

Bulls and bullfighters

The title of today's commentary is the same as that of a book I have been looking for for years [\[1\]](#), one which I once had the opportunity to hold in my hands, in a bookshop in Munich (I couldn't purchase it then). This book contains images and passages that I still hold in my memory. It is an extraordinarily beautiful book and one of exquisite quality; the kind of book that those who love art, reading and books enjoy looking at, touching, turning the pages and looking at the pictures. The book contains reproductions of the series of paintings that Picasso dedicated to bullfighting, which texts by bullfighter Luis Miguel Dominguín, who was, as is well known, a close friend and collaborator of Picasso's. Picasso was even the godfather of one of the bullfighter's sons, an episode that was much publicised by the tabloid press.

The world of bullfighting has a singular charm, with its colours, music, plasticity, open risk and breathtaking passes. These elements may be regarded as conferring bullfighting with some sort of artistic quality. I can't deny that at some point in my life, years back, I felt fascinated by this absolutely unique spectacle. Nevertheless, it only took me an instant, when I looked at the bull and not at the bullfighter, to perceive the immense pain the bull has to endure throughout the fight. Spectators of bullfights watch and applaud the courage, the daring and the finesse of the bullfighter, but they don't look at the bull. And if they do look at him, they don't see him. They don't see that he loses blood and bellows in pain; they don't see that he drags himself on the sand and falls when the picador's lance cleaves his nerves.; they don't see that sharp banderillas are thrust into already wounded and bleeding parts; they don't see that he is still alive when his spinal cord is severed with the puntilla... I didn't see any of these things either. I would look at the bullfighter, at the show, inattentive of what was really happening. I didn't see the bull. The bull was like a necessary background actor, just another element in an afternoon of bullfighting. I didn't see him as an animal that feels pain and shows it.

In the debate that led to the banning of bullfights in Catalonia last 28th July gave rise to all kinds of comments. The story received considerable coverage in the international media [\[2\]](#). In Spain, not surprisingly, the response has been, and is still, passionate. I would like to summarise the points I consider most relevant:

- The initiative that led to the banning of bullfights in Catalonia has truly been a citizen's initiative. Signatures were collected in the streets by all kinds of volunteers, youths, members of NGOs, even shopkeepers who spared a corner of their counter for the pile of signature sheets. 180,000 signatures were collected, no less, thanks to the unselfish and enthusiastic efforts of many anonymous citizens.

- The procedure the initiative had to go through included a parliamentary debate followed by a vote. Technically, the matter under debate was a proposed amendment of Article 6 of the consolidated Law for the Protection of Animals [\[3\]](#). The petitioned amendment was put to the vote of the representatives of the political parties with seats in Parliament. It was, therefore, to be expected that political consequences would be extracted, but this does not alter the fact that the motivation of the initiative was the protection of the animals [\[4\]](#).

- We may choose to place the emphasis on the political manoeuvring and the so-called identity battle accompanying the initiative on its way through parliamentary debate and voting, but then we have the same picture for all innovative or reformist bills that have been passed in recent times. I will not give recent examples, as they are obvious for any jurist. The Law is a product of history, and, naturally, it

being a legal and social science, it is infused with the inseparable binomial of Law and Society.

- Tradition or the association of a particular celebration with national identity cannot be brandished as a safeguard to perpetuate practices in which animals are abused [5]. Bullfighting requires the brutal sacrifice of a living animal, and for this very reason it is unacceptable, however aesthetically pleasing it may be regarded. I would like to recall the warning regarding tradition that was issued by the Supreme Court of Valencia [6] in connection with the release of ducks in the port of Sagunto, which had been taking place in spite of a few fines. The Court declared that “no tradition can serve as excuse to give unnatural treatment to the ducks.” We begin to see a trend in jurisprudence which is ever more clearly in favour of respectful treatment toward animals. We are still far from defending their “interests,” as has been done in other countries where the notion has penetrated the Law as well as the awareness of the citizens. But there are moments in history – and this is one of them – that mark a point of no return.

- History can be used to defend certain interests. But history is stubborn, and since it relies on the study of verba (i.e., texts, words, written thoughts) rather than facta (events, battles, etc.), it is resistant to attempts to make writings and documents lie. At some point, sometimes centuries after the time of writing, a document may appear that proves or disproves a statement. Many bullfighting prohibitions have been pronounced in Spain since the sixteenth century, as the surviving documents prove; in the eighteenth century Jovellanos led an initiative to uproot this violent and fierce tradition; throughout the eighteenth century the intellectuals of a more Europeanist persuasion abhorred the spectacle of blood and death, which they regarded as improper of citizens. The number of bullfights in those times was small and they were not held in all parts of the country.

- The present ban also rests on the absence of a deeply rooted bullfighting tradition in Catalonia. The “Monumental” bullring in Barcelona was opened as recently as in 1914, and as Henry Kamen recalls [7], during the mayoralty of Dr. Robert he set in motion a popular assembly to petition for the banning of bullfighting. Furthermore, among the Spanish Autonomous Communities Catalonia has some of the oldest laws for the protection of animals: the first “Law for the Protection of Animals” was enacted in 1988 and has recently been amended [8]. Similarly to Austrian, German and Swiss laws, the Catalan Civil Code declares, in the chapter on objects of property, that “animals are not things” and lays out specific rules concerning them [9]. By so doing, these legal codes break away from the Roman tradition, which was continued in European and Latin-American legal systems, in which animals are regarded as “things” that can be owned.

The foundations for change, whether some people like it or not, were in place in Catalonia [10], regardless of the political interests that may have intervened to respond to a popular demand.

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[1] P.Picasso & Luis Miguel Dominguin, *Toros y Toreros* (Éditions Cercle d'Art 1961).

[2] Recopilation of news by Oriol Caudevilla [Discharge](#).

[3] Texto refundido de la Ley de Protección de los animales, aprobado por decreto legislativo 2/2008 de 15 de abril [Discharge](#).

[4] Prof. Javier de Lucas' speech at the Comissió de Medi Ambient i Habitatge del Parlament de Catalunya (4.3.2010) [Discharge](#).

[5] Comparecencia del Prof. Pablo de Lora ante la Comissió de Medi Ambient i Habitatge del Parlament de Catalunya (4.3.2010) [Descargar](#).

[6] Published in *Las Provincias*, [External link](#).

[7] H.KAMEN, Consideraciones sobre la fiesta nacional, in *EL MUNDO* (11.8.2010), sección Tribuna 17.

[8] [Internal link](#).

[9] Libro 5 del Código civil de Cataluña, Llei 5/2006, de 10 de maig, del llibre cinquè del Codi civil de Catalunya, relatiu als drets reals, art. 511-1-3 Bienes: 3. “Los animales, que no se consideran cosas, están bajo la protección especial de las leyes. Solo se les aplican las reglas de los bienes en lo que permite su naturaleza”

[10] Mercedes Cano-Herrera [Tauromaquia e identidad moral de Cataluña](#), in *dA web Center*, June 2010