

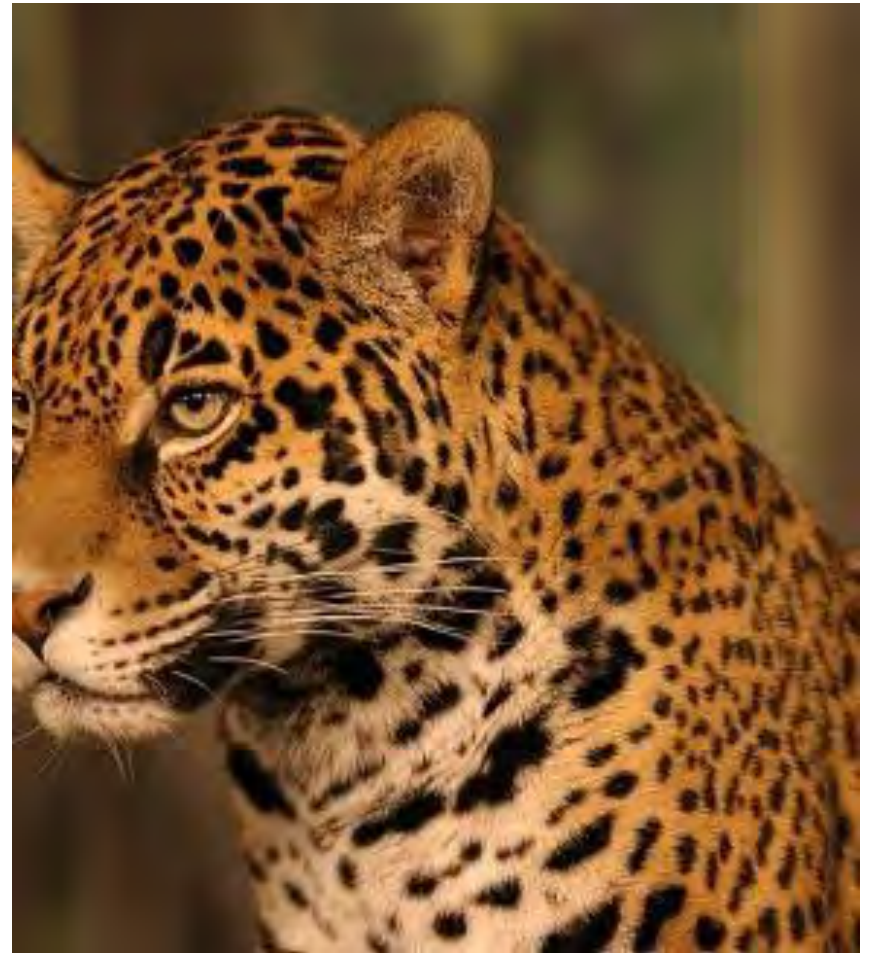
BRAZILIAN WILDLIFE PROTECTION

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BRAZILIAN ANIMAL LEGAL STATUS

- There is an overlap of concepts about the legal status of animals: Constitution considers wildlife as asset of common use of people (public trust doctrine), and the Civil Code consider domestic or domesticated animals as property.



BRAZILIAN CIVIL CODE - 1917

- “Roman conception” domestic animals as semi-mobile assets, and wild animals are *res nullius*



Art.593 – Are things without owner and subjected to appropriation

- *1 – wild animals, while delivered to their natural freedom; 2 – the tame and domesticated that are not marked, if they have lost the habit to return to the place where they used to shelter, except in the hypothesis of art.596 (when the owners are in search of the animal).*

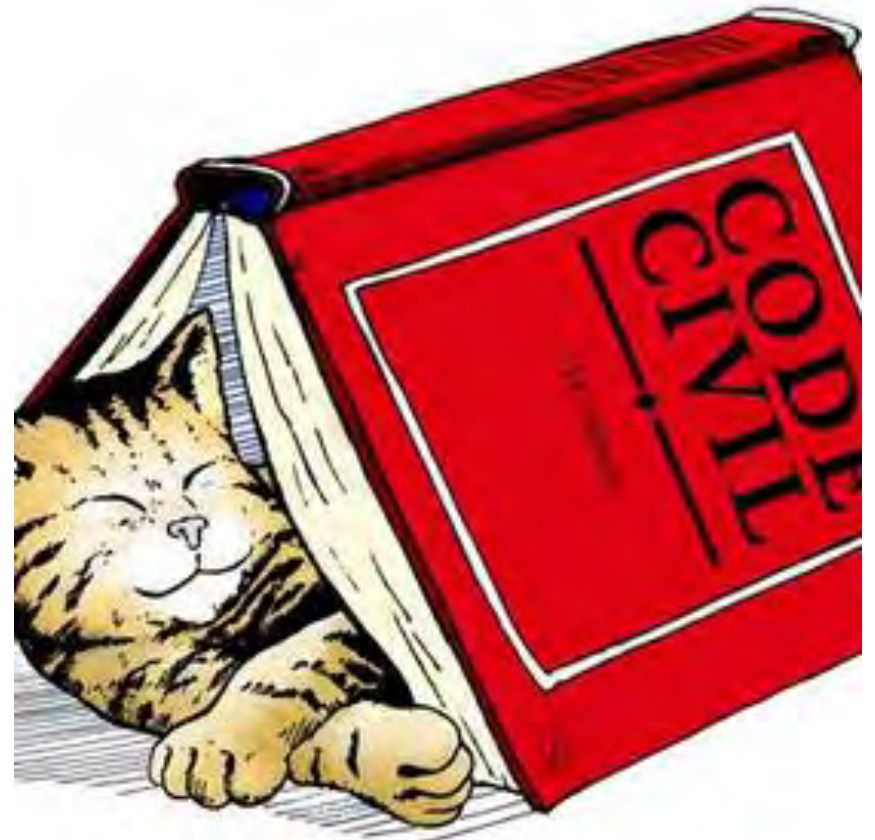
Brazilian Civil Code(1917)

- German influence: wild animals belong to the owner of the land if they were captured without his permission, unless the animal had been injured in another location and the hunter was on its tracks.



NEW CIVIL CODE - 2002

- Art. 82 – moving goods
- Art. 445, § 2. Animal commerce
- Art. 936 – Animal owner
- Art. 1.313 , II – owner of things
- Art. 1.446 – animal substitution



FAUNA PROTECTION ACT (1967)- ITALIAN

INFLUENCE: STATE PROPERTY

- prohibited the professional hunting, commerce of products and objects that imply hunting, tracking, destruction or capture of wild animals, prohibited also the introduction exotic fauna without official technical assessment and environmental license.
- State could authorize sport, scientific and control hunts, when it referred to harmful animals towards agriculture, public health, or abandoned domestic animals that came to be considered wild or feral

FISHING CODE EMENDMENT (1967)

- fishing can be done for commercial, sporting or scientific purposes”. Government must to regulate the professional fishing to commercial, sporting or scientific ends .



Act n^o 7.643/87

- **It is a crime to fish or molesting dolphins, whales, river-dolphins in Brazilian waters .**



Brazilian Constitution (1988)

- Animals as asset of common use of people.
- *Public trust doctrine: Animals belong to all members of community in equal conditions.*



Brazilian Constitution

ART. 225, § 1, VII

- **Government must protect fauna and flora, with prohibition, in the manner prescribed by law, of all practices which represent a risk to their ecological function, cause extinction of species or subject animals to cruelty.**



ENVIRONMENTAL CRIMES ACT/98

Crimes against Fauna

- Art. 29 - To kill, pursue, hunt, catch, use species of the wildlife animals, native or on migratory routes, without the appropriate permission, license or authorization from the competent authority or in disagreement with the permission, license or authorization obtained:
- Penalty -detention of six months to one year, and fine.



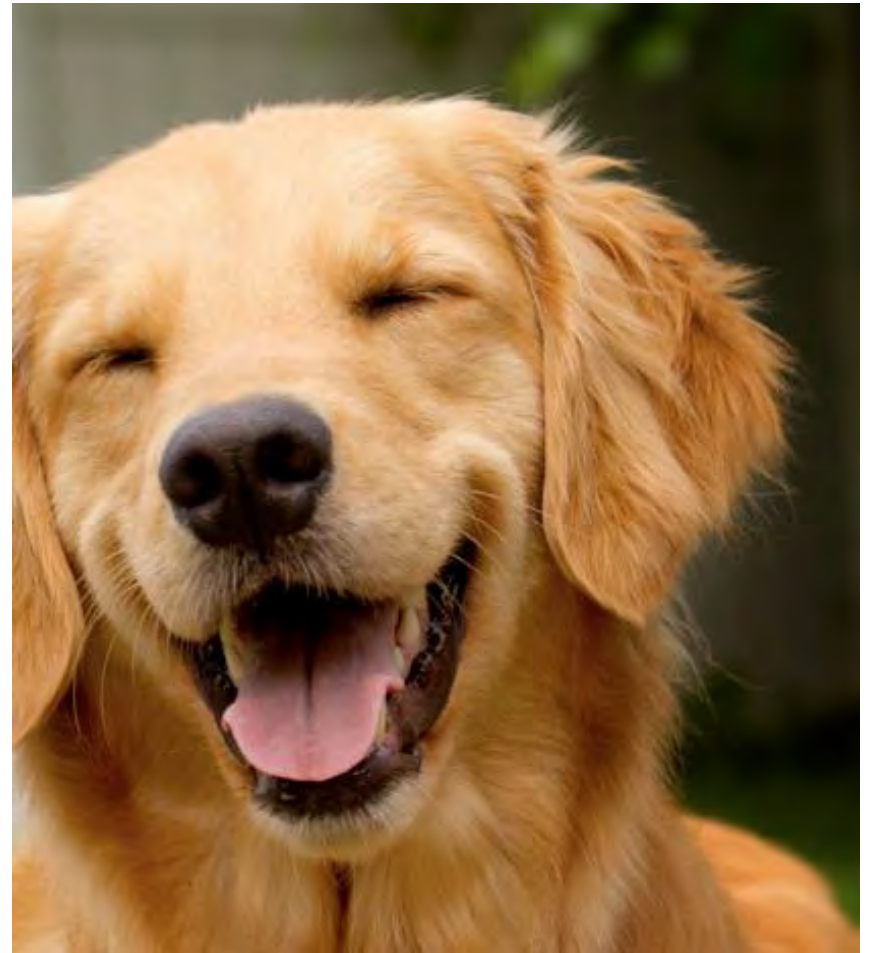
Crimes against Fauna

- Art. 32 - Practice abuse, mistreatment, injury or mutilate wild, domestic or domesticated animals, native or exotic:
- Penalty - imprisonment of three months to one year and fine.



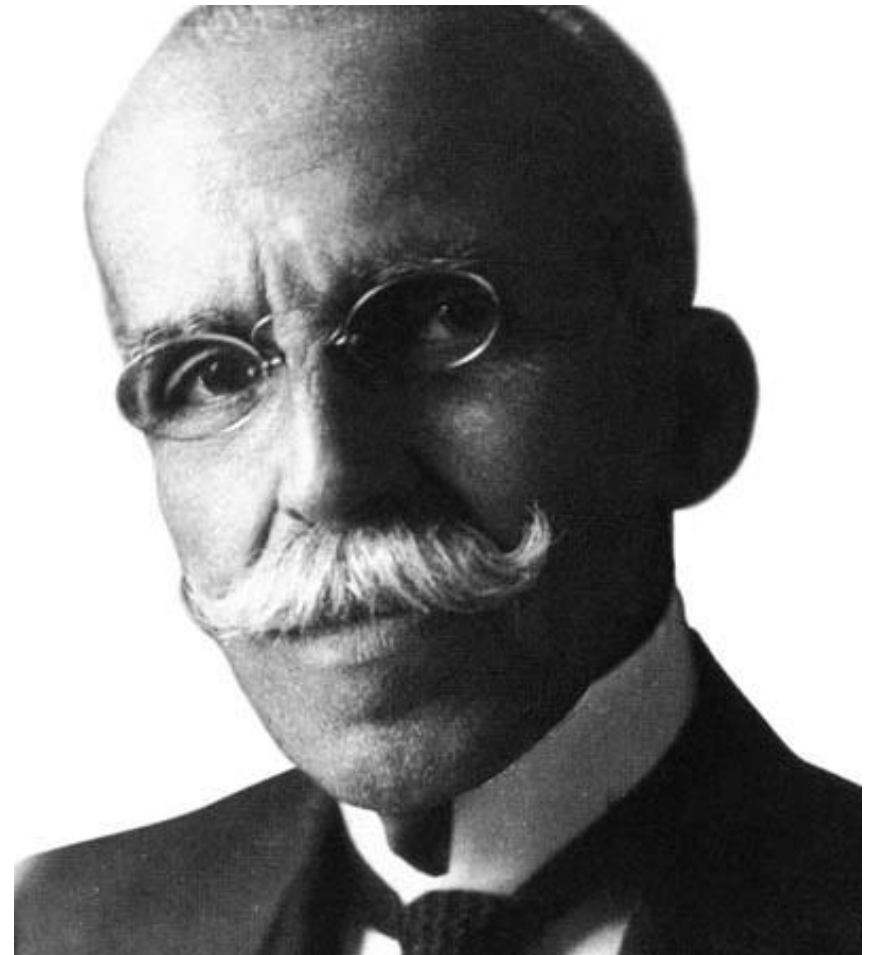
Crimes against Fauna

- § 1 - Whoever carries out painful or cruel experiments with live animals even for teaching or scientific purposes, incurs in the same penalties, whenever there are alternative means.
- § 2 - The penalty is increased by one-sixth to one-third if the animal dies.



RUY BARBOSA

- *Blind are those who suppose in abolition the ultimate page of a closed book, a negative formula, the suppression of an enemy, the epitaph of a secular iniquity. What it is, on the contrary, is a chant of dawn, the motto no longer mysterious of an age that begins, the measure of the strengths of the giant that unleashes himself*



THANKS

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