.

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Introduction

Dogs, cats, and other animals that are part of urban fauna have been faithful companions to humans since ancient times, and they have been intertwined with human history and their relationship with humans. The companionship of a pet can bring numerous benefits that have already been proven in various social contexts, including assistance to people with disabilities, alleviating loneliness, promoting social interaction, encouraging physical exercise, and fostering the development of emotions and feelings.

In recent years, there have been several international academic, cultural, social, and legal debates regarding animals and their relationship with humans. These debates led to a consensus on the urgent need for the protection and safeguarding of animals, sparking interest in society and the state. These discussions brought to the forefront issues such as abuse, bestiality, harm, and abandonment of animals, highlighting the need for regulation within the criminal framework. As a point of reflection, the legal interest being protected and the obligation to safeguard animals as a responsibility humans have towards them are considered.

Animal rights have evolved over the past years. After a long struggle, efforts, and the advocacy of various animal welfare organizations, veterinarians, and practicing lawyers, obligations and responsibilities towards animals were incorporated into the Organic Environmental Code, and through a reform in Ecuador, certain crimes and infractions committed against animals that are part of urban fauna were classified under the Integrated Organic Penal Code (COIP). While the COIP is the only legal framework that penalizes these illicit behaviors, Decentralized Autonomous Governments are the relevant bodies responsible for overseeing the welfare of urban animals or urban fauna and imposing regulatory measures and administrative penalties through municipal ordinances. However, these penalties have not proven sufficient to curb behaviors such as abandonment, mistreatment, and the killing of animals.

Furthermore, the COIP classifies crimes against animals belonging to urban fauna as offenses subject to private criminal action. This means that the public prosecutor's office does not handle the case and does not collect evidence or witness statements for the prosecution of the offense. Moreover, there is no clear basis to justify why these crimes against urban fauna are pursued through private criminal action via a criminal complaint.

Methods

Types of Methodology

- **Non-Experimental Qualitative:** This research is conducted without deliberately manipulating variables. It is based on the observation of phenomena (animal mistreatment and abandonment/infractions involving urban fauna) as they occur in their natural context for subsequent analysis.
- **Analytical:** Involves breaking down a whole into its parts or elements to observe the causes, nature, and effects. This is why it will analyze why citizens commit these acts and determine their characteristics and consequences.

Types of Design

- **Ethnographic:** It interprets a social group, in this case, the residents of Riobamba, and also seeks to address the everyday problems of this social group.

Types of Scope

- **Explanatory:** It identifies the causes and consequences of infractions involving urban fauna.
- **Exploratory:** It allows familiarizing with the topic, whether it is a little-known or very unfamiliar concept.

Types of Research

- **Documentary:** Bibliographical sources developed by animal welfare associations and studies on animal mistreatment and abandonment have been gathered to interpret quantitative information through statistics on this issue.

Results

What is an Infraction?

An infraction refers to the act and result of contravening, meaning that citizens act against what is established or mandatory. In the legal context, an infraction is an unlawful behavior that is penalized by law (Velasco, 2021). According to the Comprehensive Organic Penal Code (2021), an infraction is a criminal offense punishable by a non-custodial penalty or a custodial penalty of up to 30 days.

Urban Fauna

The Organic Environmental Code in Article 140 defines urban fauna as composed of domestic animals, animals that inhabit public spaces and green areas, and animals that pose a risk of disease transmission within the cantonal perimeter. It's important to mention that this regulation specializes in ensuring the rights of animals belonging to urban fauna, promoting and guaranteeing animal welfare, eradicating violence against them, and fostering harmonious coexistence with humans. The Organic Environmental Code recognizes animals as rights-holders.

Regarding urban fauna, Zaffaroni conducts a direct analysis and establishes that deep ecology fully recognizes nature as a subject with its rights, independent of humans. This also opens the discussion in the field of criminal law regarding the legally protected interest in crimes against animals.

Understanding that animals are sentient beings, there are unlawful actions taken against animals, and one of these actions is the most common: animal abuse and abandonment. This offense can be committed by anyone, whether or not they are the owner or possessor of the animal.

On the other hand, Tom Reagan (2018) stated that sentient animals are subjects of life, in a similar sense to humans, and that animals should be recognized as having inherent value and should not be harmed. Through their capacity to feel, they can experience various emotions. Charles Darwin believed that "animals lower than humans" were affected by the same emotions as humans. As a result of this characteristic, animal rights law seeks the recognition and protection of certain rights.

Urban Fauna in Ecuador

Ecuador is the first country to expressly recognize the Rights of Nature in Article 71 of the Constitution of the Republic of Ecuador, establishing that "*all elements that are part of its ecosystem must be respected.*"

Nevertheless, in 2014, it was evident through specific legislation that lawmakers created a space in the Penal Code for the legal protection of companion animals. Through the Comprehensive Organic Penal Code, a unique paragraph was added titled "*Infractions Involving Animals Belonging to Urban Fauna*," establishing two infractions:

- **Article 250.3** - *Abandonment of Companion Animals: A person who abandons a companion animal shall be penalized with community service ranging from twenty to fifty hours.*

- **Article 250.4** - *Mistreatment of Animals within the Urban Fauna Context: A person who, by action or omission, causes temporary harm or seriously damages the health or physical integrity of an animal that belongs to the urban fauna, without causing injury or death, shall be penalized with community service ranging from fifty to one hundred hours (COIP, 2021).*

Pae Foundation (Animal Protection Ecuador)

How to Report an Infraction to the Competent Authority?

This foundation provides a form for processing the necessary procedure when someone becomes aware of an infraction involving urban fauna. The form is attached below:

Contraventions
What contravention was committed against urban wildlife animals? <input type="checkbox"/> Art. 250.3 Abandonment of companion animals. <input type="checkbox"/> Art. 250.4 Animal mistreatment.
In the case of MISTREATMENT, specify: <input type="checkbox"/> Temporary harm such as wounds, treatable injuries, fractures, burns, etc. <input type="checkbox"/> Permanent harm such as paralysis, blindness, deafness, etc.
Date and exact location of the incident
Description of the event in your own words

Information of the person filing the report (complainant)
2 first names and 2 last names
Exact address of the residence (main street, house number, and cross street) (including the neighborhood):
ID number or passport number
Cellphone number

Information of the offender (defendant)
Full name
Address of the offender's residence - or workplace address:

Evidence of the case

Do you have documentary evidence of the incident? (clear, unedited photos or videos)

- ☐ Yes
- ☐ No

I do not have evidence, but I am willing to TESTIFY in a hearing because I WITNESSED the act of animal abandonment or mistreatment.

- ☐ Yes
- ☐ No

I have the animal's body, and I can request a forensic or veterinary report on the animal's condition at the time of filling out this form.

- ☐ Yes
- ☐ No

I have the police report that I requested after calling 911.

- ☐ Yes
- ☐ No

I have the administrative complaint that I submitted to the AMC (only in Quito).

- ☐ Yes
- ☐ No

Case confirmation

By filling out this form, I am assuming responsibility for my words and attesting that these statements are true.

- ☐ Yes
- ☐ No
- ☐ I have to think about it

If in the evidence section you selected testimonial, Do you commit to testifying in court on the date and time set by the judge (with sufficient notice).

- ☐ Yes
- ☐ No
- ☐ I have to think about it

I am aware that these processes can be lengthy and may take weeks or months, and I am willing to cooperate with everything necessary until the end of the case.

- ☐ Yes
- ☐ No
- ☐ I have to think about it

I can cover the administrative expenses if necessary.

- ☐ Yes
- ☐ No
- ☐ It depends on the amount.
- ☐ I would like to request financial support from the foundation to pursue this complaint to completion.

Send

(PAE, 2023).

Discussion

In Ecuador, it is estimated that there are 400,000 dogs and cats, but out of these, about 70%, or 280,000, live on the streets. It is calculated that 90% of this percentage once had owners but became victims of abandonment. The issue of stray urban fauna has been neglected for many years, as it is often considered that the directly affected beings are animals, and they are not thought to possess rationality or rights.

How does the Lack of Empathy Influence Infractions that Involve Urban Fauna?

The biggest problem in society is believing that human beings are the only owners of the world, thereby disregarding the right to live in peace and harmony with the other inhabitants of the planet. Animal abuse and abandonment are indicative of potential violence, as someone incapable of respecting the rights of a defenseless being is less likely to have empathy for respecting the rights of a person.

Animal mistreatment comes in various forms and is generalized as any act or activity that inflicts pain or suffering upon animals. It's also worth noting that the general public often lacks education and awareness that, under the law, humans, urban, and wild fauna are all equal. Being smaller doesn't mean they have fewer rights, and being defenseless or innocent doesn't mean they should tolerate any form of violence. All of these factors contribute to the fact that at least one animal is mistreated every day.

The mistreatment of domestic animals is a problem that affects society and must be dealt with conscientiously and responsibly. Animal cruelty is defined as a collection of actions or attitudes aimed at causing harm to animals for the sole purpose of hurting them, without considering that they are beings with rights, and their owners have obligations towards them.

No one can solve everything, but the only way to help animals is to take concrete actions, not just limit oneself to reporting. Society must learn from good examples and create awareness in each individual to live in harmony and fullness with everything that surrounds us.

Why do People Abandon Animals?

This issue is not confined to just one nation; it is a global problem. The primary reasons for the abandonment of dogs and cats are:

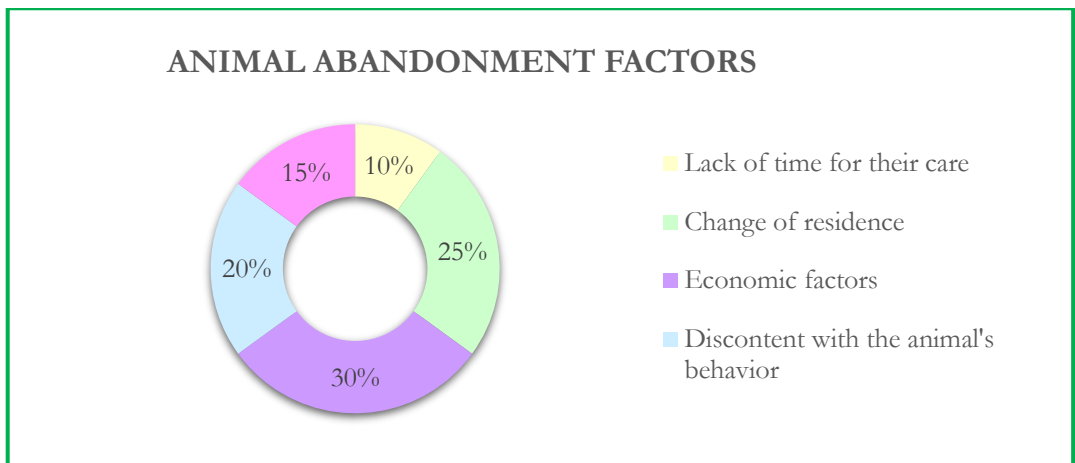


Figure 1: Animal abandonment factors. **Source:** PAE. **Elaborated by:** Natalia Maldonado Mejía.

We are still far from eradicating the problem, but public awareness campaigns against animal abandonment are starting to take effect. More and more people with greater empathy are attempting to choose a pet that better "fits" their lifestyle. Before adopting, they consult professionals in the field to have realistic expectations regarding the time and money required for pet care (Ponce, 2018).

Why do People Mistreat Animals?

The problem often arises in the early years of human life, as 30% of acts of violence against animals are committed by minors. Of these, 94% are males, and 4% are under 12 years old. Around 20% of cases occur in a family environment. The family is the primary place where a human grows and learns behaviors, emotions, feelings, and characteristics that will shape their personality. If abusing others within the home is seen as normal, this attitude will likely be emulated by the child. As psychologist Mireia Leal Molina explains: "The reasons why a child may resort to mistreating an animal can be various: a lack of empathy, having been a victim of abuse, mistreatment, or abandonment; a lack of appropriate education aimed at recognizing the animal as a living being, albeit different. Finally, the emulation of violent gestures committed by parents toward the child or the animal, even as a means of punishing the child."

From Mistreating Animals to Mistreating People

Individuals with a history of animal abuse are five times more likely to engage in domestic violence. Moreover, according to some recent studies, 36% of serial killers experienced episodes of cruelty towards animals during childhood, a figure that rises to 46% during adolescence.

To conclude this discussion section, it is essential to emphasize cases where animals are hit or run over. If people were a bit more conscientious, when they hit or run over an animal, they would at least stop and seek ways to help. However, the majority of people do not stop, thinking "It's just a dog" or "It's just a cat." Throughout this research, it has been mentioned that all these behaviors originate in homes. Children are undoubtedly a reflection of their parents, passing down these behaviors from generation to generation. To feel indifferent when causing harm to an animal requires a lack of values, principles, and happiness, and ultimately, it is impossible not to feel remorse for not trying to rectify the damage.

On another note, we must address the concept of "Sumak Kausay," which is supposed to mean "living in harmony with society and nature." But what kind of harmony is this? Animal and nature rights are violated, and people abandon and mistreat animals knowingly, leaving innocent beings in a state of defenselessness, at the mercy of fate. In recent years, animal welfare organizations have managed to create awareness in society. Nowadays, more people respect animals. Even commercial establishments, seeing people's openness with their pets, have become "pet friendly." The love felt towards animals of all kinds is inexplicable, just as the actions of aggressors and abusers are incomprehensible. If people were to change their way of thinking about this, there would be no need for a section in the Integrated Organic Penal Code for these types of infractions.

Animal Abuse and Abandonment in Riobamba

On August 17, 2015, on the streets of Pichincha and Guayaquil, a dog was allegedly lying on the sidewalk in front of an empanada vendor, according to Javier Meza (2015). A woman left the establishment and threw a pot of boiling oil at the dog, who, in pain, writhed and cried out in desperation. People tried to catch him to help, but he only ran, colliding with walls and cars. For six days, volunteers from Animal Protection Ecuador (PAE) searched for the dog. When he was found, evidence of the oil burns and wounds, along with maggots on his lower body, was apparent. The animal was suffering and in agony, so euthanasia was administered.

The public's outrage was evident on social media and the walls of the residence housing the empanada vendor's establishment were painted with threats and insults to the person who had attacked the animal. The trial lasted for two days, and the sentence handed down was three days of community service at an animal protection foundation. This sentence left dozens of people protesting outside the judicial office dissatisfied, as they considered it to be too "lenient" in light of the dog's suffering (Ramos, 2015).



Figure 2: Case of the dog burned with oil. **Source:** PAE.



Image 3: Case of the Dog burned with oil. **Source:** PAE.

In Chibunga Linear Park, the "CRIAR" dog shelter can be found, and it is a place where many owners leave their pets. On April 23 of this year, in the morning, a black D-MAX van opened its rear right door and placed a cardboard box on the sidewalk. Bystanders noticed that the box was moving, and suddenly, it opened, revealing 7 mixed-breed puppies. At that moment, three kind-hearted individuals contacted the shelter and asked if the dogs could be taken in. The

response from the CRIAR staff was affirmative, deeming it the best course of action. The individuals who had abandoned the puppies never seemed to consider what might have happened if the dogs had crossed the road and been struck by a car. They simply displayed a lack of concern, and they did not even have the decency to bring the puppies to the shelter (Testimonies of Witnesses, 2023).

A similar, though more severe, incident occurred involving a dog. It was abandoned, its snout was tied, and its legs were immobilized. To make matters worse, the dog was discarded in the trash. It is heartening that people in the vicinity found the dog, rescued it, and subsequently facilitated its adoption into a new home (El Riobambeño, 2022).



Image 4: Dog abandoned in garbage can. **Source:** The Riobambeño. Special – News.

Conclusions

- Contraventions against animals that are part of urban wildlife are not being properly judged, and they are not given the same importance as a crime. The penalty for offenders is simply community service hours within an animal welfare foundation. From the same legal framework, the rights of animals are being devalued.
- History shows us that both humans and animals share the same space in the world, where all must coexist in harmony. That's why rights to nature have emerged, which must be respected since animals are also considered subjects of rights, and we all are equal before the law.
- Ecuador is considered a megadiverse country with unique biodiversity, including exotic flora and fauna. Therefore, each species and each animal must be respected, protected, and cared for.
- The state should implement measures to improve the cultural level of people, making them aware of spaying/neutering campaigns, and understanding that their pets are their responsibility, and they cannot simply abandon them when they get tired.
- After analyzing the issue of animal abandonment and cruelty, it is discerned that, apart from raising awareness among people, it would be opportune to conduct a psychological study on individuals before they purchase or adopt a dog, cat, or any animal from urban wildlife. This would help determine if they would be capable of mistreating or abandoning their pet in the future. There should be a list of requirements to fulfill before one can own a dog, cat, or any animal that is part of urban wildlife.

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