Introduction

This chapter attempts to outline the key areas and signposts or pointers of the current laws and regulations regarding animals and animal welfare in the People’s Republic of China (PRC). Given the vast size of China, its huge population, and the large number of animals living, working, and dying in China, legal protection or the lack thereof for these animals is a serious matter, not only in China but for the international community as well.

Animal protection in contemporary China

As is widely known and acknowledged both in China and elsewhere, animals in general do not fare well in the PRC, and there is little effective legal protection for most of them against human abuse and mistreatment (for detailed discussions of legal and cultural issues related to animals in China, both past and present, see Cao, 2015). This is so despite some laws, regulations, and other measures in place for protecting various types of animals, and despite the fact that some of the penalties for wildlife crimes are severe. A basic legal regime relating to animals exists in China, consisting of a constitutional provision, national laws, subordinate administrative regulations, provincial and local implementing measures, and various binding interpretations and opinions by the highest court and relevant legal and administrative authorities.

Constitutional and legal status of animals

Since the founding of the PRC in 1949, a number of laws and regulations concerning animals and animal protection have been adopted in the last few decades. To start with, the Chinese Constitution (1982) mentions animals once. It states that “the State ensures the rational use of natural resources and protects rare and valuable animals and plants” (Art 9). This means that, fundamentally, in the Chinese legal order, rare and valuable animals or protected wildlife are classified as natural resources. As such, they are the object of utilisation for human benefit and, at the same time, the animals also warrant human protection. This is the basic thinking running through Chinese laws related to animals, that is, utilisation and protection, and often utilisation takes priority over protection. As objects of property under Chinese law, animals including
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Protected wildlife do not have legal rights (similar to the situation in most countries). Different from many Western countries, animals in China are not yet recognised as sentient beings or beings with intrinsic values of their own (For a discussion of traditional Chinese philosophy and culture which recognises animal sentience, see Cao, 2018b and Shih and Singer, 2018). The laws and regulations related to animals consequently are primarily designed to protect humans and human interests or human utilisation of animals as resources, not focusing on animal welfare. Paradoxically, for some animals as private or state property, this is the only legal protection that Chinese law affords them. For instance, for companion animals such as dogs, this is the only way by which owners of such animals can exert a claim for their non-human family members as there is no other legal recourse to protect them.

Anti-cruelty laws

There is no anti-cruelty law for any type of animals, whether domestic or wild, under Chinese law. There is no animal welfare law either, although some provisions in animal-related laws are for the improvement and protection of animal welfare (for a recent survey of the attitudes of the Chinese population towards animal welfare, see Carnovale et al., 2021). Although non-governmental or non-official efforts have been made continuously to introduce such a law over the last decade, China still does not have any legal provision to prevent cruelty and abuse to animals at the national or local levels, except one jurisdiction, Hong Kong – which has retained the anti-cruelty law inherited from the previous English administration. China is one of the few countries in the world today that does not have anti-cruelty laws, which is a major defect in China’s legal system (For studies on the animal laws and cruelty related offences in various countries, including Australia, Israel, South Africa, Brazil and others, see Cao and White, 2016). This means that most animals including companion animals, farm animals, and wild animals used for entertainment and other purposes have little or no legal protection in China (For discussions of animal protection in China and various challenges, see Li and Davey, 2013).

Wildlife

Wild animals, in particular, state-protected wildlife, have more legal protection compared with all other types of animals in China. Such laws consist of a constitutional provision, various national laws, subordinate administrative regulations, provincial and local wildlife implementing regulations, various measures of the relevant legal and administrative authorities, and binding interpretations and opinions by the highest court and other legal and administrative authorities (see Cao, 2015). Among these are the Wildlife Protection Law (WPL, 1988) and, to a lesser extent, Environmental Protection Law (1989), Fishery Law (1986), Customs Law (1987), and Forestry Law (2000). There are also subordinate regulations and measures involving wildlife protection, health and quarantine authorised under the major national laws. Additionally, the Criminal Code (1997) has provisions on wildlife protection and on the criminal liabilities including penalties for illegal hunting, killing and unlawful dealing (i.e., sale, transport, and purchase) of protected wild animals. China is also a party to a number of international treaties and bilateral treaties pertinent to wildlife, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Biodiversity Convention and Wetland Convention, among others.

The most important basic national law for wildlife is the WPL (1988), enacted in pursuance of the Constitution (1982) (For further discussions of the WPL (1988), see Sharma, 2005, Cao, 2015, Li, 2021). This law is to both protect wildlife and legalise the domestication and utilisation of
wildlife and the development of the wildlife industry in China. It sets out the guiding principles and framework for wildlife management, utilisation, and protection, that is, for the conservation of rare and valuable animals and endangered species as well as the development and utilisation of wildlife resources (Art 1). These objectives embody the basic Chinese official position that wildlife species are natural resources owned by the state and their protection is necessary. The WPL (1988) also aims to promote ecological balance through wildlife management and protection as stated in its most recent amended version. The WPL (1988) has been amended a number of times and is currently under review for further amendment. It has been suggested that despite the various amendments and changes, the wildlife laws and policies in China today including the WPL are basically an updated version of the government policies in the 1960s, that is, the essence of the law remains unchanged despite the many changes to its provisions (Liang, 2016).

In pursuance of the WPL (1988), there are various subordinate regulations and administrative measures relating to wildlife protection, including the Regulations for the Implementation of Terrestrial Wildlife Protection (1992), setting out procedures and rules for domestication and breeding operations of protected wildlife, the Regulations on the Implementation of Aquatic Wildlife Protection (1993), Regulations on Management of the Import and Export of Endangered Wild Fauna and Flora (2006), Circular on the Ban of Trade of Rhino Horns and Tiger Bones by the State Council (1993), Urban Zoos Management Regulations (1994) and Natural Reserves Management Regulations (1994). There are also interpretations and opinions by the highest court in China, the Supreme People’s Court (SPC), and the highest prosecution authority, the Supreme People’s Procuratorate (SPP), on the specific provisions of the above-mentioned national laws and on the application of the laws in wildlife-related court trials, in particular in determining crimes and appropriate punishment (for recent studies of wildlife crimes in China, see Cao (2016, 2019), and van Uhm (2019, 2020); for discussion of Chinese wildlife law and politics, see Li, 2021). There are also regulations at the provincial level for the implementation of the national laws, authorising local authorities and specifying local conditions.

In short, the WPL (1988) provides the legal basis for both protection and utilisation of wildlife and endangered species. It also authorises and legalises the utilisation and trade of protected wildlife for various purposes through a licensing system. As a result, the law has been used to give a green light to various forestry authorities to license farmers and traders for wildlife exploitation. This licensing system also helped traffickers and restaurants to pass off illegally acquired wild animals, and enabled individuals and commercial enterprises to breed Siberian tigers, moon bears, and other species even though these animals are special state-protected animals.

A recent important development in the aftermath of the COVID-19 pandemic is that since early 2020, a comprehensive national ban has been imposed on the illegal trade of “terrestrial wildlife”, prohibiting the sale and eating of wild animals, in an effort to stem the traditional practices of eating wild animals in China – a positive and necessary move (see www.npc.gov.cn/englishnpc/lawsoftheprc/202003/e31e4fac9a9b4df693d0e2340d016dcd.shtml. For further discussions of COVID-19 and wildlife protection in China, see Huang, Wang, Yang et al., 2021).

Animals used for research and testing

According to the Chinese authorities, some 12 million animals are used for scientific purposes nationwide each year, including mice, rabbits, guinea pigs, dogs, and primates. China is a leading producer and exporter of animals used for research. One of the earlier national legislation for
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Animals in China is the Regulations for the Administration of Laboratory Animals that came into effect in 1988, establishing the basic rules for animals used in education, research, and testing. In 1992, the Detailed Implementation Rules for the Administration of Laboratory Animals Used in Medical Experiments and the Standards for Medical Experiments Using Animals (1992) was published by the Ministry of Health. In 2016, China released its first national standards governing the treatment of animals in research in an effort to improve both conditions for animals in research and China’s prospects for international research collaborations (see Bayne, Wang, and Pang, 2018; Cao, 2015, 2018a; McLaughlin, 2016).

As mentioned earlier, Chinese laws and regulations related to animals have been enacted with the utilisation of the animal resources as their primary objectives. It is also true for the regulation of animals used in research, or perhaps more so because of the international research culture and ethical standard practices for the recognition and publication of scientific research experiments. China enacted the laws very much with this in mind. Accordingly, China also has various guidelines and standards for quality control of animals used in experiments at the national and local levels. The National Laboratory Animal Quality Management Measures and the Laboratory Animal Licensing Management Measures were issued in 1997 and 2001 respectively. Unrelated to animal welfare, they concern only the quality control of animals used in research. The quarantine of imported and exported animals for research purposes is covered by the Law on the Quarantine of Animals and Plants in Imports and Exports (1991).

Of the regulatory measures, the most important are the Regulations for the Administration of Laboratory Animals (1988) and the Guidelines for the Humane Treatment of Laboratory Animals (2006) (see Cao, 2015; Kong and Qin, 2010). The stated purpose of the 1988 Regulations is to ensure the quality of animals used in labs (Article 1). Nevertheless, they provide some protection to animals used in education, research, and testing. The most recent development is that in August 2021, the Chinese Ministry of Science and Technology released a draft for proposed amendments to the Regulations for public consultation. A significant proposed change is that the amended Regulations, if the proposed amendments are adopted, will include “ensuring animal welfare” as one of the legislative objectives. The draft states, “The regulations are made for the purposes of standardising the management of laboratory animals, guaranteeing the quality of laboratory animals, ensuring animal welfare, maintaining public safety, and meeting the needs of scientific research, economic construction and social development” (Art 1). This, if adopted, will be the first time that “ensuring animal welfare” is written as a legislative objective in Chinese laws. The draft changes to the Regulations also include expanded rules on public safety and infectious disease control in research facilities and specifications on genetic modifications.

Relevantly, the proposed draft has a new section on the management of animal welfare ethics, including the provisions that the use of laboratory animals shall follow the 3Rs principles (replacement, reduction, and refinement of laboratory animal use), and research facilities and individuals engaged in laboratory animal work shall take effective measures to meet the requirements of laboratory animal welfare and animal research ethics. It also requires that laboratory animal welfare ethics committees must be established to conduct “independent, fair and just and scientific ethics review and supervision”, although it does not specify how this would be carried out. Another new proposed provision is that the transport of laboratory animals must ensure the welfare requirements of the animals.

Some of these proposed provisions are found in the earlier policy document – Guidelines for the Humane Treatment of Laboratory Animals (2006). In the Guidelines, there are more specific provisions for the “humane treatment of laboratory animals”, for instance, taking effective meas-
ures in the course of laboratory animal care and use so that such animals will not suffer from unnecessary harm, hunger, thirst, discomfort, fear, torture, disease, and pain and the animals can achieve their natural behaviour; the animals will receive good management and care; they will be provided with a clean and comfortable living environment, and sufficient and healthy food and water, and pain and suffering will be lessened or avoided. The Guidelines also state that the humane treatment of the animals includes the promotion of the 3Rs principles and that such animals should be used scientifically, rationally, and humanely.

As there are no criminal offences under Chinese law for mistreating animals, a violation of the Guidelines which is a policy directive may result in professional disciplinary action, but how this may happen is unclear. There is little public information related to disciplinary measures for violation or breach of the relevant ethical rules in this area. There is no provision for penalties in the proposed amended Regulations either for mistreatment of animals or violation of animal ethics rules. Thus, a major issue regarding animals used in research is the lack of transparency and information to the public. This is true in China as well as other countries where animals are still used for research and testing purposes (For detailed discussions, see Cao, 2015).

Companion animals

In recent years, there has been a growing interest in animal legal protection in China, both at the official and community levels propelled by the grassroots animal rescue efforts (For discussions of the Chinese animal protection movement as an emerging social movement, see Cao, 2015). In 2009–2011, a non-official legislative proposal in the form of anti-cruelty law was drafted and submitted to the Chinese national legislature and central government (The full text in English translation of the Prevention of Cruelty to Animals Law of the PRC (Experts’ Draft Proposal) is found at http://aldf.org/downloads/ChinaCrueltytoAnimalsProposal3-10.pdf. See also Chang, Michaels, Littlefair, and Li, 2010). Separately, numerous delegates to the Chinese National People’s Congress (the equivalent to the Parliament) have submitted proposals for legislating against animal cruelty each year since 2011. However, there is no official indication, either positive or negative, from the Chinese legislative body as to its plan or intention for legislation in this area.

In China, companion animals are generally regarded as the personal property of owners, although there is no law explicitly saying so. As such, registered dogs may have certain limited indirect legal protection as the property of their owners – the only legal protection as far as dogs are concerned, as mentioned earlier.

In most Chinese cities, there are dog management regulations issued by the local city governments. They are not designed for dog protection or welfare purposes but for dog management. Most of these regulations provide for the responsibilities by the owners such as registration and vaccination of dogs and leashing dogs outdoors, various dog bans, including banned breeds or types of dogs, designated zones where dogs are not to be raised or taken for walks and restrictions on the number of dogs a household can have. These restrictions vary from city to city. Some city regulations also have provisions on dog adoption.

A related issue is the eating of cats and dogs as food. Despite their emergence and growing popularity as family companions, cats and dogs are still being eaten in China. However, in the past decade, more Chinese have come to accept that animal abuse, and eating cats, dogs, and wildlife is unacceptable. Many people are starting to oppose the eating of dogs despite the availability of dog dishes in restaurants. Their objections usually include animal cruelty, food safety concerns, cat and dog theft and related crimes. Some Chinese, especially the young, believe dog and cat eating is barbaric. During the last decade, some legislators at the city, provincial, and
national levels have proposed banning cat and dog eating, often generating wide interest and heated debates, but none have succeeded until 2020 in the cities of Shenzhen and Zhuhai in southern China when Shenzhen became the first Chinese city to ban the eating of cats and dogs followed by Zhuhai. The ban is a part of a wider clampdown on the wildlife trade following the outbreak of COVID-19. What stands out in the Shenzhen law is the additional prohibition of eating cats and dogs within the law banning the sale and eating of wild animals (see Cao, 2020; Cao, 2021).

**Farm animals**

China has been a member of the OIE since 2007, but China’s laws and regulations have not incorporated all the OIE animal welfare standards, in particular for farm animals, such as transport, slaughter, and production systems (For discussions of the Chinese animal situation and international treaties, see Chang 2020. For a comparative study of EU animal regulation and China, see Chang, 2000). In China, for farm animals, there are some laws and regulations for animal husbandry, transport, and slaughter, with the primary objective of protecting humans and human interests, not animals or their welfare. For instance, the Animal Husbandry Law (2005) was enacted for the purposes of regulating the production and business operations of stockbreeding, ensuring the quality and safety of livestock and poultry products, protecting and reasonably utilising the genetic resources of livestock and poultry, protecting the legitimate rights and interests of the stockbreeding producers and business operators, and promoting the sustainable and sound development of stockbreeding.

(art. 1, Animal Husbandry Law (2005))

Other related laws include Animal Epidemic Prevention Law (1997) which was last amended in 2021, and Food Safety Law (2009) that have some provisions related to animals. Other relevant laws include the Regulations on Feed and Feed Additives Management (2001), Regulations on Administration of Veterinary Drugs (2004), Regulations on the Prevention and Control of Pollution from Large-scale Livestock and Poultry Breeding (2014), and Regulations on the Management of Pig Slaughter (2008), which are currently being amended. These regulations do not mention or regulate farm animal welfare or their protection because the overall concern and focus of such Chinese laws are human interests and utilisation of animal resources. There are no specific laws for the rearing of pigs, chickens and hens, or cattle and calves, or for protecting their welfare, although humane pig slaughter including stunning has been supported by the Chinese authorities in recent years, for instance, the Technical Standards for Pig Humane Slaughter released by the Ministry of Agriculture in 2008 encouraging humane slaughter practices. A new development is the publication of a series of farm animal welfare standards for pigs, cattle, chickens and hens, and other farm animals in recent years, but these are not government directives or regulations, and have no official or legal implementation status (the farm animal welfare requirements are developed under the auspices of the International Cooperation Committee of Animal Welfare (ICCAW) in China, and the full texts (in Chinese and English) are found at www.iccaw.org.cn/plus/list.php?tid=69).

**Other captive animals used for human purposes**

China has a regulatory regime for other types of wildlife in captivity, including regulating the use of protected wildlife. One regulation is the Implementation Regulations on Terrestrial Wildlife
Protection (1992). The Regulations provide the operational framework for extensive utilisation of wildlife including protected wildlife, legalising and promoting a number of wildlife industries in China: wildlife as laboratory animals, for zoos and circuses, and for agriculture. For the regulatory regimes for wildlife in zoos and circuses and animals used in the fur industry, there are no specific laws in China that cover the breeding or treatment of wildlife used in the fur industry. China is one of the major producers of furs today, but there is little transparency for such commercial activities, and there have been reports of serious abuse of such animals over the years (see Cao, 2015). The relevant government policy giving consideration to animals bred and raised in the fur industry is the Guiding Opinions on the Promotion of Sustainable Development of Wild Fauna and Flora (2004). This document prohibits and restricts the hunting of wildlife resources in the wild for direct use for commercial purposes. Furthermore, the Interim Provision on Technical Management Related to the Domestication, Breeding and Utilization of Wild Fur Animals (2005) is another specific, relevant policy directive for all forestry departments in different cities and provinces to implement. This provides the technical specifications and animal welfare standards for the fur animal breeding industry. The Interim Provision has a number of guidelines on animal welfare though most sections pertain to fur quality control.

As for animals used in zoos and for entertainment, there are the City Zoo Management Regulations (2004) which regulate the management of zoos but also include some sanitary, environmental, and enrichment requirements for animals kept in zoos. There have also been directives from the national authorities since 2010 that animals should not be used for performing purposes in zoos, but these are not largely unimplemented (for further discussions, see Cao, 2015).

Conclusions

Despite the widespread animal welfare problems for many animals in China, recent years have seen some positive developments, including outlawing the ivory industry since 2018 (see Xiao et al., 2021), the ban on the trade of wild animals for eating throughout the country since 2020 and the ban on eating cats and dogs in Shenzhen and Zhuhai. These efforts suggest that the Chinese society and Chinese people’s attitudes towards animals are gradually changing. They should give us hope that Chinese practices towards animals can change for the betterment of animal welfare in response to contemporary ethical standards and laws.

References

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