



FUNDACIÓN JUSTICIA INTERESPECIE

PROCESS	: SPECIAL
MATTER	: APPEAL FOR AMPARO
RECURRENT	: INTERSPECIES JUSTICE FOUNDATION
REPRESENTATIVE	: DIEGO PLAZA CASANOVA
RUT	: No. 17.119.155-6
PROTECTED	: BORNEO ORANGUTAN "SANDAI"
RUT	: WITHOUT ID
APPEALED	: AGRICULTURAL AND LIVESTOCK SERVICE
RUT	: No. 61.308.000-7
REPRESENTATIVE	: ANDREA COLLAO VELIZ
RUT	: No. 13.428.104-9
APPEALED	: ZOOLOGICAL PARK BUIN ZOO SA
RUT	: N°99.555.680-4
REPRESENTATIVE	: IGNACIO IDALSOAGA GAJARDO
RUT	: N°7.438.089-1
SPONSOR	: NICOL HERTEL BAEZ
RUT	: No. 17.030.686-4

IN THE MAIN THING: Files an appeal for constitutional protection; **FIRST OTHER:** Accompanies reports; **SECOND ADDITION:** *Amicus curiae* are present ; **THIRD OTHER:** **Attaches** documents; **FOURTH OTHER:** Requests that the proceedings be decreed that it indicates; **FIFTH OTHER:** Keep in mind acceptance of Sanctuary; **SIXTH ADDITION:** Bear in mind the acceptance of Fundación Justicia Interespecie; **SEVENTH OTHER:** active legitimization; **EIGHTH ADDITION:** Notifications; **NINETH OTHER:** Personería. **TENTH OTHER:** Patronage and power.

**HONORABLE COURT OF APPEALS
OF SAN MICHAEL**

DIEGO PLAZA CASANOVA, lawyer, President of the Foundation Interspecies Justice, identity card number 17.119.155-6, acting on behalf of the **INTERSPECIES JUSTICE FOUNDATION**, person non-profit private law legal entity, sole tax role N°65.200.185-8, legally represented by its president Mr. Diego Felipe Plaza Casanova, already individualized, both with addresses for these purposes at Halimeda 1050, house 9, Jardín del Mar, Viña del Mar, Region of Valparaíso, according to what is credited in an addendum, to Your Illustrious SS I say:

That, in my capacity as President of the Interspecies Justice Foundation, and acting on your behalf, I hereby file an amparo action Constitution in favor of the Borneo orangutan hominid simiiform primate (*Pongo pygmaeus*) known as “**SANDAI**”, 28 years old; and against the **AGRICULTURAL AND LIVESTOCK SERVICE**, public service

decentralized and with its own assets, single tax roll No. 61.308.000-7, represented by its National Director(s) Mrs. Andrea Collao Véliz, both domiciled at Av. Presidente Bulnes No. 140, commune of Santiago, Metropolitan Region; and the **ZOOLOGICAL PARK BUIN ZOO SA**, a company closed anonymous of the turn of its denomination, unique tributary roll N°99.555.680-4, legally represented by Mr. Ignacio Idalsoaga Gajardo, both domiciled for these purposes in Panamericana Sur KM. 32, commune of Buin, Metropolitan Region; to affect the constitutional rights basic to individual freedom, to the prohibition of torture and to life, of which Sandai owns, which are protected by the guarantee constitutional protection of personal freedom and individual security established in the article 19 No. 7 of the Political Constitution of the Republic -in the manner be in accordance with the *nature* of the protection-; all of the above ok with the considerations of fact and law set forth below.

I.- FACTUAL BACKGROUND

The protected by cars belongs to the simiiformes primate species hominid "Borneo orangutan" (*Pongo pygmaeus*), and responds to the name of "**Sandai**".

This **non-human person** and **subject of rights** is deprived of freedom in the "Buin Zoo Zoological Park", operated by the public limited company closed of the same name, and located on Route 5 south kilometer 32 Camino longitudinal sur 01730, Buin, 9500000, Metropolitan Region, Chile.

In Sandai's deprivation of liberty, the Agricultural and Livestock Service (SAG), who has taken part in acts

administrative procedures that have allowed their admission to national territory and their captive maintenance in Buin Zoo facilities. In addition, the SAG has failed to monitor compliance with the minimum conditions to which the animal exhibition centers are subjected, which has resulted in a aggravation of the conditions under which Sandai has been held deprived of liberty, in open violation of their basic rights.

It goes without saying that Sandai is currently subjected to conditions of solitary confinement, in a compartment unsuitable for their species, which violates their freedom of movement and exacerbates their suffering mental, which is comparable to the psychological torture inflicted on a human, taking into account the cognitive qualities that are its own. The above, constitutes a deprivation, disturbance and threat of the rights of those who Sandai is the owner, in the way that will be explained later.

Next, we will proceed to a brief exposition about the Circumstances of fact that motivate the filing of this action constitutional protection:

a) About the Bornean orangutan

Sandai is a Bornean orangutan (*Pongo pygmaeus*), this is a species of orangutan native to the island of Borneo in Indonesia, Asia. Is species is the most numerous, with about forty-five thousand individuals in wild state, numbers that contrast with the seven thousand five hundred Sumatran orangutans still living in their natural habitat.

As will be detailed later, Bornean orangutans are individuals endowed with sentience, of a high intelligence -superior to that of the most of the great apes-, and complex cognitive faculties, which

allows them to be aware of themselves, as well as their past, present and future. These extraordinary qualities have not only been verified by the current scientific knowledge, but also have been warned since hundreds of years ago.

In this regard, it is interesting to mention that in the Malay and Indonesia, *orang* means "person" and *utan* derives from "hutan", which means "forest", therefore, in these languages and cultures *orangutan* means literally "person of the forest". However, the recognition of orangutans as *people* is not only reflected in the genealogy of their name, but it is accepted that many of the *Dayak* tribes in the region also they considered orangutans as "people belonging to another tribe". Thus, while some of these tribes actively hunted and killed the orangutans as a food source, others had strict prohibitions, for moral reasons, to kill or injure them.

At present, the total number of Bornean orangutans is estimated to be less than 14% of what it was in the recent past –that is, for ten years thousand years until the middle of the 20th century - and this strong decline has occurred especially during the last decades, due to human activities, being its great threats the fires, the felling of the forests where inhabits, hunts, and illegally traffics their offspring on the black market, which are kept as "pets", or are confined in exhibition centers or "zoos", in order to obtain a pecuniary consideration.

Due to the above, it is that today the Bornean orangutan is It is on the red list of the International Union for the Conservation of Nature (IUCN), listed as a critically endangered species, and It is listed in Appendix I of CITES, this is the appendix where Species that are most endangered are included,

whose trade must be regulated to prevent them from becoming more threatened.

b) Some basic ethological considerations about orangutans

In order to appreciate in depth the physical and psychological pressure that current conditions of solitary confinement represent for the protected Sandai, it will be necessary to keep in mind some ethological considerations orangutan basics. This will allow us to grasp the contrast between Sandai's needs and the situation to which he has been submitted by the appellants.

In the first place, it is necessary to bear in mind that in biological terms, The great apes are part of the hominin family tree, which includes orangutans, gorillas, bonobos, chimpanzees and humans. The physiological, cognitive and cultural closeness between these hominids has been the of study by the scientific community, which has concluded **that Humans share 97% of their genome with orangutans.**

However, unlike humans, orangutans carry a rather semi solitary life within its tropical jungle environment, structuring their social groups on the basis of a male -such as Sandai-, that cares for a small group of between three and five females, who also They live separately raising their children.

In their natural habitat, **orangutans are primarily frugivores . and spend much of the day in the treetops looking for food and feeding on a wide range of vegetation.** This includes sheets specific edibles, buds, flowers, vines, wood pith and bark.

In addition, they are known to eat mineral soil, vines, mushrooms, orchids, termites, ants and other insects, leaf galls, spider webs and eggs of birds. To get an adequate intake of water, they suck and lick the water from surrounding vegetation and their hair, when wet, as well as from the natural water bowls of trees and rivers if necessary.

As pointed out by the famous primatologist and orangutanologist Australian Leif Cocks in his book “Orangutans, My Cousins, My Friends”, **if While orangutans are semi-solitary beings, they are eminently human beings. and they have a very characteristic and rich social system.** So even though In their natural habitat , **contact and interaction are less physical than between other species of great apes, are a key element of their psychological well-being.** In this regard, by having a social system relatively dispersed, orangutans create a space and a level of connection between neighboring individuals and this social structure contributes to their wellness and continued health in natural settings.

Leif Cocks explains that the way this happens is through clearly different behavior of the males of the species and of the females. females. As for the males, like Sandai, he explains that being the sex that disperses within the species, **they leave the territory of their childhood to explore and discover new feeding areas and new females with which to reproduce.** Therefore, they are known to **travel many kilometers squares of forest** and can be both resident and nomadic.

Dominant adult males establish a home territory which may include the territories of up to five adult females, provided that there is not a male in residence. Thus, the male stands on top of the crown of the tree within a central radius of the females

local breeders. If there is already an alpha male present, they may have territorial behavior until one of the males wins the domain and stay in the area, and the other goes to find a new territory. A dominant male may also leave an area in which all resident breeding females have young, since we know it can take up to nine years before they are ready to breed again.¹

However, as for orangutans kept in captivity, Cocks warns that a little knowledge can be a dangerous thing, from that **zoos and those who keep orangutans in captivity consider solitary or social animals, but do not realize the deeper picture of their natural social systems.**

Therefore, unfortunately what I have seen happen is that the orangutans are routinely kept in small groups, or **are kept alone and isolated.** On the other hand, thinking that they are animals social, inexperienced keepers, gather a group of orangutans randomly grouped and put them all together in a small enclosure, hoping they are happy. The problem in both cases is **that than humans, orangutans often suffer from psychological stress and physically under these conditions.**

In addition to these ethological considerations related to its genetics, habitat, character and social structure, it is essential to take into consideration

¹ Cocks, Leif (2016) *Orangutans, My cousins, My friends [Ebook]*, The Orangutan Project. Position 1071 and H.H.

² ibid. Position 1091 et seq.

that **orangutans are complex beings and more intelligent than the primate average.** As the expert Cocks has pointed out in his work so many times reviewed, it is usual to consider in the field of conservation that chimpanzees, bonobos and then gorillas would be the most intelligent, after the human, probably because they are closer to us. However, he warns that his personal experience has led him to conclude that orangutans are by far the most intelligent of them.

Thus, from his experience, Cocks has identified the following areas key to intelligence in orangutans:³

1. They think and then act, with great capacity for reasoning and Problem resolution. These individuals have a great capacity for problem solving and reasoning that they use to great effect throughout over time. That is why orangutans are often characterized by being thoughtful and considerate monkeys, because on many occasions they are mentally observing situations, turning them over in the head and literally figuring things out for themselves. According to Cocks, this practice thinking first before acting gives them an innate ability to responding to a situation rather than reacting impulsively to it which allows them to be governed by a greater depth of wisdom learned in instead of being carried away solely by instinct and reactions.

2. They show self-awareness. Orangutans have a clear awareness of themselves and others as separate entities, which has been scientifically proven. It indicates that, inspired by the studies of self-awareness developed by Darwin regarding the orangutan Jenny, the psychologist Gordon Gallup devised in the 1970s a technique for assessing behavior called “mirror test” or brand test, to

³ ibid. Position 1213 et seq.

determine whether nonhumans, in this case the great apes, were capable of demonstrating self recognition. In this regard, both the subjects orangutans and chimpanzees were able to recognize themselves in the mirror, whereas, at least in that essay, bonobos and gorillas did not. In the words of Cocks, “*(...) the self-awareness of orangutans is incontrovertible. And after so many years of working with orangutans and clearly experience their high levels of self-awareness, I find it difficult to understand that some humans continue to question the idea that have this ability.*”

3. They demonstrate theory of mind. Cocks adds that the concept of self-awareness and intelligence of orangutans is the demonstration of their Theory of Mind, which consists of the “*ability to attribute states mental -beliefs, intentions, desires, pretensions, knowledge, etc.- to oneself and others, and to understand that others have beliefs, desires, intentions and perspectives different from their own*”. The above, means that a being is capable of discerning that it has its own thoughts and desires, as well as to appreciate that others also have thoughts and own different desires. Furthermore, it follows that a being who demonstrates theory of the mind would be able to recognize the difference between acts performed intentionally and those that occur accidentally. In this regard, it has shown that orangutans and chimpanzees can distinguish between accidental and intentional acts.

4. Understanding of the signs of language and communication.

Although orangutans don't have vocal cords to speak like we do, are more than capable of learning sign language and understanding language

as a means of communication with humans.⁴ It is now known that orangutans can learn more than 200 words in American Sign Language and Cocks has witnessed how these can understand spoken languages like English and Indonesian, which is why they "*can communicate with us and we can literally carry on a conversation with them.*" Of course these individuals also have their own way of well-developed communication with body language and, to a lesser extent, with the sounds they use when interacting closely with others. Among them are the squeals of kisses and the long calls that orangutans send into the woods to signal their presence in the environment. orangutans use body language and non-verbal cues to communicate and display many socially learned behaviors and traditions cultures that are passed down from generation to generation.

5. Excellent spatial memory and recognition of events and people in time. Orangutans also often have excellent memory in relation to the location of things and an ability to remember events and people over time. They not only have to learn and remember over 1,000 different edible foods within their home in the jungle, but also remember where to locate them. Therefore, your ability to memorize elements of your environment and specific location of objects has probably evolved due to their need to remember the position of food sources and fruit trees within

⁴ A famous example of this was the orangutan Chantek, who died in 2017. Chantek was born at the Yerkes National Primate Research Center in Georgia, and for nine of his thirty-nine years, he lived with the anthropologist Lyn Miles, from the University of Tennessee , with whom he learned to clean his room, create and use tools, and memorize the route to a fast food restaurant. Chantek was an orangutan who literally went to college and learned American Sign Language. It is said that he mastered and used between 150 and 200 hand symbols and gestures of sign language to communicate with his keepers.

In addition, Chantek also understood spoken English and responded to requests and commands, as well as being able to point to, show, and use objects to help his caregivers understand what he was "talking about or referring to."

its jungle habitat in large areas of forest. They would also have to remember the specific time that seasonal fruit is available in different stages throughout the year. Orangutan keepers too have observed that they are able to recognize and remember people who have known and with whom they have interacted many years before.

What was pointed out by Cocks is consistent with what was affirmed by the group of experts made up of Peter Singer, Gary Comstock, Adam Lerner and Macarena Montes Franceschini, who in their report accompanied these cars have indicated that:

Orangutans pass the mirror test to recognize themselves themselves, which means they are self-aware.

They also have the ability to learn sign language and understand spoken human languages. For example, the orangutan Chantek learned American Sign Language and invented his own words to refer to certain objects, such as the solution to contact lenses, which he called EYE-DRINK (EYES DRINK).

He also invented nicknames like DAVE-MISSING-FINGER (DAVID MISSING A FINGER) for your favorite college employee who he had a hand injury. In addition, he signed NO-TEETH (NO TEETH) to show that he would not use his teeth when playing rough.

Chantek was able to qualify certain behaviors as good or bad, like when he caught the cat. **Chantek's linguistic capabilities are comparable to those possessed by human children of two or three years. Orangutans can also put themselves in the place of others, showing altruism, empathy and deception.** For example, Chantek made signs of DIRTY (DIRTY) to go to the bathroom to play with the

soap instead of using the toilet. On another occasion, Chantek stole a eraser, pretended to swallow it, and signed FOOD to say he got it. he had swallowed, but kept it on his cheek and then hid it between his things.

Orangutans are the most adept at manipulating objects. In the wild, orangutans use more than 38 tools, such as apiaries (where bees are sheltered), fans, umbrellas, fly shovels, napkins, straws, chopsticks, blankets, pillows and roofs for their nests. In zoos, orangutans are known as escape artists for their ability to manipulate objects. In fact, research has shown that orangutans can complete tasks with tools with more than twenty steps of problem solving. **orangutans too**

They have planning skills. For example, orangutans Wild males plan and communicate to females their direction of travel a day in advance, which attracts females sexually active and allows dominant males to defend females from harassment of other males.

Orangutan females nurse their young between seven and nine years and **transmit their culture** to them so that they can survive in the jungle. Dominant male orangutans defend females that they call them when other males harass them, and even plan their trips and communicate them, so that the females know where they are in case to need them. Many animals can reciprocate because the Empathy is a phylogenetically continuous trait across species. In a token-swapping experiment, researchers

discovered that orangutans reciprocated by transferring numerous valuable tokens to their partner, suggesting that they **understand the needs of the other.**

In short, orangutans have intelligence to solve problems, reasoning, mental representations, ability to communication and language, inventiveness, self-awareness, self-reflection, psychological continuity, planning ability, memory and ability to put yourself in the place of others.

We highlight these facts to underline the importance of the affirmation that **Sandai is a sensitive, sentient, rational individual, emotional and autonomous with beliefs and desires.** We only add that **these cognitive abilities are sufficient to qualify Sandai as a person.** Any human being with the capabilities that just named is, without a doubt, a person. **As such, it has strong interests that demand legal protection.** This is so even if lack other cognitive abilities, such as the ability to act for moral principles. (pp.9-11)

In short, from the characteristics outlined, Cocks concludes the following regarding orangutans, in terms of intelligent beings, conscious, and sentient:

- Thanks to intelligence tests, we know that **orangutans They are the most intelligent beings on the planet, after the humans,** and that adapt to their environment transmitting culture in every generation.
- The more intelligent the being, the more he can appreciate the apparent continuity of thoughts in the past, in the present and in the

future. This is how the concept of an **individual identity** or "ego" that identifies with this specific mind/body.

- And what is more important, this identity appropriates the **desires and expectations for the present and the future**, along with the regrets of the past. Further increasing the reach of the suffering from the physical to the physiological.
- It is also concluded that orangutans are extremely patient and intelligent who are naturally very observant and inquisitive. As self-aware beings, it is recognized that orangutans **have consciousness, sensitivity and, therefore, are capable of experiencing suffering**.

c) About the orangutan Sandai

The 28-year-old Bornean orangutan "Sandai" was born in captivity at the Cologne Zoo, Germany on August 20, 1993. Sandai is the son of the orangutans Tuan and Lotti, from whom he was torn to only days of birth. In addition, Sandai is the grandson of a Bornean orangutan, called Maias, who also lived captive in that German zoo, without However, Maias was not bred for the purpose of being exhibited, but rather was born into his natural habitat, from where he was kidnapped.

Just four days after being born, dated August 24, 1993, Sandai was sent on loan to the Wihelma Zoo in Stuttgart, Germany, where he remained for about two years, to later return to the Zoo Cologne, on August 1, 1995.

At the Cologne Zoo, Sandai was part of a study⁵ that It was intended to contribute to the basic knowledge of the social relations that they keep Bornean orangutans captive. ⁶ The remarks of the aforementioned study were carried out in three different European zoos, these are the Chester Zoo (Chester, United Kingdom), the primate park of Apenheul (Stichting Apenheul/Apeldoorn, the Netherlands) and the zoo of Cologne (Cologne, Germany).

The group of orangutans at the Cologne Zoo was observed among June 2002 and July 2005. During an important part of the period of study, the group consisted of seven individuals: an adult male, four adult females and two adolescents. Except for the adult male, all the animals had been born in the Cologne Zoo and knew each other from birth and/or infancy. Those individuals raised by the Zoo staff were integrated into the group at the age of 1½ - 2 years.

It is worth mentioning that the composition of the group changed during the period of study due to a transfer, on the one hand, and the death of an individual, on the other other. Finally, the group separated into two subgroups that met at the last part of the study period. Sandai was part of one of these subgroups, and lived with Bornie, Lotti, Tijntah, Suka, Noni, Barito and Bunyu.⁷

**Sandai is not only a naturally social being, but also lived
for the first ten years with other orangutans.**

⁵ Classen, Dorothee et al. (2016) *Fission-fusion species under restricted living conditions: A comparative study of dyadic interactions and physical proximity in captive bonobos and Bornean orangutans*. Current Science, Volume 110, Number 5, March 10, 2016.

⁶ The results of this study supported the assumption that orangutans have the potential to perform social activities in permanent group living conditions without much conflict. Claben, Dorothee (2011) *Social relationships in captive Bornean orangutans (Pongo pygmaeus)*. Erlangung des Doktorgrades der Mathematisch-Naturwissenschaftlichen Fakultät der Universität zu Köln, p.87.

⁷ ibid. p.19

In any case, after that period of time, on June 25, 2003, the Cologne Zoo transferred Sandai to the Palmyre Zoo in France, where he remained for about eleven years. In turn the one French zoo, dated July 11, 2014, exported Sandai to Chile, to the Buin Zoo S.A. Zoological Park

Although there is no clarity about the quality in which Sandai was sent from France to Chile – that is, if it was exported on loan, exchange or on the occasion of a sale-, the truth is that the certificate of customs destination for agricultural products N°1603 of July 10, 2014, stamped by the Agricultural and Livestock Service (SAG), details in the box “Description of the **goods**”, under the field “**Product**” to “a live male orangutan” (Sandai), whose CIF value amounted to USD \$720.00.-

Finally, it should be taken into account that, at present, **Sandai is not only the first and only orangutan incarcerated in Chile, but it is also the only member of its species kept in captivity in a Latin American zoo.**

d) Regarding the production of Sandai's deprivation of liberty in national territory, and the roles played by the respondent Service Agricultural and Livestock Park and Zoological Park Buin Zoo SA in this

As we have pointed out, during July 2014, the Zoo of Palmyre in France exported Sandai to Chile, who once entered to the national territory was transferred to the zoo operated by the resorted Zoological Park Buin Zoo SA, where it has been exhibited and deprived of liberty for more than eight years, and where there have been other affectations to their basic rights, as will be detailed later. In this

context, it is possible to identify actions attributable to both appealed, which have determined the current fate of the protected person.

Regarding the Agricultural and Livestock Service

In the first place, it is possible to mention the Import Permit CITES N°6797, dated July 7, 2014, signed by Danilo Medel Fuentes in his capacity as Regional Director(s) of the SAG Region Metropolitana, which allowed importation into Chile, under the framework of the CITES Convention, of a live Orangutan, this is Sandai, "for no purpose commercial". From now on, it is very important to take into consideration that

Sandai, as a species listed under Appendix I of the CITES Convention, could not have been imported for commercial purposes.

Despite the above, the SAG authorized its importation in favor of the Park Zoologico Buin Zoo SA, this is a closed corporation, whose purpose is business is inherent. ⁸ The foregoing, in open violation of the provisions by article III, numeral 3), letter c) of the CITES Convention, which provides that:

The importation of any specimen of a species included in the Appendix I will require the prior granting and presentation of a permit of import and an export permit or certificate of re-export. The import permit will only be granted once

⁸ The business purpose of the contested Zoological Park Buin Zoo SA should not only be presumed having regard to its legal nature as a closed corporation, but also from its own commercial history, which accounts for the size of its operation and allows us to conclude that Sandai is nothing more than another asset for this company, which profits from its display. Thus, according to Dun & Bradstreet, an American company that provides commercial data, analysis and knowledge through the collection of financial information from more than 23 million companies around the world, Parque Zoologico Buin Zoo SA would have nearly 245 employees in all its locations, and would generate about 8.15 million dollars in sales. D&B Business Directory (2022) Parque Zoologico Buin Zoo SA.

https://www.dnb.com/business-directory/company-profiles.parque_zoologico_buin_zoo_sa.d0fecd9abafe741e8347a9c3e4661fb5.html.

Once the following requirements have been met: (...) c) that an Authority Administrative Office of the importing State has verified that the specimen will not be used for primarily commercial purposes.

Second, the Agricultural and Livestock Service pronounced the Exempt Resolution No. 5055/2014, dated July 9, 2014, signed by José Roberto Rojas Cornejo in his capacity as Chief (TYP) of his Division of Protection of Renewable Natural Resources, which "Authorizes Mr. Ignacio Idalsoaga Gajardo de Buinzoo, the internment of exotic mammals for display purposes". Said administrative act attributable to the SAG stands another medullary administrative antecedent that has allowed the hospitalization of Sandai in national territory, "for exhibition purposes".

It is necessary to note that said resolution omits the reference to the legal grounds that would have justified the deprivation of the right to ambulatory freedom of Sandai, in accordance with the Constitution, as well as any reference to the supposed purpose of conservation and reproduction that its hospitalization would have had. In addition, in the resolution it is possible to observe that the SAG instructs the Buin Zoo SA Zoological Park to "*... ensure that the conditions of maintenance are adequate to prevent the escape or exit of the animal*", which constitutes a positive act tending to the maintenance of the situation of confinement to which Sandai has been subjected, until today.

Thirdly, we can refer to the "Inspection Report of Agricultural Products Law 18,164 (Art. 3)" dated July 10, 2014, whereby the SAG consigned as a zoosanitary diagnosis the "definitive authorization" for Sandai's admission to national territory, and ordered his "post-entry quarantine" until August 15, 2014.

In fourth place, we must mention the "Certificate of destination

customs for agricultural products Law 18,164 (Art. 1° and Art 2° inc. 3°)", dated July 11, 2014, in which field "Description of the goods" realizes a "Product" consisting of "a live male orangutan", and in whose field "Proposed storage place" is recorded "Parque Zoologico" in the commune of Buin.

As for the Zoological Park Buin Zoo SA

From the examination of the administrative acts in charge of the SAG, and outlined above, it is possible to appreciate that the appealed Buin Zoological Park Zoo SA, is the one who has intervened as importer, applicant, or at less interested in the efforts to get Sandai into the territory national, in a situation of deprivation of liberty, with the ultimate goal of being moved to its premises in order to be exhibited in a room in where their freedom of movement has been suppressed and other interests and rights violated basics.

Both Sandai's ambulatory deprivation of liberty and deprivation, disturbance and threat of their other basic rights and interests own, have been maintained since its entry into the Buin Zoo and to this day, being precisely the Parque Zoologico Buin Zoo SA the direct responsible of the maintenance of the conditions that have determined these affectations. That said, the specific material conditions to which the challenged Zoological Park Buin Zoo SA has submitted to Sandai, they will be detailed below.

e) Conditions under which Sandai is currently kept deprived of freedom for the popular Zoological Park Buin Zoo SA

The material and social conditions in which Sandai is currently submitted to the facilities of the Zoological Park Buin Zoo SA not only entail a violation of the basic rights of Sandai, as will explain later, but even deviate from those verified in the confinement center where he was born and raised, in the species, in the Cologne Zoo in Germany.

In this regard, it is important to note that in the Cologne Zoo, the orangutans object of the study already reviewed -and next to which Sandai lived and interacted-, they were housed in a facility that included an enclosure interior of 245m² and another exterior of 485m². In turn, the inner enclosure could be divided into two separate enclosures of 100m² and 145m², and the largest enclosure large was connected to the outside through a bridge. In addition, at These individuals can be divided into two separate subgroups, the members of the group had visual access to each other through a large window, and four sleeping cages (with a total of 74.5 m²) were connected with the enclosure interior, with free access for animals throughout the day. In turn, the outdoor enclosure was available if the weather conditions were good, from spring to early fall.

In this enclosure, in addition to their usual meals during the day, the keepers spread grains, rice, or seeds four times a day and were They put leaves on the roof. Along with the above, orangutans are provided mobile objects filled with food, such as tubes or hoses, while manipulable objects (bags, paper and balls) were offered to daily. In addition, according to the background information accompanying this presentation, it is clear that in the group of orangutans kept in the German zoo there were no agonistic interactions.

However, Sandai currently lives in the exhibition center Zoological Park Buin Zoo SA, in conditions of isolation and loneliness, conditions that have been noticed by members of the team of the Interspecies Justice Foundation, in several visits, among these, in that carried out during April of this year 2022.

In the species, we have been able to perceive that **Sandai is kept in conditions solitary confinement in a circular compartment of between 15 and 20 m² approximately**, with the appearance of a closed barbecue, whose height is around 5 meters, and where visitors can observe you from a first level -this is the level of arrival-, and from a second level to which it is possible access via a ramp.

Within the apparent enrichment devices that we have been able to observe in the place of confinement of Sandai, clearly insufficient, it is possible to mention a monolith about 1.5 m high located in the center of the room; some straw and dry leaves on the floor of the living room; some sticks that look like bamboo trunks painted in color green; a plastic box of bottles for industrial use on the floor; three scaffolding of different height –one of which is located next to the window of the second floor of that space, from where visitors to the zoo they obtain a “privileged” view of the protected person; some hanging ropes from the roof of the enclosure, which Sandai uses to move from one scaffold to another; and on the wall of the room, a representation of three orangutans, one large above two small ones, which seems to mean a mother orangutan with her two young.

Next to the small and gloomy room in which Sandai is kept the most of the time, -that is, to the right of that cabin, observed from the points where the public can be located - it is possible to appreciate a

patio that can be around 75 m² , as soon as it seems to have about four or five times the size of Sandai's cabin. This courtyard is the area of confinement and exhibition of White-handed Gibbons, as announced a sign located next to the fence. According to zoo staff, Sandai could access said patio during some hours of the afternoon and in some times of the year, depending on the temperatures of Buin, which are radically deviate from those existing on the island of Borneo, in the southeast Asian.

As it has been possible to observe, said patio has a booth in its center, and on the opposite side to Sandai's room there are some trees. In addition, it is possible to observe a scaffolding around 1.5 m high, and another about 4 meters high. In turn, many ropes hanging from the roof. It goes without saying that in this area both the roof and the sides of the patio are closed with metal mesh. Also, because of the size of the ropes and the existing enrichment devices in it, it is possible to presume that these have been designed and arranged for the gibbons found there, that is, for a primate much smaller in size than an orangutan

In turn, to the left of Sandai's cabin, it is possible to observe a enclosed courtyard, separated from visitors by a fence, where they live two bengal tigers This circumstance is extremely serious and disconcerting, since **only a wall separates Sandai from two tigers bengal, animals that are natural predators of orangutans from Borneo.** Said carelessness on the part of the Buin Zoo SA Zoological Park not only stands as a circumstance of **enormous psychic urgency for the protected**, but also configures the violation of two norms regulations that establish minimum conditions for centers of

exhibition, as will be detailed later.

Along with the above, it is important to point out that in addition to all these conditions that violate the ethological needs of Sandai, as will detail later, it has been possible to observe that the Sandai cabin constitutes one of the most important attractions of the Buin Zoological Park Zoo SA, which in practice determines that there are constantly groups of curious visitors observing him, pointing at him, recording him, and disturbing them are their screams, laughter and flashes, circumstances that are not verified in a natural stage according to the ethology of the Bornean orangutan.

It has also been possible to perceive Sandai's exposure to music environment of "African aesthetics", used by the respondent to liven up and make the cabin of the shelter more attractive for customers and consumers of the economic activity that it develops.

All these circumstances stand as conditions determined by the Parque Zoológico Buin Zoo SA that have as object the satisfaction of their own pecuniary interests, and that constitute individual violations of the interests and rights of Sandai.

Finally, it is interesting to refer to the interaction between some members of the Interspecies Justice Foundation with personnel from the Buin Zoo SA Zoological Park, next to the Sandai habitat, during the morning of April 23, 2022. On the occasion, a sex clerk feminine indicated, among other things:

1. That Sandai was previously in zoos in France and Germany – circumstances that we have been able to corroborate-, where they would have tried to make it reproduce, which would not have been achieved;

2. That Sandai would have begun to show some stereotypes⁹ , however when asked, he did not specify which ones;
3. That Sandai was “on loan” at the Buin Zoo – circumstance that we have not been able to verify through the antecedents that we have managed to collect-;
4. That the respondent had plans to reproduce Sandai, but that there was no clarity if they would bring an orangutan to the Buin Zoo, or they would move Sandai to another place where he would find his future and eventual sexual partner.
5. Finally, when asked if Sandai went out to the patio located the right of its habitat, arranged for the hand gibbons white, answered that “*it comes out later, when the temperature go up,*” since the room Sandai is in was tempered. Asked about what happened in winter, when the temperatures in the Metropolitan Region are very cold and radically opposed to those existing in Southeast Asia, pointed out that “*in winter he almost never goes out, it is too cold to the*”.

⁹ Stereotypes are one of the most used indicators to assess the well-being of animals confined in zoos, and are defined as "Repetitive behaviors, invariable and without apparent immediate function", or as "Repetitive behaviors caused by repeated attempts to adapt to the environment or by a dysfunction of the central nervous system". The motivation of stereotypes is complex and surely varies according to the type of stereotypy being considered. In general, however, it seems that both stress and the impossibility of carrying out some important behaviors for the species would contribute to its development and aggravation. Manteca, X. and Salas, M. (2015) *Stereotypes as indicators of poor welfare in zoo animals*. ZAWEC Zoo Animal Welfare Center, N°2, October 2015.

f) The violation of the ethological needs of the orangutan Sandai caused by the confinement conditions to which he is subjected in Buin Zoo Zoological Park

As can be seen from the circumstances outlined, the current situation of deprivation of liberty of the orangutan Sandai in dependencies of the challenged Zoological Park Buin Zoo SA not only constitutes a violation of the basic rights of which he is the holder, but also matter a violation of different natural ethological needs of the sheltered, cared for its extraordinary innate qualities, as has been detailed on previous pages.

Thus, by way of example, the orangutans of Borneo lead a life within a tropical forest environment, where they are socially structured in groups erected on the basis of a male, such as Sandai. Nevertheless, Sandai's detention in the exhibition center operated by the appealed, has prevented him from satisfying both basic needs, related to his environment and socialization.

Furthermore, as the orangutanologist Leif Cocks has argued, the socialization in these groups of orangutans is essential for their psychological well-being, socialization that becomes impossible if we take into account consideration that Sandai is not only the only Bornean orangutan confined in a Latin American zoo, but is also locked up and apart from any other great ape except humans. In Regarding this aspect, it is interesting to note that during 2015 the internationally recognized and respected Great Ape Project Foundation publicly denounced the conditions of isolation in which he is maintained Sandai, as well as his first signs of depression that could

be warned after the first year of being confined in the zoo of
the appealed

In this regard, it is interesting to note the words of the famed North American evolutionary biologist Marc Bekoff, who in his report expert or *amicus curiae* evacuated for the case of Sandai, accompanied by this presentation, stated that:

Captivity in humans and nonhumans, including the physical confinement, social isolation, and chronic exposure to stress, leads to measurable physiological brain changes, including loss of neuronal plasticity, long-term activation hypothalamic-pituitary-adrenal axis term and permanent changes in brain morphology. May cause changes in function immune response, reproductive behaviors, circadian rhythms and psychological trauma. **The loss of freedom is also manifested in observable abnormal behavior.** There are reports about stereotyped behaviors or stereotypes in defined animals by invariable and repetitive behaviors that do not meet any obvious function, but that we could simply call "Captivity-Induced Mental Illness". It is important point out that they do not occur in a natural state, but are the product of captivity. (...) **Sandai's body language in the video reflects a emotional and psychological state depressed, defeated and vulnerable, which is an expected response to the circumstances that have been imposed for years. It is not prospering, it is suffering. It is very likely that if you continue in these conditions you will develop future self-injurious stereotypes and physical illnesses.** (p. 3 et seq.)

In turn, it has been pointed out that these individuals are mainly frugivorous and spend most of the day on the treetops. searching for food and food within a wide range of vegetation. With above all, the development of that fundamental activity for the well-being of the orangutans is impossible to practice in the confinement room in solitude in which Sandai lives, devoid of both trees and vegetation and adequate space for such purposes.

Along with the above, it has been noted that Sandai is kept locked up in a room arranged next to the place of confinement of two bengal tigers, who are natural predators of orangutans in the wild. Is situation constitutes a flagrant violation both of the ethological well-being of Sandai, of certain regulations that will be specified later, and even of the protocols themselves arranged by the SAG.

In addition, it has been pointed out by expert primatologists in orangutans that Individuals like Sandai are endowed with high intelligence, which is translates into what they think and then act; in great reasoning ability and problem solving; in the existence of self-awareness themselves; in their ability to attribute mental states, desires, or claims to themselves and third parties; in their ability to understand that others have own beliefs, desires and intentions, different from yours; on the ability to understand human sign language, spoken languages human beings and to possess complex systems of communication with members of his own kind; and even in excellent spatial memory and Recognition of events and people in time. However, all of these extraordinary faculties determine that Sandai is absolutely aware of the deprivation of liberty, solitary confinement, and other

violations of which he is a victim, which increases the physical pressure and psychic to which he has been unfairly subjected by the respondents.

Finally, and as obvious as it may seem, orangutans have sensitivity or sentience, which is why they are capable of experiencing states of physical and psychic suffering, states caused by stimuli and conditions to which it is permanently subjected in the hands of the appealed

g) Zoos as “animal prisons”

Finally, we will conclude by making an analogy commonly wielded at the level of animal or interspecies philosophy, according to which it is argued that **zoos would constitute veritable prisons of animals, prisons where innocent individuals like Sandai are deprived of liberty, without a due process that serves as a precedent, and without respecting the legal norms that, in exceptional cases, regulate the affection of the legal goods that are violated.**

Since ancient times, religious, biological, ethological, medical sanitary and legal on the "animal kingdom" have revolved around the satisfaction of human needs, with a core approach anthropocentric. The foregoing, as is understandable, has implied the exclusion system of the other animals of the borders of moral consideration, conditioned the possibility of being considered as "subjects of a life," or in other words, as individuals endowed with inherent value and constitutive of an end in itself. It has been in this discursive context and culture in which the institution of zoos has been erected as a morally acceptable reality.

The truth is that the existence of zoos has been scarcely questioned, since the cultural maxim has been installed that these establishments would be necessary for the satisfaction of needs educational, and that would also be useful in achieving goals of conservation and reinsertion of animals. However, these constructs constitute true fallacies, because **these establishments not only do not are necessary for the purposes of education, conservation and reintegration invoked so many times, but, in fact, are detrimental to both humans as for non-humans**, insofar as they normalize a conception reifier of animals, they cultivate that anthropocentric narcissism characteristic of past times, and entail the confinement of individuals who see their interests violated and the satisfaction of their needs elemental ethologies.

In this sense, zoos seem to set themselves up as a technology that crystallizes an unjust, immoral and antisocial interspecies relationship, and that Its main purpose is to obtain the economic return on the occasion of the development of a commercial activity, as in the species happens with the Closed corporation Zoological Park Buin Zoo SA

Due to the above, it could be thought that currently the Zoos operate as veritable "animal prisons", centers for seclusion that in most cases do not meet even the tenuous basic canons of "animal welfare" that are required of them. Thus, it is observed that the animals kept in these establishments are permanently deprived of both their freedom of movement and the satisfaction of their fundamental ethological needs.

Historically, many jurists and legal philosophers have analyzed aspects of justice in human relations, but have omitted to reflect

about the relations of interspecies justice, and situations particularly burdensome as implied by the existence of confinement animal in zoos for entertainment and human profit. This way of servile instrumentalization exerted on animals is not too different to the exercise of domination exercised by humans over other humans, as has happened with slavery, slaves who were located outside the borders prevailing moral considerations, and who were submitted for the satisfaction of the economic interests of their slave owners.

However, the exhibits of these establishments

Prisoners have not always been animals. Thus, in ancient Rome it was already exhibited human persons brought from conquered territories, which were tied up and even caged by the victorious generals. Centuries later, Cardinal Hipólito de Médicis (S. XVI) had a "collection" of people of different ethnic groups: Moors, Tatars, Indians, Turks and Africans. However, it was in modern times in which the most unworthy variants of human displays in the West, perhaps reaching its peak in October 1889, when the centenary of the revolution was celebrated in Paris French with a "Universal Exhibition", within the framework of the celebration of the maximum "equality, fraternity and freedom".

On that occasion, **eleven Selknam Indians exhibited** Maurice Maître kidnapped a complete family **in San Felipe Bay**, whom he bound in chains and transported to France. Of the eleven, two died in trip. The survivors were presented as "cannibals", they were thrown raw horse meat and were kept dirty so that they would have the appearance wild and thus maximize commercial revenues. before the inhuman conditions of the exhibition, **the SA Missionary Society began to require the release and return of this family to Tierra del Fuego**, which forced

Maître to cancel the tour of England, heading to Belgium. After the tour, the Selknam were returned to Tierra del Fuego. Only 6 arrived with life.

Furthermore, before the arrival of the Selknam, in June 1883, **two Mapuche families came to Paris to be exhibited in exhausting tours** which began in Paris at the "Jardin d'Acclimatation", to then continue through other cities of the continent. One of the most frequent visitors of these families was Prince Roland Bonaparte, great-nephew of Napoleon, who combined his love of photography with the study of the "sciences natural". **After Paris, the tour continued at the Berlin Zoo, in a Christmas fair in Hamburg and in the palace of La Moneda, Chile.**

These embarrassing historical milestones don't just stand as low points in the existence of our Western legal and moral systems, but They also allow us to apprehend the existence of a violent and contrary dynamic. The justice that sustains the existence and functioning of zoos since its origins: This is the existence of an exploiter who, on the basis of a cultural discourse that legitimizes the moral superiority of a group of individuals over another, performs an activity consisting of the confinement and exhibition of individuals belonging to the discriminated group, all for the sake of receive financial benefits.

In short, although the progressive extension of the borders of moral consideration has prevented the confinement and exhibition of some individuals belonging to historically discriminated groups, the truth is that these dystopian and anachronistic motives, structures and discourses still survive in today's zoos, where they continue to lock up and exhibiting non-human animals.

Is this the approach to the animal world that parents want for their children, the schools for their students, and the State for its citizens? Obviously, the answer to all these questions is a

resounding "no". However, zoos continue to welcome visitors, and their commercial strategies are fundamentally aimed at children, who in turn they are the individuals most vulnerable to this kind of cultural deformation.

These visits occur, among other reasons, due to lack of knowledge of the sad reality of the animals confined in said establishments, and they are promoted by the zoo itself, which "strategically" prevents us from seeing beyond what is necessary.

This is how zoos hide this mistreatment by stating that they develop a pedagogical work; for this, they just need to place a "small poster" in which you can read where the animal originates from, some descriptions about what it eats (whether it is a mammal, whether it is a herbivore, etc.), and little else. These same posters usually offer information about their ethology such as how many kilometers he walks per day, if he hibernates, if he you need to live in a group, if these groups are matriarchal, etc. And all this while "behind the poster" an animal is seen in solitude, circling on itself in a space of a few meters, and of course, in a habitat that is not the proper or natural one of the species, in which they cannot, therefore, walk those kilometers, nor hibernate, nor live in a group, but only be exhibited "For human consumption". **This, as can be seen, lacks a pedagogical virtue, and carries the danger of normalizing and promoting antisocial behaviors in the social body.**

As pointed out by the Kazakh lawyer and academic expert in Animal Law, Lyudmila Shegay, in the *amicus curiae* accompanied by this presentation:

Zoos are generally not a good place for many people, especially for those who work in the protection of animals. **Although most zoos claim to be education, their activity proves otherwise.** First of all, it is important to remember that zoos **are organizations commercial and for-profit**, and for-profit organizations profit may not be educational in nature *per se*, unlike Non-profit organizations that are initially created for social, charitable or educational. It is always fascinating for many people see many species of animals that they used to see only in the television or on the internet, yet **many people hardly pay attention to the conditions in which the animals are kept and their psychological state while interacting with them.** (p.8)

In short, the truth is that these establishments of a prison nature they make use of certain ideas erroneously instituted in our speeches prevailing cultures. **Among the "myths", or purposes usually put forward by zoos to hide their true nature and establish their worth, we find the following:**

1. “Zoos help conserve endangered species extinction”. Endangered species "captive breeding" programs extinction are an important source of subsidies for zoos. In addition to this, we must bear in mind that we must respect each and every one of the animals. Each animal is an end in itself, and not a means to achieve certain “goals”. That's why it's disvaluable to lock up an animal

as Sandai with the aim that his species be perpetuated in confinement, for how much this violates his fundamental right to freedom, of which he is the holder.

2. "Zoos work to reintroduce animals into their natural environment". Most of the animals that survive in zoos are not affected by any kind of "reintroduction program". However, it is usual that from time to time they practice some mediatic reintroduction, as way to exploit this action to attract more public. The above can be considered as a marketing strategy that targets an audience that does not agrees with any type of animal abuse and ignores reality that underlies this business model.

3. " Safari-style zoos are good for animals." It is incomprehensible that Asian animals coexist with African animals, Europeans, South Americans, all exposed to the same climate and habitat. Yes ok in these types of establishments the animals have certain standards of semi-freedom more favorable than the reduced dimensions of their enclosures in others, we should ask ourselves another type of questioning in which let us take into account the victim and his interests, and not our selfishness for see an orangutan up close. The only beneficiary of this complex and unfair situation is the operator –or investor- of the establishment.

Finally, it will be interesting to see the words of the *amicus curiae* doña Elena Liberatori, this is the first Argentine and world judge in recognizing its legal personality to an animal (Sandra case), who He maintains in his expert report that:

As an example, we can mention the following conditions harmful common to most zoos: the **extreme**

limitation of physical spaces, which in practice matters a lot almost absolute impediment of transfer, and that in the case of orangutans is aggravated by the lack of three-dimensionality that It is vital for their development (...). visual **pollution and auditory**, the **repeated exhibition to the public**, which in case of taking ahead at night, exposure to lights also matters artificial and flashes, which do not exist in natural habitats. (...) In Regarding the conditions of confinement compared to a prisoner human, with the naked eye we can detect that -unlike a human person - **the animals that are forced to reside in the zoos do not do so pursuant to judicial process or as consequence of their conduct, but by the mere decision of some human being in attention to their exclusive interests which, to worse, they mostly serve economic interests, although they overlap for research or preservation purposes that they are generally nothing but a mask to beautify the confinement to which they are subjected** (...). (pp.9-10)

In short, it should be kept in mind that the physical place where Sandai has been kept deprived of his ambulatory freedom, during the after 8 years, has similar characteristics to those present in prison establishments arranged for human beings, with two great differences, these are the absence of a final judgment and executed that constitutionally legitimizes said deprivation of freedom, and permanent exposure to the human public, in order to generate monetary revenues for the operator of the establishment.

II. BACKGROUND OF LAW

a) The constitutional action of amparo in the Political Constitution of the Republic

Article 21 of our Fundamental Charter establishes that the action of amparo may be filed in favor of any individual found arrested, detained or imprisoned, in violation of the provisions of the Constitution or the laws, so that the magistracy orders that the formalities be kept laws and adopt the necessary measures to restore the empire of the law and ensure the due protection of the affected party. In the final paragraph of Article 21 states that the same action may be deducted in favor of any person who unlawfully suffers any other deprivation, disturbance or threat to their right to personal liberty and individual security.

The heading of article 19 No. 7 of the Constitution **assures** all people the right to personal liberty, which transcends the mere freedom of movement or movement. For this reason, the specialized doctrine has pointed out that "*in a broad context, personal freedom is related to the free development of the personality, with the right of each one to decide their role in society, to arrange the way in which you want to perform in what staff. Personal freedom is the foundation of a democratic society, and is linked to the natural freedom of human beings and their dignity.*" For this reason, it is more extensive and full than the mere protection of the freedom of displacement and residence ¹⁰.

¹⁰ Vine. Ribera N., T. The right to free development of personality in the Constitution, in Current Issues of Constitutional Law, 2009, p. 249.

On the other hand, individual security is a right that is not restricted only to the guarantees that surround the exercise of personal freedom. Of In this way, individual security, along with being a complementary concept of the right to personal liberty, which is intended to surround it with a set of precautionary mechanisms that prevent their annulment as a consequence of any abuse of power or arbitrariness,¹¹ **it must be ensured in different situations of the affectation of personal freedom, as in case of threats to personal integrity or life.**¹²

In this regard, it is necessary to take into consideration that Hon. Cut Supreme has declared admissible constitutional amparo actions deducted when the violation of individual security based on in acts that threaten **physical integrity or life**, arguing that “*This remedy of amparo is based on the threat to the individual security of the protected (...), for risking his life and personal integrity, in attention to the danger of death to which he would currently be subject, so the appeal filed clearly appears to be admissible.*”¹³ This is especially relevant since it reinforces the dogmatic position relative to that individual security encompasses the protection of not only freedom outpatient, but other fundamental rights.

In this sense, it is interesting to note that actions have been taken constitutional protection that denounce illegal raids (that is, entries and records executed outside the legal framework) that are found, in

¹¹ Article 125 of the Code of Criminal Procedure establishes that "No person may be detained except by order of a public official expressly empowered by law and after said order has been legally served [...]".

¹² Vine. Nogueira Alcalá, Humberto. Fundamental rights and constitutional guarantees. Volume II. Center Constitutional Studies of Chile, University of Talca. Ed. Librotecnia. P. 408. 8SCS Roll 8693-11.

¹³ SCS Roll 8693-11.

principle, covered by article 19 No. 5 of the Fundamental Charter, but that threaten individual security and personal freedom of people.¹⁴

In the same way, a difference has been made between the security individual and personal freedom, leaving aside the positions that restrict its link only to personal freedom. In sum, and in the words of the HE Supreme Court: "*the amparo remedy that regulates article 21 of the Political Constitution of the Republic has not been established only for the protection of the personal liberty of individuals, but also to who suffers any deprivation, disturbance or threat to their safety individual, empowering the magistracy to order the measures that deems conducive to reestablishing the rule of law and ensuring the due protection of the affected.*"¹⁵

b) The consideration of the great apes as *non-human persons* holders of certain basic rights

As argued in the habeas corpus filed in 2005 in favor of the Chimpanzee "Suiza" in Brazil, starting in 1983, a group of leading scientists began to openly defend the **extension of the fundamental human rights for the "great apes"**, beginning to the so-called "**Great Ape Project**" (**GAP**) or "**Great Ape Project**" in Spanish, led by teachers Peter Singer and Paola Cavalleri, and counting with the support of world-renowned primatologists such as Jane Goodall, renowned biologists like Richard Dawkins, and intellectuals like Edgar Marina, among many others.

¹⁴ SCS Role 37.188-15.

¹⁵ SCS Roll 27.927-14.

Thus, the **high cognitive potential of other species** that cohabit the planet with the human species, **in particular the great apes**, deprives morality to prejudiced attitudes - that is, **speciesists**, as accused by Richard Ryder and Peter Singer-, erected on a pre-conception based on the **species**, just as **racism** and **sexism** are built on pre arbitrary conceptions, such as the belonging of an individual to a race determined or their sex.

Due to the above, it is that in 1993 these authors had already embodied in the book “**Great Ape Project: Equality Beyond Humanity**”¹⁶ the idea that human beings are intelligent animals with a **varied life social, emotional and cognitive**, which is why if the great apes show those attributes, they will also be **worthy of the same consideration** that humans extend to members of their own species. The work highlights **findings that support the ability of great apes to possess rationality and self-awareness, and the ability to be aware of themselves as distinct entities with a past and a future**. Documented conversations (in sign language) with large individual apes - among these various orangutans - are an important part of the basis of these findings.

The foregoing, as it is possible to infer, leads to the need philosophical, legal and moral to recognize the great apes -among these orangutans - their quality as a *non-human person*, as well as their ownership over certain basic rights aimed at safeguarding some of their core interests.

¹⁶ Cavalieri, Paola, Singer, Peter. “The Great ape project: equality beyond humanity”, New York, St. Martin's Press, 1993.

Regardless of the legal nature that decides to attribute to this class of fundamental non-human rights recognized in favor of great apes, the truth is that **this does not imply the need to recognize all kinds of fundamental rights in their favour, but only those rights basics that are essential for the satisfaction of their needs elemental ethological characteristics, and which are otherwise compatible with their nature and interests.** In this sense, and as the Court held Constitutional Court of Ecuador in the judgment of the little monkey "Estrellita":

The recognition of animals as subjects of law does not mean their comparison with humans, since each species has its own protection needs that are differentiated by their own characteristics and qualities. Therefore, it cannot be ignored that the human being could be differentiated from other animals by his capacity for rational reflection that has allowed him to develop scientific, political, economic, social, religious, cultural and psychological; to express through conventional languages your ideas, emotions, feelings and reasoning; and to build interpersonal relationships at family, community, social and global. Because of that, their demands for legal protection are different. (p.28)

With regard to the question of **what basic rights specific fundamentals will have to be recognized in favor of the great apes, there are different views.**

For example, the American philosopher **Tom Regan** considers that mentally normal mammals a year and older can be

considered "subjects-of-a-life", that is, living beings, conscious, and possessors of desires, perception, memory, a sense of the future and an emotional and psychological life.¹⁷ In view of the above, he attributes this class of subjects the **ownership of basic moral rights**, being the main one of them the **right to a respectful treatment**, remaining out of his sphere those incompatible with its nature, such as, for example, the right to vote.¹⁸

In turn, the North American philosopher and jurist **Gary Francione** affirms that non-human animals have a "morally significant interest" in not being used as resources.¹⁹ Based on the foregoing, he maintains that these individuals should enjoy the **basic “pre-legal” right not to be property of others**, and suggests that this right, as with respect to humans, should be recognized by the legal system as a legal right, according to the evolution of the cultural discourses of each society.²⁰

However, delving into these perspectives **regarding the orangutans, the conclusions reached by the Great Apes Project (GAP)**.

In this sense, the GAP has carried out global campaigns so that Organization of the United Nations approves a **World Declaration about the great apes**, that would expand what the project calls as a "**community of equals**" to include chimpanzees, bonobos, gorillas, and

¹⁷ Regan T. (2016). *In Defense of Animal Rights*. Mexico City, Mexico. Bottom of Economic Culture, pp. 279 et seq.

¹⁸ ibid. pp. 366 et seq.

¹⁹ Francione, G.L. (2000). *Introduction to animal rights: Your child or the dog?* Philadelphia, United States of America. Temple University Press.

²⁰ Francione, G.L. (2004). *Animals—Property or Persons?* Newark (New Jersey), United States of America. Rutgers Law School (Newark) Faculty Papers.

The Great Ape Project, "World declaration on Great Apes." <https://www.projetogap.org.br/en/world declaration-on-great-primates/>

orangutans This statement is intended to extend to great apes no human beings the protection of three basic interests: the right to life, protection of individual liberty and the prohibition of torture.

- **Right to life:** The declaration establishes that the members of the community of equals, which includes humans, have a right essential to life and cannot be killed except in certain strictly defined circumstances, such as self-defense.
- **Protection of individual freedom:** The declaration establishes that great primates cannot be arbitrarily deprived of their freedom. In addition, it establishes that these individuals have the right to live in their habitat, and that the great primates that live in captivity have right to live with dignity, in spacious rooms, to have contact with other members of their species to form families and must be protected from commercial exploitation.
In addition, the declaration establishes that members of the community of equals should not be deprived of their liberty, and have the right to immediate release when there has been no form of trial due.
Together with the above, it establishes that the detention of great apes that do not have been convicted of any crime or are not responsible criminally should only be allowed when it can be shown that the detention is in their own interest or is necessary to protect the public.

Furthermore, it stipulates that there should be a right of appeal, directly or through an attorney, to a court of law.²²

- **Prohibition of torture:** The declaration prohibits torture, defined as the offense consisting of the deliberate infliction of intense pain, physical or psychic, to a great primate, without reason or for an alleged benefit of others. According to the International Law of Human Rights Humans, this is a principle of *ius cogens* and, according to the main human rights documents, it cannot be repealed in any time by any state.

In short, it is possible to conclude that the great apes, including the orangutans like Sandai, are *non-human persons* certain titleholders basic and fundamental rights -and consequent obligations towards them by human persons-, because of forming part of a community of equals alongside humans, with whom they share 97% of their genome, as well as a series of qualities physical, ethological, cultural and cognitive.

Along with the above, it is necessary to point out that, apart from the nature that may be conferred on these rights, they will not protect any kind of interest that could be attributed to these individuals, nor nor will they lead to the legal equalization of the status of humans and great apes. On the contrary, these rights will protect only certain basic and elementary interests, such as the protection and preservation of his life, the prohibition of his torture, and the protection of

²² Cavalieri, Paola, Singer, Peter. "The Great ape project: equality beyond humanity", New York, St. Martin's Press, 1993.

their individual freedom.

That, finally, it should be taken into consideration that the conclusions to those we have arrived at are consistent with many of the opinions experts expressed in the reports of the *amicus curiae* that have pronounced about this case. Thus, by way of example, in the report prepared by the authors of the “Toulon Declaration” and experts from the United Nations Program Together “Harmony with Nature”, Cédric Riot and Caroline Regad, it has been pointed out that:

To deny legal personality to animals, in short, is to deny what living by a kind of reifying fiction that could disappear with the advent of a non-human personality. Basically, **the notion of person is broad enough to accommodate animals.** (p.10)

And those who have concluded:

1. That Sandai can be recognized as a subject of law not human with its own legal personality;
2. That Sandai would then be considered a natural person not human;
3. That consequently, Sandai could be the holder of rights; (p.14)

c) Admissibility of the writ of amparo or “writ of habeas corpus” in favor of a non-human person: A dynamic interpretation and not static of the Constitution.

The cultural conception that animals are not mere furniture self-employed but subjects endowed with sentience that have an interest in themselves itself underlies many animal legal norms currently in force in our country.

Thus, for example, Law No. 20,380 on the Protection of Animals establishes that its rules are intended to know, protect and respect the animals as living beings and part of nature (art. 1), and emphasizes that the educational process should inculcate a sense of respect and protection to animals as "living and sentient beings" that are part of the nature (art. 2). In addition, it establishes certain duties with respect to the holders of animals, in attention to the "minimum needs of each species and category of animals" (art. 3 and 5).

This law even goes further, by expressly recognizing, in the second paragraph of its article 3, a germ of the right to freedom ambulatory care of wild animals -such as orangutans-, establish that "The freedom of movement of wild animals should not be unnecessarily restricted, especially if doing so would cause them suffering and alteration of their normal development."

Along with the above, it is interesting to note that the banning of the "suffering" or "unnecessary suffering" of non-human animals is recognized in a wide range of legal and regulatory standards, which is closely related to the consideration of these individuals as *sentient beings* holders of a legally protected interest unless exposed to practices that inflict that kind of suffering.

Among these, it is possible to mention articles 1, 3, 7 and 11 of the Law N°20,380 On Animal Protection; 2, 23 and 27 of Law No. 21,020 on

Responsible Ownership of Pets and Companion Animals; 13 F of the Law N°18,892 General of Fisheries and Aquaculture; 26 of Law No. 19,473 on Hunting; 26 of Supreme Decree No. 05 of January 1998 or Regulation of the Law of Hunt; 77 of the Sanitary Code; 12, 14, 15, 17, 19, 20, 24 and 25 of the Decree N°28 of the year 2013, of the Ministry of Agriculture that Approves Regulation On the Protection of Animals that Provide Meat, Skins, Feathers and Other Products at the Time of Benefit in Industrial Establishments; 3, 5, 6, 7, 8 and 14 of Decree No. 29 of the year 2013, of the Ministry of Agriculture, which Approves Regulations on the Protection of Animals during its Industrial Production, its Commercialization and in Other Precincts of Animal Keeping; 4, 7, 9, 11, 12, 13, 14, 17, 18, 23, 26 and 27 of Decree No. 30 of the year 2013, of the Ministry of Agriculture, which Approves Regulation on the Protection of Cattle During Transport; and even the Article 32 B of Decree No. 319 of August 24, 2001, which approves the Regulation of Measures of Protection, Control and Eradication of High Risk Diseases for Hydrobiological Species.

At this point it is important to point out that, notwithstanding the foregoing, and notwithstanding the political-legislative *ratio* underlying all the norms already outlined, **a legal operator strictly limited to an exercise literal and static hermeneutics of Law, could come to the conclusion, erroneously, that the norms that currently regulate our interspecies relations are discordant with the conception that at least some animals are part of the anthropic moral community,** consequently being able to recognize at least some of these the quality of non-human persons, as well as ownership over certain basic and fundamental rights.

However, the truth is that taking into account other elements relevant in the hermeneutical exercise, **we can reconcile perfectly the current state of the rules with the recognition of this reality culturally crystallized** and increasingly settled in our predominant discourses, this, **through an interpretation dynamic and not static law, and in particular of our text Constitutional.**

When we invoke a dynamic interpretation and not a static one, we refer to that hermeneutical exercise that considers the Constitution as a manifestation of human life, subject to constant evolution due to the interpretation of its contents in the most reasonable and suitable for meeting social needs. The above, considering that the dynamic nature of life in society imposes the need for legal norm, as a regulatory instrument of human conduct, is adapt to the variations that operate in them to prevent reality from overflowing the norm, leading to a nominal legal system devoid of validity.

These circumstances require that the legal operator, when carrying out a hermeneutical exercise of the constitutional norm, is not limited to assessing the conditions and needs existing at the time the Charter was sanctioned, but also those conditions, circumstances and needs existing at the time it is applied, without departing from the purposes generic that motivated its elaboration.

Along with the above, it is essential to take into consideration that **the Constitution**, unlike what usually happens with legal infra constitutional, **tends to guarantee its durability, avoiding falling in its constant modifications, due to the affectation that this supposes**

for legal certainty. This circumstance imposes on the constituent duty to act with great prudence, trying to anticipate the unforeseeable and granting constitutional clauses sufficient generality and flexibility that allows to find in them the appropriate solutions for the successive generations.

However, constitutional stability is not synonymous with petrification, inasmuch as the fact that a constitution is stable does not imply that it has the character of a stony law, nor that the interpretation agreed upon its clauses in the past must necessarily be accepted in the future.

When, in the light of a traditional interpretation, the constitution does not offer a efficient solution for the new modalities and social demands,
corresponds to resort to the dynamic interpretation of its clauses to adapt them to the changes that operate in the community. Facing such situations, any literal and restrictive interpretation of the constitutional text, trying to adapt that text to the new needs.

This being the case, it is that taking into consideration the moral reasons, philosophical, ethical and ethological that lead us to recognize the need to conceive of great apes as non-human persons holding rights basic; taking into account the cultural and social circumstances mentioned in previous sections; and in accordance with the technical outlined hermeneutics; is that **we can conclude that it is not only plausible, if necessary, use the constitutional norms currently in force for, through a dynamic and not static interpretation of the Constitution, give the requested protection to the orangutan Sandai.**

In this direction, we believe that the right to life, to the prohibition of torture, and the right to individual liberty of which Sandai is

holder, can and should be protected through article 19 of the Political Constitution of the Republic (CPR), specifically through its numerals 1st and 7th.

This being the case, and together with the foregoing, **the remedy of amparo –or writ of habeas corpus-, or recognized in article 21 of the CPR, may and must be used as a critically important remedy for safeguarding of the right to individual freedom of which Sandai is the holder, in those cases in which that protected interest is violated, disturbed or threatened.**

In this regard, the thesis of the origin of habeas corpus in these assumptions is entirely plausible, especially if we take into consideration that the applicable procedural regulation does not specifically contemplate a procedural route to assess the situation of animals in a state of confinement in zoological establishments, or any condition of confinement to the contrary to the basic needs and natural habitat of the animal in question.

Of course, it should be noted that the conclusion we have reached shall not imply, in any way, that the entire text of those regulations is applicable in favor of a great ape, but, as we have already noted, **only insofar as it is essential, and insofar as it is compatible with its nature,** as will be explained later.

That, together with the foregoing, it should be taken into consideration that the habeas corpus, in addition to being used to safeguard the freedom of members of the legal and moral community, has also been used in favor of those who have been left out of it, setting themselves up as an instrument that has allowed the Courts to adjust the interpretation of the legislation in force to make it compatible with the new cultural realities.

Thus, for example, since the eighteenth century, it is possible to observe how the Habeas corpus began to be used in the West in order to protect the freedom of the slaves, who at the time were considered things appropriable without legal personality. Notwithstanding the foregoing, various Courts began to accept some of these actions, in the same way that has begun to happen with respect to animals.

An example of this is the Somerset v Stewart case (1772) in the United Kingdom. Kingdom, as well as the large number of habeas corpus, amparo appeals and "Real Amparos" attempted in favor of women of African descent in New Granada, Venezuela, Cuba and the Caribbean between the years 1700 and 1800.²³ In the Likewise, it is possible to refer to the litigation of habeas corpus in the United States, which reached its critical point during the first half of the nineteenth century, actions that were attempted in favor of African Americans held as runaway slaves, as witnesses, as victims, or as alleged slaves despite having already been emancipated.

Currently, wondering about the use of instruments for animals -such as habeas corpus-, the famous philosopher utilitarian Peter Singer has clarified the matter by synthesizing the question in the following terms:

Such decisions are an important advance. In the past, the law guaranteed rights only for humans, but now that we know more about non-human animals, **especially the big ones apes**, there is no morally valid justification for denying them extension of some fundamental basic rights as well. Suppose

²³ In depth, see Vergara Figueroa, Aurora, and Cosme Puntiel, Carmen, "*Demando mi libertad. Black women and their strategies of resistance in New Granada, Venezuela and Cuba, 1700-1800*", Editorial Universidad Icesi, Cali, Colombia, 2018.

that one must belong to a certain species to possess rights is not a morally defensible position.²⁴

Furthermore, as pointed out by Peter himself Singer in the expert report or *amicus curiae* issued on the case of Sandai alongside scholars Gary Comstock, Adam Lerner, and Macarena Montes Franceschini, accompanied to this presentation:

Since Sandai has the skills necessary to be a person and has the right to be treated with respect, the Court must consider it for the protection of the writ of habeas corpus. The decision to deny the appeal in his favor would entail a serious moral hazard. The Court cannot avoid moral hazard by deferring judgment. The decision not to grant Sandai the right of habeas corpus is subject to ethical review as much as the decision to recognize it. Whatever verdict it reaches, the Court faced with the possibility of doing something wrong. In this case, (...) the possibility of doing wrong is much greater if the right of Sandai to habeas corpus. (p.7)

Regarding habeas corpus, this group of experts deepens its apparently, noting that:

²⁴ Singer, Peter. Interview with the Australian philosopher Peter Singer, about the "Priorities of the Animal Law Movement in Brazil", in Gordilho, Herón José de Santana and Santana, Luciano Rocha. "Brazilian Journal of Animal Law", Year 2, N°3 (Jul/Dec, 2007), Animal Abolitionist Institute (IAA), Salvador de Bahia, Brazil.

One might think that Sandai's treatment is not illegal because the legislature has not ruled on whether nonhumans can be people. This is a serious error. **While no non-human has been previously the beneficiary of a habeas corpus order in Chile, this fact does not prevent Sandai from being the first.** What argues Justice Wilson, numerous examples confirm "*the maxim of that habeas corpus is an innovative resource, used to advocate for relief that was slightly or significantly ahead of the right legal and common of the time...*". This flexibility of the court order has allowed to be used to **free slaves from slavery**, and to **free women and children from husbands and fathers abusive** As Judge Rivera writes, these comparisons are not seek to equate the experience of these human beings with that of animals, but to show that "*even when those classes of beings humans have been denied, by operation of law, legal recognition of his humanity, the writ of habeas corpus was still at his disposal. disposition*". In short, Judge Rivera writes, the habeas petition corpus can be used to "develop the law," even if these developments go beyond or even contravene existing law.

Sandai presents a case in which the vagueness of the law does not resolve a manifest injustice. Since the law and precedent do not determine whether Sandai is a legal person, the decision to grant it legal status legal entity must be based on basic moral principles. We hold that these moral principles unequivocally support the granting Sandai the status of a legal person.

(...) The legislative processes that grant legal personality these animals usually last for years. Meanwhile, the animals suffer greatly from these conditions and are likely to die, as has happened several times in different countries. **For this reason, judges the highest courts of Colombia, Ecuador and Argentina have recognized that the writ of habeas corpus is a mechanism appropriate to request the release of an animal and its transfer to a sanctuary and therefore consider the courts to be competent to resolve these types of cases.** (pp.14-15)

In addition, it will be necessary to take into account the words of Mary José Chible Villadangos, Chilean lawyer, who in his work “The protection of the non-human animal through habeas corpus” concluded that:

The suitability of the habeas corpus action to try to modify the existing legislation on the protection of non-human animals can indeed be questioned. However, it has been shown already, in the few existing cases, that this action is endowed with a special force that has led members of the judiciary to question essential pillars of current social constructions, even achieving a favorable ruling. **In the absence of adequate legislation, perhaps it does depend on the ingenuity of our judges to find the way of echoing the new citizen concerns; would not be the first time this happens.**

25

²⁵ Chible Villadangos, María José, “*The protection of non-human animals through habeas corpus*”, Law and Humanities, N°27, 2016, p. 65.

Finally, it is important to keep in mind the other conclusions contained in the expert report issued by the French *amicus* Cédric Riot and Calorine Regad, as they point out:

4. That through a **dynamic interpretation of the law**, the court in knowledge could ensure the protection of the rights fundamental principles of Sandai such as the right to free movement, the right to life, or the right to physical and mental integrity;
5. That thus, the Chilean jurisdiction could contribute according to its mission of justice, to the **change of the juridical vision on the living**, enriching the jurisprudence of the Earth and the right of the alive;
6. That such a decision would undoubtedly contribute to **pioneering advances and not anthropocentric** in relation to the legal status of animals.

(p.14)

d) Habeas corpus, the dynamic interpretation of the Constitution and the non-human animals in comparative jurisprudence

At a comparative level, there are several judicial precedents that have already opened the way to the acceptance of habeas corpus for animals and even to the recognition of animals as animals subject to law, being a growing debate at the international level. It is important to take into consideration that in these cases all the solutions granted by the Courts are based on the consideration of animals as sentient beings.

In this direction, it is important to highlight, among others, the decisions of the Courts through habeas corpus granted in Brazil

to the **Swiss chimpanzee**, who in 2005 became the first animal not of the world to be recognized as a subject of law in an action legal; in Argentina, the **orangutan Sandra** and the **chimpanzee Cecilia**; and more afternoon in Ecuador, to the **monkey Estrellita**.

i) Chimpanzee Switzerland (Brazil, 2005):

In Brazil, in 2005 a group of lawyers led by the Professor Herón Santana Gordilho made the first habeas corpus worldwide in the State of Bahia (Brazil), to liberate the chimpanzee named "Suiza", who lived isolated in the Salvador Zoo. Yes Although the appeal was granted, when he was released, it was found "dead".

The acceptance of this first writ of habeas corpus worldwide, imported a comparative dogmatic advance of proportions, imposing on the academic community the need to debate the premises that are established in traditional law, at the same time that it became an unprecedented precedent and important when admitting that actions that deal with "rights of the animals", can be processed and known in judicial instances, complying with the procedural assumptions that make up the action. In addition, the decision of the Judge who intervened in the controversial process constitutes a significant milestone, since it admitted the animals as "subjects of law".

The magistrate involved in this emblematic case, upon receiving the initial petition of the famous habeas corpus filed in favor of the chimpanzee "Switzerland", sensibly, "**preferred to invite the attitude of dialogue that timidly bow to the concepts of Traditional Law**",

and synthesized its manifestation in the magisterial sentence whose argument essential deserves to be transcribed:

I am certain that, with the acceptance of the debate, I managed to arouse the attention of jurists from all over the country, making this topic due to extensive discussions, just as it is known that the Criminal Procedure Law **is not static**, and it is subject to constant changes, where **the new decisions have to adapt to the modern times**. I think that even if “Switzerland” is dead, this matter it will still last in Law Courses.

ii) Orangutan Sandra (Argentina, 2014):

In a historic ruling, on December 18, 2014, Chamber II of the Argentine Federal Chamber of Criminal Cassation, on the occasion of habeas corpus filed in favor of the Orangutan Sandra, resolved that:

(...) from a **dynamic and not static legal interpretation**, It is necessary to recognize the animal as a subject of rights, because non-human subjects (animals) are holders of rights, therefore that its protection is imposed in the field of competence correspondent.

Although the Chamber declined to rule on the merits of the matter, for a competence, later, learning of the collective amparo tried against of that Zoo, the Contentious, Administrative and Tributary Court No. 4

of the city of Buenos Aires handed down his sentence. Thus, in the judgment of 21 October 2015, resolved that:

In accordance with the aforementioned jurisprudential precedent, there is no legal impediment to conclude in the same way way in this file, that is, that the **orangutan Sandra** **is a non-human person, and therefore, subject to rights and consequent obligations towards it on the part of the human persons** (...) So, it is about recognizing Sandra's own rights as part of the obligation to respect life and of his dignity of "being sentient" (...)

Likewise, the ruling establishes that Sandra has the right to enjoy the highest possible quality of life, ordering the *amicus curiae* to establish What will those conditions be? Finally, Sandra was transferred to the Center for Great Apes of Florida, United States, where he lives with other great apes.

iii) Chimpanzee Cecilia (Argentina, 2016)

In 2016, a habeas corpus action was filed in favor of the chimpanzee "Cecilia", 30 years old, who was deprived of freedom in the Mendoza Zoo for almost all of his life, with the object of being released and transferred to the Sanctuary of Great Primates of Sorocaba in Brazil.

On November 3, 2016, the III Court of Guarantees of the City of Mendoza accepted the action, declaring Cecilia as "Subject of Law not

Human" and ordering his immediate transfer to the Sanctuary of Great Primates from Soracaba. In the ruling, the Judge asks:

Is the habeas corpus action the appropriate way? I consider that the answer must be affirmative. Since neither the procedural regulation of the province nor any national law specifically contemplate a route process to assess the situation of animals in a state of confinement in zoological establishments or any condition of confinement in contrary to the basic needs and natural habitat of the animal of which concerned, **I consider that the action of habeas corpus is the proceeding adjusting the interpretation and the decision that falls to the specific situation of an animal deprived of its rights essential insofar as these are represented by the needs and essential conditions of the existence of the animal in whose favor activates.**

In addition, the ruling adds that:

(...) the category of PERSON must necessarily be defined all time that in the field of law the concept of person is identified with the concept of subject of law. Given this premise, it follows asking if only the human being can be considered as person as a subject of law? Is man the only one who possesses capacity right? **It is undeniable that the great apes, among which is the chimpanzee, they are sentient beings for that reason They are subjects of non-human rights. Such categorization into nothing distorts the concept used by the doctrine.** The chimpanzee

it is not a thing, it is not an object that can be disposed of as
You have a car or a property. **The great apes are**
subjects of law with legal capacity and incapable of fact,
Meanwhile, it is widely corroborated according to the test
produced in the present case, that chimpanzees reach the
intellectual capacity of a 4-year-old child.

Thus, by virtue of brilliant reasoning, the magistrate
Mauritius welcomed the Habeas Corpus action filed in favor of the
chimpanzee Cecilia, ordering her transfer to the Sanctuary of Soracaba, a place
where you currently reside in conditions that respect your needs
nature and its dignity.

Finally, regarding the cases of Sandra and Cecilia, it is necessary to
present that, as has been warned by a former minister of the Supreme Court
Argentina and the Inter-American Court of Human Rights Don Eugenio
Raúl Zaffaroni, in the evacuated *amicus curiae* together with the academic Nadia
Espina, accompanied by this presentation:

As can be seen, the legal classification of animals as
furniture in the Argentine Civil Code, has not been an obstacle for
different courts of our country declared animals not
humans as subjects of rights. (p.20)

iv) Monita Estrellita, (Ecuador, 2022)

In session of January 27, 2022, the Constitutional Court of Ecuador issued judgment in case No. 253-20-JH, in which it reviewed the judgments dictated in a habeas corpus action filed in favor of a monkey chorongo called "Estrellita". When the case came before the Court Constitutional Court of Ecuador in December 2021, the judges had a series of questions to consider, including: Do wild animals qualify as subjects of rights? Were Estrellita's rights violated? The result: seven of the nine judges ruled in favor of the rights of the protected.

The lengthy ruling was made in light of the recent constitutional amendment of Ecuador, which recognizes the general right of nature to "exist, flourish and evolve." Consequently, although animals cannot equal to human beings, wild animals are considered to have right to exist and, more importantly, right to conduct free.

As a consequence, the court found that the monkey's right to integrity had been "violated" by the State when it did not consider its particular needs in the relocation process. However, the Estrellita's rights were also compromised when originally was poached and subsequently raised in inadequate conditions, the judges ruled. In the ruling, it was noted that:

(...) 83. Thus, this Court agrees that animals do not can be equated with human beings, since their nature and essence is not fully compatible with that of those, which is not means that they are not subjects of rights, but it implies that their

rights are observed as a specific dimension -with its own particularities - of the rights of Nature.

In addition, the Court expressly recognized certain rights to wild animals -such as *Sandai*-, among which the **right to exist**, which brings as a counterpart the duty of abstention of the human being from “*carry out activities that may lead to the extinction of species, the destruction of the ecosystems they inhabit and the permanent alteration of their natural cycles*”; and the **right to free animal behaviour**, which guarantees wild animals that “*they are not taken from their habitat to be transferred to human environments and forced to adapt or remain in those, in order to assimilate characteristics different from those naturally possessed by their species, for convenience or benefit of the human being*”.

Finally, the Court declares:

(...) that the quality of animals as subjects and holders of rights contemplates, namely, the powers to exercise, promote and demand before the competent authorities their rights understood under the principles interspecies and ecological interpretation, through the mechanisms established in our current legal system; hence **the rights of wild animals, such as the chorongo monkey Estrellita are fully justiciable.**

v) Other examples

Along with the above, spontaneously and without the immediacy of a habeas corpus, there are other recent resolutions that accept arguments similar to support the recognition and protection of the freedom of the animals involved. An example of this is the case of the Federal Chamber de Mendoza (2021) that reaffirmed the "character of a non-human person" that elephants (**Case of Pocha and Guillermina**), reaffirming their transfer to a sanctuary in Brazil; as well as the Judgment of the Court of 1st Instance in Contraventional Criminal Matters and Misdemeanors of Buenos Aires (2021) to recognize a **carayá monkey “Coco”** as a "non-human animal subject to law".

Outside of Latin America, we can cite the Superior Court ruling of Islamabad in Pakistan (2020) which recognized the **Kavaan** elephant as "sentient animal with legal rights" to release it from its captivity in a zoo, while life is the premise of the existence of a right; as well as the allegations made by the Nonhuman Rights Project before Courts of the United States to argue habeas corpus in favor of captive animals.

It should be noted that the trend of jurisdictions around the world in this sense is growing.

**e) About the way in which the rule can and should be interpreted
Constitutional in favor of Sandai**

Regarding the way in which article 19 can and should be interpreted of the CPR, through a dynamic and not a static perspective, for purposes of protect the interests of Sandai, , we can point out the following:

In the first place, it is necessary to consider that article 19 of the CPR must be applied to protect the interests of Sandai, insofar as this is possible, taking into account their nature and interests. In this regard, it should be noted that Said article provides that "*The Constitution ensures to all persons: _____ (...)*", without distinguishing between human and non-human persons. Because of what above, is that it will suffice to consider that Sandai is a "non-human person", in a legal sense, so that at least some of the norms contained in its subsequent numerals may be used in order to safeguard the interests of which he is the owner.

Secondly, we believe that the N°1 of article 19 of the CPR can and must be used to protect both the "right to life" and the "right to the prohibition of torture" of which Sandai is the holder. In the kind, its first paragraph will be applicable, as it provides that the The Constitution assures all people "*The right to life and physical and mental integrity of the person*" -without distinguishing between person human or non-human-, as well as its fourth paragraph, which establishes that "*It prohibits the application of all illegitimate coercion.*"

Thirdly, we postulate that N°7 of article 19 of the CPR may and should be used to protect "the right to individual liberty" of Sanday. In this regard, its heading will be applicable, according to which the The Constitution assures all people "*The right to personal liberty and to personal safety*". Together with the above, we believe that it will be applicable, general way, at least that principle recognized in its letter b), according to to which "*No one may be deprived of their personal liberty or restricted except in the cases and in the manner determined by the Constitution and the laws.*" as well as the core of the principle contained in its letter c), insofar as it establishes

that "*No one may be arrested or detained except by order of an official public expressly empowered by law (...)*".

Along with the foregoing, we argue that the remedy of amparo regulated by the Article 21 of the CPR may and must be used to remedy the violation, disturbance or threat to the individual freedom of Sandai. For these effects, we believe that the assumptions contained in the standard should be interpreted broadly, and may be applied to the extent that are compatible with the nature of Sandai.

Thus, for example, we maintain that the expressions "arrested", "detained" and "prisoner" contained in the first paragraph of the rule must be understood not under its strict procedural significance, or in a technical sense, but as any kind of deprivation of liberty perpetrated outside the legal block. Similarly, the expression "prisons or places of detention" contained in the second paragraph of the rule should be understood like any place where Sandai was being deprived of liberty, such as a zoo.

Finally, it should be taken into consideration that, as has been said, the "individual security" stands as a complementary concept of the right to personal freedom, tending to surround it with a set of precautionary mechanisms that prevent their annulment, and that must be ensured in different situations of the affectation of personal freedom *per se* -as in case of threats to personal integrity or life. Due to the above, is that the reference contained in the third paragraph of the standard, and in accordance with the which the remedy of amparo may be deducted in favor of anyone who suffers a "deprivation, disturbance or threat to his right to security individual", should be understood as an indirect protection of the right to life and the prohibition of torture of which Sandai is also the holder.

**f) Other national and international standards that may be used
To support this line of interpretation**

Other **national regulations** that we may take into consideration for build this line of interpretation will be those contained in articles 76 and 19 No. 8 of the Political Constitution of the Republic, article 10 paragraph 2 of the Organic Code of Courts, and articles 1 and 3 subsection 2 of the Law On Animal Protection.

Thus, on an adjectival level, both article 76 of the Constitution and the Article 10, paragraph 2 of the Organic Code of Courts provides that demanded the intervention of the Courts, legally and in business of their competence, "**they cannot be excused from exercising their authority, not even for lack of law that resolves the dispute or matter submitted to its decision.**

In turn, on a substantive level, article 19 No. 8 of the Constitution, insofar as it establishes the duty of the State to "*protect the preservation of nature*"; Article 1 of the Law on the Protection of Animals, as soon as it establishes that its norms are destined to know, protect and respect animals "*as living beings and part of nature*"; and subparagraph 2 of article 3 of the same Law, insofar as it expressly establishes that "*Freedom of movement of wild animals should not be unnecessarily restricted, especially if doing so would cause them suffering and alteration of their normal development.*"

At an **international level**, it is possible to refer to various instruments that although they are not obligatory for the signatory states, they are represent declarations of good intentions, cultural aspirations

shared, and at the same time, guidelines that can illuminate the exercise institution of judges and legislators.

In this direction, the Universal Declaration of Animal Rights, approved by the United Nations Educational Organization, the Science and Culture (UNESCO) and by the United Nations Organization (UN), contains three fundamental ideas related to the right to life, the prohibition of mistreatment, and the protection of the liberties of animals – which is in turn consistent with the fundamental rights proposed by the Great Ape Project in favor of great apes-.

Along with the above, it will be interesting to keep in mind what is recommended by the Toulon Declaration, which advocates consideration of the interests of animals, establishing in its Paragraph 5 "*That in this way, beyond the obligations imposed on human persons shall be recognized own rights to animals, which implies the consideration of their interests*".

III. ACTIONS AND OMISSIONS OF THE APPEALS: SERVICE AGRICULTURAL AND LIVESTOCK, AND ZOOLOGICAL PARK BUIN ZOO SA

There are various actions and omissions attributable to those appealed Agricultural and Livestock Service (SAG) and Parque Zoologico Buin Zoo SA, which have involved the violation of those fundamental rights of which Sandai is incumbent, and which determine the configuration of those assumptions that allow the exercise of the Remedy of Amparo or Habeas Corpus in your favor, as will be explained below.

AGRICULTURAL AND LIVESTOCK SERVICE (SAG)

a) The pronouncement of administrative acts that allowed the sandai imprisonment

In the possession of the Fundación Justicia Interespecie there are records that realize that the Agricultural and Livestock Service (SAG) was involved in the pronouncement of administrative resolutions and in the production of other administrative acts that allowed, on the one hand, the internment of Sandai to national territory, and on the other, his deprivation of liberty in the dependencies of the Zoological Park Buin Zoo SA The foregoing, in open violation of the rights to individual liberty and the prohibition of torture, and in threat to the right to life, of which the protected person is entitled.

i) *CITES Import Permit No. 6797, dated July 7, 2014.*

In the first place, it is possible to mention the Import Permit CITES N°6797, dated July 7, 2014, signed by Danilo Medel Fuentes in his capacity as Regional Director(s) of the SAG Region Metropolitana, which allowed importation under the framework of the Convention CITES of a live Orangutan, this is Sandai, "*non-commercial*".

From now on, it is very important to bear in mind that Sandai, in his quality of species listed under Appendix I of the CITES Convention, **not it may have been imported for commercial purposes.** The above, as long as the Article III, numeral 3), letter c) of the CITES Convention provides that:

3. The importation of any specimen of a species included in the Appendix I will require the prior granting and presentation of a permit of import and an export permit or certificate of re-export. The import permit will only be granted once Once the following requirements have been met: (...) c) that an Authority Administrative Office of the importing State has verified that the specimen **shall not be used for purposes primarily commercial.**

Despite the above, the SAG authorized its importation in favor of the Park Zoologico Buin Zoo SA, this is a **closed corporation whose purpose is commercial is inherent**, the foregoing, in open contravention of what prescribed by article III, numeral 3), letter c) of the CITES Convention:

Thus, the illegality of this action is not only determined for the violation of the basic constitutional rights of Sandai, as in the species is its right to individual or ambulatory freedom, but in as it has also transgressed the basic and fundamental structure of both the CITES Convention as well as the Chilean legal norms that allow its application in our country, in the kind Law No. 20,962.

For the same reasons, this action by the SAG can also be considered arbitrary, and in open violation of the rights of the protected, since it is a decision that does not obey principles dictated neither by reason, nor by logic, nor by current laws.

ii) Exempt Resolution No. 5055/2014, dated July 9, 2014, which “Authorizes Mr. Ignacio Idalsoaga Gajardo de Buinzoo, the hospitalization of exotic mammals for exhibition purposes”.

This resolution pronounced by Mr. José Roberto Rojas Cornejo, in his Chief (TYP) of the Natural Resources Protection Division Renovables del SAG, “(...) *authorizes the entry of a copy of orangutan (Pongo pygmaeus), to the national territory, for purposes of exhibition, coming from France (...)*”. Thus, from the mere examination of his second operative considering it is possible to appreciate that the authorization for the Sandai's internment had as its objective, from its origin, an unconstitutional purpose and illegal, this is confinement for exhibition purposes, a circumstance that it also becomes in its arbitrariness.

Together with the foregoing, the SAG resolved in its resolute recital third, that “*The specimens may not be released into the wild. In facilities, the interested party must ensure that the conditions of maintenance are adequate to prevent the escape or departure of the animal* , which it is possible to appreciate the determination and responsibility that the SAG has had in Sandai's deprivation of liberty, by establishing as a condition of internment the impossibility of his release in a natural environment, and the adoption of conditions that prevent their escape.

The foregoing denotes the positive attitude of the respondent tending to seek to maintain the situation of illegal deprivation of liberty and arbitration to which the protected person has been subjected.

iii) Inspection Report of Agricultural Products Law 18,164 (Art. 3), dated July 10, 2014.

In this SAG report, made on the basis of the certificate of authorization No. 1603 dated July 10, 2014, and issued regarding the

importer Parque Zoologico Buin Zoo, consigned as diagnosis zoosanitary the "final authorization" of the internment of Sandai to national territory, and ordered his "post-entry quarantine" until the 15th of August 2014.

iv) Certificate of customs destination for agricultural products Law 18,164 (Art. 1° and Art 2° inc. 3°), dated July 11, 2014.

In this certificate, issued in the name of the importer Park Zoo Buin Zoo SA, in the field "Description of the goods" is given account of a "Product" consisting of "a live male orangutan"; and in the field "Proposed storage place" is entered "**Parque Zoologico**" in the Buin commune.

b) The omission of control of the minimum conditions of the centers exhibition and reproduction, which have determined an aggravation of Sandai's imprisonment

Both article 60 letter e) of the Hunting Law Regulations and the article 19 letter f) of Decree No. 29 of 2013 of the Ministry of Agriculture, establish as a minimum condition of operation of the centers of reproduction and exhibition of animals –regime applicable to the Park Zoo Buin Zoo SA-, which "*The distribution of animals in the enclosure must be in accordance with the characteristics of each species, avoiding interaction stress.*

In addition, it is necessary to note that the control of both regulations falls

on the SAG, as established in article 28 of Law No. 19,473 on Hunting and article 20 of Decree No. 29 of 2013 of the Ministry of Agriculture.

However, currently, adjacent to the confinement space of Sandai at the Buin Zoo, there is a courtyard in which the Zoo maintains two Bengal tigers, which are natural predators of orangutans, and from which it is separated only by a wall.

This situation not only constitutes a source of high stress, anguish, and vulnerability for Sandai, but also implies a breach blatant of the work of inspection of the minimum conditions that the Zoological parks, in terms of exhibition and reproduction centers, must comply, since a distribution of the animals has not been verified according to their characteristics and in order to avoid interaction stress.

Even more, the situation consisting of the disposition of dams next to predators in a zoo is so serious that the SAG, in the document entitled "Technical Criteria for the Inspection of Wild Fauna in Captivity", under the point "3.5.3 Lodging: prey and predator species in distant precincts" establishes that:

It is very important that if an establishment maintains animals that are prey and predators, these are located in sectors different from it. In this regard, it is essential to consider that the senses in animals have a different development from that of human beings humans. In humans, the sense of sight is more developed than the others, so it is a mistake to believe that if animals do not can be viewed will have no problem. However, most Both predator and prey animals have a sense of smell. and hearing much more developed than humans, so they do not see

their threat does not mean that they do not perceive it. **Therefore, if they are in proximity, the prey feels that it is under threat in a way permanent and the predator perceives its prey, but cannot hunt. This generates a response of chronic stress and frustration that can ultimately lead to the appearance of abnormal behaviors, making them increasingly vulnerable to disease.** The establishments that have this variety of species, should consider an adequate design of the distribution of the accommodations to avoid These kinds of problems. (p. 71 et seq.)

Thus, it is possible to clearly conclude that the omission in the function of control of the SAG has become a worsening of the conditions in which Sandai is kept in prison at the hands of the Buin Zoo.

Thus, in short, the **acts and omissions already described and attributable to the SAG** constitute, on the one hand, a **deprivation of the right to individual freedom** of the protected person, insofar as they imply a deprivation arbitrary both of his freedom of movement and of his right to live in his natural habitat in which they can aspire to develop the behaviors cultural characteristics of their species; and on the other, a **deprivation and disturbance of their right to the prohibition of torture** -or not to be subjected to torture-, in How important is the imposition of intense psychic pain caused by the deficiencies in the supervision of his position. Finally, we can conclude that this set of conditions that call into question the physical and mental health protected, stand as a **threat to their right to life**, in how much they have the virtue of triggering diseases that can ultimately instance, cause the death of the protected person.

In addition, these actions and omissions of the respondent are **illegal**, in how much they violate the basic constitutional rights of which Sandai is holder, and as soon as they transgress the legal and regulatory norms already reviewed; and they are **arbitrary**, insofar as they are contrary to justice, to reason and the laws, based solely on the will or whim of the appealed.

ZOOLOGICAL PARK BUIN ZOO SA

a) The maintenance of Sandai in a situation of deprivation of liberty

In the first place, it is possible to identify an action attributable to the Buin Zoo consisting of keeping Sandai in a situation of deprivation of liberty, against his will, and without a final and enforceable judicial sentence that serves as a foundation, which violates their rights to the individual freedom and the prohibition of torture, rights that are protected through regulations that protect personal liberty and security individual of humans, to the extent that it is compatible with their nature.

In this address, the renowned primatologist and orangutanologist Australian Leif Cocks, in the expert report prepared regarding Sandai -which we accompany this resource-, has indicated with respect to the freedom of movement or ambulation of male orangutans that:

As sex spreads within the species, men adults and adolescents will leave the territory of their childhood to explore and discover new feeding areas and new female orangutans

with whom to reproduce. Because of this, they have been known to roam through of many square kilometers of forest and can be residents and nomads (p.6)

Thus, Sandai's situation of deprivation of liberty in the hands of the respondent constitutes a **deprivation of his right to liberty individual**, insofar as it constitutes an arbitrary deprivation of both his liberty ambulatory as well as their right to live in their natural habitat in which they can aspire to develop the cultural behaviors of their species.

In addition, it constitutes a **deprivation and disturbance of their right to prohibition of torture** -or not to be subjected to torture-, as far as the infliction of intense psychic pain in order to provide a benefit in favor of third parties, in kind, an economic benefit in favor of the Buin Zoo joint stock company.

Likewise, to the extent that these circumstances have the virtue of causing physical and mental illnesses in the protected person, which ultimately term could lead to his death, they also stand as a **threat to his right to life.**

In addition, these conducts of charge of the respondent have the character of **illegal**, by violating the basic constitutional rights of which Sandai is owner, and **arbitrary**, insofar as they are based on the mere will and whim of the shelter, moving away from justice, reason and the laws.

b) The submission of Sandai to certain material conditions that lead to their deprivation of liberty being particularly aggravated

Second, it is possible to identify an action attributable to the appeal consisting of subjecting Sandai to material conditions that imply that their **deprivation of liberty is aggravated**, as soon as leads to the affection of other interests different from the individual freedom of the one that is the owner, but that are related to it.

These material circumstances, in addition to attacking their tendencies and ethological needs, configure a **deprivation and disturbance of their right to the prohibition of torture** and a **threat to his right to life**; rights that can and should be protected through the rules that protect the personal freedom and individual security of humans, in the measure that is compatible with its nature.

Among the conditions determined by the respondent and that have led to the aggravation of the conditions under which Sandai is deprived of liberty, we can mention the following:

i) The maintenance of Sandai in a situation of total isolation, away from other members of his species, which has prevented him from developing socially according to their needs and ethological tendencies.

This circumstance becomes particularly aggravating if we take into consideration that on the one hand, Sandai lived during his first 10 years of life together with other congeners in the Cologne Zoo, Germany; and by another, that Sandai has lived since mid-2014, in a state of solitary confinement away from other members of their species, or from at least other great apes, in the Buin Zoo Zoological Park.

Regarding the ethological need for socialization of orangutans, Australian orangutanologist Leif Cocks is clear in pointing out in his report expert accompanied to this presentation that:

Orangutans are semi-solitary but social beings, and they have their own very distinctive and rich social system. Although in nature , **contact and interaction** are less physical than that seen between the other species of great apes, are **key elements of their well-being psychological**. Having a relatively dispersed social system , **orangutans create space and a level of connection with individuals neighbors, and this social structure contributes to their well-being and health continues in natural settings.** (...) Orangutans, like all intelligent species, they adapt mainly to the environment to through culture, rather than natural selection alone. **This means that orangutans can only thrive on their own cultures and societies, and as "people" they need to control who, when and how long they interact with members of their community in order to maintain mental health.** (pp6-7)

From the above, it is possible to observe that solitary confinement and alienated from other members of his species to whom Sandai is unfairly submitted, in addition to affecting their right to individual liberty, implies a violation of other legal assets of which he is the owner, such as his well-being and mental health, and ultimately, their mental and physical integrity. Furthermore, it is possible to appreciate that this circumstance constitutes a threat to their right to life.

ii) The maintenance of Sandai in an environment that lacks those existing environmental conditions in its natural habitat, which prevents it from live their existence in a way that conforms to their ethology and nature.

In this regard, we can identify at least the following conditions environmental characteristics of the natural habitat of bornean orangutans, which do not are present in the confinement site in which the respondent maintains illegally and arbitrarily to Sandai, which results in the violation of its interests and rights.

1. Geographical conditions: In this regard, it is possible to point out that the Bornean orangutans are native to the island of Borneo, in the southeast Asian, a place populated by trees in which these animals spend most part of their time, in which they establish their territory of residence and organize their close social interactions, and in which they can develop one of the ethological behaviors that are most characteristic of it, as it is the "arm". In fact, orangutans are only known to be on the ground about 5% of the time, mainly when groceries are running out. ending in the trees. In this regard, the expert Leif Cocks points out in his report that:

Dominant adult males establish a territory of residence that may include the territories of up to five females adults, as long as there is no male in residence. Thus , the male **located high in the tree canopy within a central radius of the local breeding females.** If there is already an alpha male present,

they can have a territorial behavior until one of the males win the domain and stay in the area, and the other goes to look for a new territory.

However, the possibility of developing this natural behavior in the tight confinement of the Buin Zoo it is simply impossible.

2. Weather conditions: Along with the above, it is important to consider that Borneo enjoys temperatures ranging between 27°C and 32°C throughout the year, with a relative humidity of about 80% during the most of this. In addition, in some areas of that place, the rainfall can exceed 4,000 mm per year. However, these conditions are far from those present in the Metropolitan Region of Santiago, where the average annual temperature reaches 15.7 °C and the average precipitation in the same period reaches 517 mm. It should also be borne in mind that in the Metropolitan Region the temperatures in the winter months can easily drop below 0°C.

It should be noted that these climatic conditions are far from being able to be emulated by the thermal system used by the one resorted to in the gloomy closed cabin of between 15 and 20 square meters in which Sandai is maintained most of the time. Furthermore, it should be noted that if well the resorted one would allow Sandai to go out to a small adjacent patio during some hours of the day, the truth is that this is not possible during the colder months, given the impossibility for Sandai to withstand the cold Buin temperatures.

3. Zoological conditions: In addition, Sandai is kept in a place in which there are no members of its species, nor other great apes with whom he could come to relate. In fact, in the place where it is maintained by the respondent, neither do those other species with which which interacts within the trophic chain of the ecosystems of Borneo. All of this, as it is easy to grasp, constitutes a factor of great psychic suffering for Sandai.

iii) Keeping Sandai in an environment in which he is exposed to various stimuli and discomforts that do not exist in a natural state, and of which he cannot shy away, just as he would if he were free.

In this direction, we can identify at least the following stimuli or inconvenience to which Sandai is subjected, as a result of the deprivation freedom at the hands of the respondent, to which he would not be confronted even in his natural habitat or a controlled environment that will give you more freedom – as a specialized Sanctuary-, and from which he cannot shun, attended the impossibility of exercising their ambulatory freedom:

1.- Daily exposure to human beings: Sandai is exposed daily to the human public that attends the Buin Zoo, which implies not only the existence of a constant flow of individuals who observe it, but also to their noises, shouts, laughter, cameras and flashes. This kind of overexposure to human being is not verified in a natural state, and constitutes a factor of inescapable stress and anguish for Sandai, particularly when we consider consideration that, on the one hand, humans constitute the main threat

for these animals, and on the other, that orangutans show little or no interest in humans in their natural state.

2.- Proximity to two bengal tigers: Adjacent to the habitat of Sandai's confinement, there is a patio in which the respondent keeps two tigers bengal, which are natural predators of orangutans. Of these predators, orangutans tend to try to escape, climbing to the parts tall of the trees. However, the respondent keeps Sandai by force separated from these tigers by a mere concrete wall, whose presence is able to perceive daily, and for years. In addition, it is necessary to point out that the orangutans tend to be attacked and eaten by bengal tigers mainly during the night, which results in Sandai being subjected to a state of constant biological alertness, even during times of break.

This not only constitutes a source of high stress, anguish, and vulnerability for Sandai, but also implies a breach flagrant of two regulations, those are article 60 letter e) of the Regulation of the Hunting Law and article 19 letter f) of Decree No. 29 of 2013 of the Ministry of Agriculture²⁶, insofar as they establish as one of the minimum conditions of operation of the reproduction centers and animal exhibition, which "*The distribution of animals in the enclosure must be in accordance with the characteristics of each species, avoiding stress due to interaction*".

As can be seen, although orangutans can effectively encounter a bengal tiger in its natural habitat, just as you can

²⁶ Which establishes the Regulation on the protection of animals during their industrial production, their marketing and in other animal holding enclosures.

have the opportunity to escape from it or not, the truth is that the exhibition proximity and constant to these animals does not constitute a circumstance natural environment and typical of the habitat of subjects like Sandai.

3.- Maintenance in a narrow and artificial establishment:

Sandai currently lives alone in a circular enclosure of between 15 and 20 m² approximately, with the appearance of a closed barbecue area, which contrasts with that establishment in which he lived in the Cologne Zoo (Germany) during its first 10 years of life, which had about 730 m² of extension and which he shared with other orangutans. His height is around 5 meters, and visitors can observe Sandai from a first level - this is the level of arrival-, and a second level to which it is possible to access through a ramp.

Sandai, seems to have the right at some point, to use a patio assigned to the White-Handed Gibbon, depending on conditions meteorological This courtyard is larger in size than the one in which Sandai sits. is regularly deprived of liberty. However, the enrichment present in this courtyard seems to have been arranged in favor of an ape of smaller size, such as the White-Handed Gibbon, and not for one of great size like an orangutan.

Furthermore, it will be necessary to take into consideration that at the Sandai's arrival at the Buin Zoo, said gloomy dwelling did not even fit the minimum enrichment and setting conditions required by the current legal order, and whose responsibility and compliance fell on the appealed. Thus, in an inspection report carried out by the Agricultural Service and Rancher SAG on June 27, 2014 -accompanying to this presentation-, It is known that in the observations related to animal welfare it was reflected that in

the “*Patio sector lacks enrichment and setting. accommodation industry and interior sector lacks atmosphere, curriculum and experience of the staff to charge of the orangutan as required by CITES.*

The foregoing, as can be seen, constituted another violation of the charge of the appealed, this time to article 60 letter d) of the Regulations of the Law of Hunting, which establishes that the exhibition and reproduction centers “(...) *must have an environmental enrichment program corresponding to each species*”; and article 19 letter n) of Decree No. 29 of the 2013 of the Ministry of Agriculture, which stipulates that in the centers destined for the exhibition of animals “*The facilities must provide environmental enrichment according to the species and its ethology.*”

Due to the above, it is that Sandai lives in a completely unsuitable for its species.

4.- Background music: Sandai is constantly exposed to a ambient music with an “African aesthetic”, at least during the hours when the appealed corporation opens its doors to the public, which stands as an exogenous circumstance to the natural stage of the bornean orangutan, which has the potential to cause stress and overwhelm, undermining its integrity psychic

5.- Night visits: A greater abundance, one of the products traded by the respondent company are its famous "night visits", in which which visitors besiege Sandai's confinement, harassing him with their voices, laughter and flashes even in those moments when Sandai seems to have the possibility of enjoying some tranquility, all of which is is duly documented in videos that are in the possession of this

Interspecies Justice Foundation, and that through this presentation we come to offer.

In short, all these circumstances, work and position of the respondent, not only constitute a **deprivation of individual liberty** of which Sandai is the owner, but also a **deprivation of his right not to be subject to torture**, inasmuch as it constitutes a violation of his psychic integrity and physical. Furthermore, they also stand as a **threat to their right to life**, to the extent that they can trigger states pathological that could lead to the death of the protected person.

In turn, the actions and omissions of work of the respondent, which affect the rights indicated in the manner described, have the character of **illegal**, in how much they violate both the basic constitutional rights of which it is holder Sandai, such as the legal and regulatory norms already outlined; Y they are also **arbitrary**, insofar as they stand as a proceeding contrary to the justice, reason and the laws, motivated solely by the will and whim of its author, lacking sufficient reasoning and sufficient explanation of the reasons on which it is based, and lacking a plausible basis adjusted to the block of legality.

Due to the above, and based on a dynamic interpretation and non-static law, we can conclude that these forms of aggravation of the conditions in which Sandai finds himself secluded, are proscribed, and are protected, by the norms Constitutional provisions that guarantee and safeguard personal freedom and individual safety of humans, to the extent compatible with the Sandai's nature.

IV. OF THE AMPARO BUDGETS

As has been repeatedly held by the doctrine and national jurisprudence, the constitutional elements of the amparo action are the following:

- a) Arrest, detention, imprisonment or any other deprivation, disturbance or threat to the right to personal liberty or individual security.
- b) The illegality of the behaviors described, that is, that said behaviors are verified in violation of the provisions of the Constitution or the laws.

That said, we must ask ourselves, how could they be configured? said budgets in order for the amparo action to operate in favor of Sanday?

As we have delved into in previous pages, taking into account consideration the character of a non-human person that Sandai has, for a one hand, and their ownership over certain basic and fundamental rights, on the other; and **through a dynamic and not static interpretation of the text Constitutional;** is that we can conclude that the rights of which it is holder Sandai -in the species the right to individual freedom, to the prohibition of torture, and to life-, they can and should be protected through some of the constitutional norms that protect similar interests with respect to human rights, including article 21 of the Political Constitution of the Republic, that establishes the Remedy of Amparo or Habeas Corpus.

In this line of interpretation, the "**right to individual liberty**" of Sandai can and should be protected through those rules that protect the right to personal freedom in favor of humans, in the species, through

articles 19 No. 7 and 21 of the Constitution. The above, to the extent that the content of said rules are compatible with the nature of Sandai.

Furthermore, along the same line of reasoning, both the "**right to life**" and Sandai's "**right to prohibition of torture**" may and must be protected through the Constitutional norms established for safeguarding the right to life and to physical and mental integrity in favor of humans, in the species, through article 19 No. 1 of the Constitution, to the extent that it is compatible with its nature.

In turn, those rights to life and the prohibition of torture They can and should also be protected by those rules Constitutional laws that protect the individual security of humans -in when it refers to guarantees that surround the exercise of personal freedom and insofar as it encompasses threats to personal integrity and life-, in kind, at least article 19 No. 7 of the Constitution, in whatever compatible with its nature, and of course, article 21 of the text Constitutional.

Taking into consideration what has already been pointed out, as well as what is lately exposed and reasoned in previous pages, it is possible to conclude that **those violations, already described, to the rights of Sandai recently outlined, constitute the first of the constitutional elements of the action of amparo**, since Sandai, on the one hand, is deprived of his freedom individual (*deprivation of personal liberty in the Constitutional text*); and by another, is deprived and disturbed of his right to the prohibition of torture, and their right to life is threatened (*deprivation, disturbance and threat of individual security in the text Constitutional*).

In turn, **it is also possible to have the second of**

the constitutional elements of the amparo action, this is the illegality or unconstitutionality of the behaviors described. The above, in Firstly, insofar as all the forms of affectation of the rights of Sandai, already described, are unconstitutional, by transgressing the norms Constitutional rights that protect the basic or fundamental rights of Sandai (Articles 19 No. 1 and 7, insofar as they are compatible with its nature); and in secondly, in terms of at least the form of affectation consisting of the Sandai's deprivation of individual liberty is illegal, in violation of article 3 paragraph 2 of Law No. 20,380 of the Law on the Protection of Animals, every time his solitary confinement in the Buin Zoo stands as an unnecessary restriction of their freedom of movement, which also It causes suffering and alteration of its normal development. In addition, you must keep in mind the illegality of the administrative acts of the SAG, which have not only violated the rules already described, but have also allowed the entry into national territory of an individual listed in the Appendix I of the CITES Convention, with an obviously commercial purpose.

To the foregoing, the illegality of the deprivation and violation of the right to the prohibition of torture, as well as the illegality of the threat to his right to life, by transgressing article 3 paragraph 1 of Law No. 20,380 of the Law on the Protection of Animals, since it does not the duty of every animal holder to care for it has been respected and provide adequate food and shelter as needed minima of the Sandai species and category; and by violating article 5 Subsection 1 of the same legal body, insofar as the duty of the zoo to have adequate facilities for the species and category of Sandai, tending to avoid mistreatment and deterioration of his health.

In short, we can verify that these rights of Sandai - subsumable in the constitutional clause of personal freedom and individual security-, in two complementary ways: on the one hand, through the production and maintenance of the situation of deprivation of liberty; Y on the other, through the violation of a series of interests that affect their quality of life, by subjecting them to a confinement regime total solitude, by being kept in a place that does not meet the environmental, geographical, climatic and zoological conditions present in its natural habitat, and by subjecting them to an artificial environment in which is exposed to negative and inescapable stimuli that do not exist in his stage natural, such as its daily exposure to human visitors, its location close to two Bengal tigers (natural predators), and their maintenance in a narrow and inadequate establishment to satisfy their minimum needs, among others.

V. THE APPLICABLE LAW IN THE AMPARO REMEDY AND THE ROLE OF THE COURT IN ITS KNOWLEDGE

In order for the amparo appeal to be appropriate, a person must be detained, arrested or imprisoned, in violation of the provisions of the Constitution or laws or have unlawfully suffered any other deprivation, disturbance or threat to your right to personal liberty and security individual.

Following the classification elaborated by Humberto Nogueira, the facts that summon us can be qualified within two hypotheses of protection, These are the amparo or **reparative** and **corrective** habeas corpus .

Thus, reparative habeas corpus “*Constitutes the classic modality, operates*

before arrest or imprisonment in contravention of the Constitution and the laws, that is, without meeting the requirements established in article 19 no. 7 and 21 of the Constitution (...)". In turn, corrective habeas corpus has the purpose "to leave without effect the aggravation of the form and conditions in which serves the deprivation of liberty".

Due to the above, it is that in the species we come to promote a **amparo action or reparative habeas corpus**, in order to safeguard Sandai's individual freedom, of which he has been deprived by actions attributable to the respondents, those that have been executed in contravention of the Constitution and the Laws, in particular, in contravention of article 19 No. 7 –in its header, in its letter b), and in the first part of its letter c)-; So as in contravention of article 3 paragraph 2 of Law No. 20,380 of the Law On the Protection of Animals and the regulations contained in the Law N°20,962 that applies the CITES Convention. All of the above, in order to put an end to this unconstitutional and illegal deprivation of liberty, and pave the way upon release to a specialized great ape sanctuary.

In this regard, and as stated above, you must It should be noted that the terms "detention", "prison" and "arrest" should not be interpreted in its literal or technical sense, but rather, based on a dynamic and not static interpretation of the law, and bearing in mind the nature and interests of Sandai, should be understood as any form of unconstitutional or illegal deprivation of individual liberty.

In turn, **in addition** to the above, and in the unlikely event that It will be estimated that the necessary requirements are not configured for the operation of the repairing amparo, we come to invoke the amparo or **corrective habeas corpus**,

in order to nullify the aggravation of the form and conditions
in which Sandai is kept in prison. All of the above, for the sake of
pave the way for Sandai's transfer to a sanctuary specializing in large
apes, where you can stay in an environment of freedom semi
controlled, and where there are no circumstances already invoked that
determine the aggravation of their deprivation of liberty.

SAW. MEASURES REQUESTED BY THE JUSTICE FOUNDATION INTERSPECIE IN THE PRESENT AMPARO APPEAL

The Remedy of Amparo is mainly an action of a nature
precautionary measure aimed at reestablishing the rights to personal liberty and
violated individual security that are guaranteed by the
article 21 of the constitutional text, in order to seek the cessation of the disturbance,
deprivation and threat of violated rights; rights established in
favor of human beings who, on the basis of a dynamic interpretation and
non-static law, may be used to safeguard the rights
of which Sandai is the owner, in the manner exposed.

In this regard, the only limit of the judge lies in his subjection to the
purposes of this procedural action, which consists of reestablishing the empire of
right and assure the aggrieved persons, in the Sandai species, the
due protection. The court may adopt any and all kinds of
measures tending to these objectives, although they do not appear established in
no code nor have they been requested by the appellant.

Thus, **within the measures that will be requested** of this Court in order to
to restore the rule of law and safeguard violated rights

of Sandai, as will be explained, is the one related to **his transfer to the Sanctuary of Great Primates of Sorocaba, Brazil.**

About the Sanctuary of Great Primates of Sorocaba

The Sorocaba Great Primate Sanctuary (SGPS), located in São Paulo, Brazil, is the largest Great Primate Sanctuary among the four member sanctuaries of the Great Ape Project (or Great Ape Project) in Brazil, and it is the largest great primate sanctuary in Latin America. It was founded in 2000 by Pedro Ynterian, current Secretary General International of the International Great Ape Project (GAP), and currently houses 250 animals, 45 of which correspond to great primates

The SGPS has an area of five hectares, it has 63 enclosures for large apes, some with 1000 m², and their facilities are prepared for expand and receive other animals that are rescued from situations of abuse. In addition, the permanent team of the SGPS has two veterinarians and 20 keepers, who follow the daily lives of chimpanzees and other animals and develop environmental enrichment activities, always with the objective to improve the quality of life in the captive environment.

It goes without saying that most of the great apes housed in the Sanctuary of Sorocaba, among these the chimpanzee Cecilia (Argentina), have some history of human abuse, being seen as physical trauma and/or psychological scarred for the rest of their lives. Within the history of abuses that precede the life of many of those primates, is their prior confinement in zoos, which cause serious psychological trauma caused by loneliness, by confinement in a

extremely restricted territory and the stress derived from the intense exposure public and bullying.

In this regard, it is important to keep in mind what was pointed out by the biologist American evolutionist Marc Bekoff in his expert report, accompanied by this presentation, who has pointed out that:

I know that Sandai has been accepted into the Sanctuary of Great Primates of Sorocaba in Brazil, a recognized and important sanctuary for great primates in Latin America, part of the Great Ape Project, where he could interact with other primates in a protected space and adequate to the needs of its species and not to the reverse, where there is no stress associated with the presence of groups of visitors, annoying noises caused by them and theme music ringing incessantly, without the presence of large carnivores near him as it happens today, where he would have many options of movement, access to a larger space in contact with the nature and, very importantly, a more suitable climate for it.

There is no reasonable justification for keeping Sandai in the conditions imposed by this exhibition center. **transfer it to a sanctuary is the only ethical alternative. Keep Sandai in the Buin Zoo is a threat to your physical and psychological well-being. It is time for their emotions and interests to be taken into consideration,** and that means recognizing that you have the right to a life worth living and a right to freedom, as much as we can offer you.

**The difference between captivity in a zoo and semi-freedom
that Sandai could obtain at a shrine is critical to
May you have the opportunity to prosper and enjoy your life,
probably for the first time. (p.5)**

Furthermore, as pointed out by the utilitarian philosopher Peter Singer in the expert report or *amicus curiae* issued on the case of Sandai, along with scholars Gary Comstock, Adam Lerner, and scholar Chilean Macarena Montes Franceschini:

**Sandai's confinement is the cause of her pain and frustration. I know
feel alternately anxious and frustrated, or bored and isolated.
Release at a sanctuary would remove these damages and initiate a
cascade of optimal situations. In cases where we can
prevent serious harm with minimal effort, ethical principles dictate
that we should do it. If one can save a drowning child
just bending over and picking it up, you should do it. The duty
to prevent damage is especially serious in cases where
can prevent or eliminate major damage at very low cost. The
The Tribunal has this power in the Sandai case. The damages that
are currently inflicting on you can be easily relieved
transferring it to a sanctuary, and the costs involved, if the
yes, they are minimal. (p.8)**

Acceptance of Sandai in the Sanctuary of Great Primates of Sorocaba and
transfer costs

The Interspecies Justice Foundation team has carried out the steps leading to the relocation of Sandai in the SGPS, as well as the search for the necessary funds to pay for their transfer to Brazil, which has successfully achieved.

In this regard, it should be borne in mind that, as stated in the Charter of Acceptance dated June 14, 2022, sent by Mr. Pedro Ynterian, on behalf of SGPS to the Fundación Justicia Interespecie – which is accompanies this presentation-, **the Sanctuary has agreed to cover the freight flight from Sandai to the SGPS, to receive it at its facilities and to take care for his life.** Thus, in the aforementioned letter, the SGPS indicates that:

At the request of the Interspecies Justice Foundation, which defends judicially the release of the Orangutan Sandai, which is currently found in the Buin Zoo of the city of Santiago, Chile, through this we accept the same in the Sanctuary of Great Primates of Sorocaba, Brazil. **We comply with informing you that we can welcome you In our instalations. (...) The Sanctuary will cover air freight and Sandai's lifetime care. (...) (yes)**

It is important to point out that the SGPS concludes the letter indicating that:

We take this opportunity to reiterate the importance that his decision to grant Habeas Corpus for the Orangutan Sandai has, in the worldwide struggle for the recognition of Basic Rights, that the Great Apes must have in our societies.

Finally, it is necessary to note that the SGPS indicated that, to execute the transfer of Sandai to its dependencies, "*the Foundation must take responsibility and carry out the entire rescue operation (transport by appropriate IATA standard box and necessary veterinary care/controls), as well as provide all the medical examinations required by the authorities of Brazil, duly carried out and documented*", **responsibility that, through this act, we come to assume.**

Likewise, it should also be borne in mind that "*It is also essential that everyone is well informed that both the Governments of Chile and the Brazil must approve the Export and Import Certificates required, issued by the CITES Authority of each country, obeying the international regulations governing the transport of beings in danger of extinction*", **management of certificates and administrative procedures that also we come to assume**

Specific measures requested by the Interspecies Justice Foundation

**Thus, in the main, and on the basis of habeas corpus _____
classic or repairer, this Illustrious Court of Appeals is requested to
the following measures are taken:**

- a) That it be declared that Sandai is the holder of the fundamental right and basic to individual liberty.
- b) That it be declared that the fundamental and basic right to freedom individual of which Sandai is the owner is protected by the Article 19 No. 7 of the Political Constitution of the Republic, in particular in its letters b) and in the first part of letter c), and by the Article 21 of the Political Constitution of the Republic –both in

how much they regulate and protect the human right to personal liberty;-; and by article 3 paragraph 2 of Law No. 20,380 of the Law on Animal Protection; or by the norms that the Court deems relevant.

- c) That the unconstitutionality and illegality of the acts administrative charges of the SAG, already outlined, which allowed the internment of Sandai in national territory and his deprivation of liberty in premises of the Buin Zoo SA Zoological Park, among these, the CITES Import Permit No. 6797, dated July 7, 2014, and Exempt Resolution No. 5055/2014, dated July 9, 2014, which “*Authorizes Mr. Ignacio Idalsoaga Gajardo de Buinzoo, the internment of exotic mammals for exhibition purposes.*
- d) That the unconstitutionality and illegality of the conduct of charge of the Zoological Park Buin Zoo SA consisting of the maintenance of Sandai in a state of deprivation of liberty individual.
- e) That it be declared that the right to individual liberty of Sandai, protected by the Constitution and the infra-constitutional order, has been infringed.
- f) That, as a consequence of the foregoing, all kinds of measures aimed at restoring the rule of law and ensuring the protection of all violated basic rights, putting an end to the unconstitutional and illegal acts described in advance.
- g) That Sandai's release be ordered from the establishment in who is kept in solitary confinement at the Zoological Park Buin Zoo SA, as well as its transfer to the Sanctuary of Great Primates from Sorocaba, Brazil.

In subsidy of the above; for the unlikely event that

**I will estimate that the necessary requirements for it to operate have not been verified
the remedial protection in the requested terms; and on the basis of
corrective habeas corpus, this Illustrious Court of
Appeals that the following steps be taken:**

- a) That it be declared that Sandai is the holder of the fundamental right and basic to individual freedom, to life, and to the prohibition of torture.
- b) That it be declared that the fundamental and basic right to freedom individual of which Sandai is the owner is protected by the Article 19 No. 7 of the Political Constitution of the Republic, in particular in its letters b) and in the first part of letter c), and by the Article 21 of the Political Constitution of the Republic –both in how much they regulate and protect the human right to personal liberty–; and by article 3 paragraph 2 of Law No. 20,380 of the Law on Animal Protection; or by the norms that the Court deems relevant.
- c) That it be declared that the fundamental and basic rights to life and to the prohibition of torture of which Sandai is the holder, are protected by article 19 No. 1 of the Constitution Politics of the republic –insofar as they refer to the human right to life and physical and mental integrity; by articles 19 No. 7 and 21 of the Political Constitution of the Republic –as they regulate and they protect the human right to individual security; and for the articles 3 subsection 1 and 5 subsection 1 of Law No. 20,380 of the Law

On Animal Protection; or by the norms that the Court deem relevant.

- d) That the unconstitutionality and illegality of the acts administrative charges of the SAG, already outlined, which allowed the internment of Sandai in national territory and his deprivation of liberty in premises of the Buin Zoo SA Zoological Park, among these, the CITES Import Permit No. 6797, dated July 7, 2014, and Exempt Resolution No. 5055/2014, dated July 9, 2014, which "*Authorizes Mr. Ignacio Idalsoaga Gajardo de Buinzoo, the internment of exotic mammals for exhibition purposes*
 - e) That the unconstitutionality and illegality of the acts omissions of the SAG, already outlined, related to the lack of control of his position, which have determined an aggravation of the conditions in which Sandai is deprived of liberty in the Buin Zoo S.A. Zoological Park
 - f) That the unconstitutionality and/or illegality of the conduct be declared charge of the Buin Zoo SA Zoological Park consisting of the maintenance of Sandai in a state of deprivation of liberty individual, under aggravating conditions that lead to said deprivation of liberty also affects other interests of which Sandai is the owner, according to the exposed and reasoned with advance.
 - g) That it be declared that the right to individual liberty and/or the right to the prohibition of torture and the life of Sandai, protected by the Constitution and by the infraconstitutional order, have been infringed.
 - h) That, as a consequence of the foregoing, all kinds of measures aimed at restoring the rule of law and ensuring the

protection of all violated basic rights, putting an end to the unconstitutional and illegal acts described in advance.

- i) That Sandai's transfer be ordered from the establishment where is kept in solitary confinement at the Zoological Park Buin Zoo SA to the Sanctuary of Great Primates of Sorocaba, Brazil, where it will be kept in a semi-controlled environment of freedom, and where those aggravating conditions will not be verified described in advance.

SO,

In accordance with the provisions of article 21 of the Political Constitution of the Republic and the Auto Acordado of the Excma. Supreme Court on processing of the Remedy of Amparo, plus the constitutional, legal, international already mentioned;

WE ASK ASS ILTMA, to accept the processing of the Appeal for Amparo against the Agricultural and Livestock Service and the Zoological Park Buin Zoo SA, for depriving, disturbing and threatening constitutional rights to individual freedom, prohibition of torture and life, of which the Orangutan of Borneo "Sandai", and which are protected by the norms establishing the human rights to personal liberty, security individual and to life and physical and mental integrity, in accordance with the provisions by articles 19 No. 7, 21, and 19 No. 1 of the Political Constitution of the Republic – to the extent that they are applicable according to their *nature*-; that the present constitutional action is accepted; to declare the violation of the

rights consigned in the outlined constitutional norms; and what in
In particular, the following is resolved:

In the main, and on the basis of the classic habeas corpus or
repairman:

- h) That it be declared that Sandai is the holder of the fundamental right and basic to individual liberty.
- i) That it be declared that the fundamental and basic right to freedom individual of which Sandai is the owner is protected by the Article 19 No. 7 of the Political Constitution of the Republic, in particular in its letters b) and in the first part of letter c), and by the Article 21 of the Political Constitution of the Republic –both in how much they regulate and protect the human right to personal liberty–; and by article 3 paragraph 2 of Law No. 20,380 of the Law on Animal Protection; or by the norms that the Court deems relevant.
- j) That the unconstitutionality and illegality of the acts administrative charges of the SAG, already outlined, which allowed the internment of Sandai in national territory and his deprivation of liberty in premises of the Buin Zoo SA Zoological Park, among these, the CITES Import Permit No. 6797, dated July 7, 2014, and Exempt Resolution No. 5055/2014, dated July 9, 2014, which “*Authorizes Mr. Ignacio Idalsoaga Gajardo de Buinzoo, the internment of exotic mammals for exhibition purposes.*
- k) That the unconstitutionality and illegality of the conduct of charge of the Zoological Park Buin Zoo SA consisting of the

maintenance of Sandai in a state of deprivation of liberty individual.

- I) That it be declared that the right to individual liberty of Sandai, protected by the Constitution and the infra-constitutional order, has been infringed.
- m) That, as a consequence of the foregoing, all kinds of measures aimed at restoring the rule of law and ensuring the protection of all violated basic rights, putting an end to the unconstitutional and illegal acts described in advance.
- n) That Sandai's release be ordered from the establishment in who is kept in solitary confinement at the Zoological Park Buin Zoo SA, as well as its transfer to the Sanctuary of Great Primates from Sorocaba, Brazil.

In subsidy of the above; for the unlikely event that

I will estimate that the necessary requirements for it to operate have not been verified the remedial protection in the requested terms; and on the basis of corrective habeas corpus, this Illustrious Court of Appeals that the following steps be taken:

- j) That it be declared that Sandai is the holder of the fundamental right and basic to individual freedom, to life, and to the prohibition of torture.
- k) That it be declared that the fundamental and basic right to freedom individual of which Sandai is the owner is protected by the Article 19 No. 7 of the Political Constitution of the Republic, in particular in its letters b) and in the first part of letter c), and by the

Article 21 of the Political Constitution of the Republic –both in how much they regulate and protect the human right to personal liberty-; and by article 3 paragraph 2 of Law No. 20,380 of the Law on Animal Protection; or by the norms that the Court deems relevant.

- I) That it be declared that the fundamental and basic rights to life and to the prohibition of torture of which Sandai is the holder, are protected by article 19 No. 1 of the Constitution Politics of the republic –insofar as they refer to the human right to life and physical and mental integrity; by articles 19 No. 7 and 21 of the Political Constitution of the Republic –as they regulate and they protect the human right to individual security; and for the articles 3 subsection 1 and 5 subsection 1 of Law No. 20,380 of the Law On Animal Protection; or by the norms that the Court deem relevant.
- m) That the unconstitutionality and illegality of the acts administrative charges of the SAG, already outlined, which allowed the internment of Sandai in national territory and his deprivation of liberty in premises of the Buin Zoo SA Zoological Park, among these, the CITES Import Permit No. 6797, dated July 7, 2014, and Exempt Resolution No. 5055/2014, dated July 9, 2014, which “*Authorizes Mr. Ignacio Idalsoaga Gajardo de Buinzoo, the internment of exotic mammals for exhibition purposes*
- n) That the unconstitutionality and illegality of the acts omissions of the SAG, already outlined, related to the lack of control of his position, which have determined an aggravation of the

conditions in which Sandai is deprived of liberty in
the Buin Zoo S.A. Zoological Park

- o) That the unconstitutionality and/or illegality of the conduct be declared charge of the Buin Zoo SA Zoological Park consisting of the maintenance of Sandai in a state of deprivation of liberty individual, under aggravating conditions that lead to said deprivation of liberty also affects other interests of which Sandai is the owner, according to the exposed and reasoned with advance.
- p) That it be declared that the right to individual liberty and/or the right to the prohibition of torture and the life of Sandai, protected by the Constitution and by the infraconstitutional order, have been infringed.
- q) That, as a consequence of the foregoing, all kinds of measures aimed at restoring the rule of law and ensuring the protection of all violated basic rights, putting an end to the unconstitutional and illegal acts described in advance.
- r) That Sandai's transfer be ordered from the establishment where is kept in solitary confinement at the Zoological Park Buin Zoo SA to the Sanctuary of Great Primates of Sorocaba, Brazil, where it will be kept in a semi-controlled environment of freedom, and where those aggravating conditions will not be verified described in advance.

FIRST OTHER: We ask SSI to please have for
accompanying the following expert reports, evacuated in relation to the case tracked on these cars:

1.- Expert report entitled “*Amicus Curiae Case of the Orangutan „Sandaij at the request of the Interspecies Justice Foundation*” made by Eugenio Raúl Zaffaroni and Nadia Espina.

Please also keep in mind, regarding their authors, that Mr.

Eugenio Raúl Zaffaroni is a Judge of the Supreme Court of Justice of the Argentine Republic, Judge of the Inter-American Court of Human Rights Human Rights, and is an emeritus professor at the University of Buenos Aires. In addition, he is Doctor honoris causa multiple by 48 Universities.

In turn, Mrs. **Nadia Espina** is an adjunct professor at the Universities of Buenos Aires and Nacional de la Plata, and Second Vice President of the Argentine Association of Professors of Criminal Law.

2.- Expert report entitled “*Amicus Curiae Report in the case of the Orangutan Sandai at the request of the Interspecies Justice Foundation*”, dated July 19, 2022, evacuated by the “Sandra Judicial Team”, made up of by Judge Elena Liberatori, and by Mrs. Noelia Villarino, María José Fernandez, Maria Lucia Guaimas and Juan Martin Miraldo.

Please also keep in mind, as regards its authors, that Mrs. **Elena Liberatori** is a Judge in Administrative Litigation in the City Autonomous University of Buenos Aires since 2001, and author of the first judicial sentence in the world that recognizes an animal its non-human personality –Case Sandra, 2015-. From May 2021, integrates the Argentine Chapter of the Pan American Committee of Judges and Judges for Social Rights and Franciscan Doctrine.

In turn, Mrs. **Noelia Villarino** is a lawyer from the University of Buenos Aires, and was the Secretary in charge of the File of the Case of the

orangutan Sandra; Mrs. **Maria Jose Fernandez**. Lawyer of the University of Buenos Aires, specialized in Administrative Law and Animal Law, and Assistant Assistant Secretary in the Court in charge of Dr. Liberatori; Mrs. **María Lucía Guaimas** has a degree in Anthropology from the University of Buenos Aires, and Assistant Secretary Adjuvant in the Court in charge of Dr. Liberatori; and Don **Juan Martin Miraldo** is an Officer of the Judge Unit, in the Court in charge of Dr. Liberatori.

3.- Expert report entitled “*Orangutans are persons with rights:*

Amicus Curiae brief in the Sandai case, requested by the Interspecies Justice Foundation” (*Orangutans are people with rights: Amicus Brief Curiae on the case of Sandai, requested by the Justice Foundation Interspecies*) dated July 17, 2022, evacuated by Peter Singer, Gary Comstock, Adam Lerner, and Macarena Montes Franceschini.

Please also keep in mind, regarding their authors, that **Peter Singer** is a professor of bioethics at Princeton University. The journalists have called him "the most influential living philosopher in the world". His most influential work has been his most influential work has focused in the ethics of the treatment of animals, to which the beginning of the modern animal rights movement, and in the obligations to alleviate extreme poverty, which inspired and continues influencing the movement of effective altruism. key figures related to animals, such as Jane Goodall and Ingrid Newkirk, have said that their book Animal Liberation led them to engage in the struggle to reduce the enormous amount of suffering that we inflict on animals.

In turn, **Gary Comstock** is a distinguished university professor of philosophy at North Carolina State University. research on ethical issues in the biological sciences. is especially interested in the minds of animals and the moral relevance of what what is known and not known about the brains and behaviors of non-human mammals.

Adam Lerner is an incoming postdoctoral associate at the Center for Bioethics Bioethics at the population level at Rutgers University. Previously, he was a professor in the Department of Philosophy at the Princeton University and Adjunct Professor at the Center for Bioethics at New York University. He received his doctorate in philosophy from the Princeton University, where he was awarded the Porter Ogden Jacobus Scholarship, Princeton's highest honor for graduate students.

Finally, **Macarena Montes Franceschini** is a lawyer and Chilean doctoral researcher at Pompeu Fabra University. Has been visiting researcher at the Max Planck Institute for Public Law Comparative and International Law in Heidelberg and fellow of Animal Law research at Harvard Law School. She is also a member of the board of directors of the Center for Animal Ethics at UPF, and editor of the Animal Ethics magazine, editor of the Law, Ethics and Philosophy (LEAP) magazine, member of the Committee Editorial of the Chilean Journal of Animal Law, and treasurer of the organization Great Ape Spain. He has written several articles on the personality of non-human animals, animal rights and a book entitled Animal Law in Chile (Libromar, 2018)

4.- Translation into Spanish of the expert report prepared by Peter Singer, Gary Comstock, Adam Lerner and Macarena Montes Franceschini, outlined in the preceding paragraph, made by the interpreter Mrs. Ana María Casadiego, to which the respective translation certificate is also attached.

5.- Expert report entitled "*Amicus Curiae brief submitted in the Sandai Orangutan case, requested by the Interspecies Justice Foundation*" (Amicus Curiae Brief filed in the Sandai Orangutan case, requested by the Interspecies Justice Foundation) dated June 30, 2022, evacuated by Leif Cocks.

Please also note, as regards its author, that **Leif Cocks** is Small population biologist, with a Master of Science in the study of orangutans. He has worked with orangutans for nearly 30 years and his extensive work in the area has given him recognition in the field of conservation. It has been a key contribution in the development of conservation plans for orangutans and has influenced a positive change for the protection and survival of the orangutan.

This includes the first successful reintroduction of an orangutan born in a zoo in the protected forest of Sumatra. These achievements have granted to the Orangutan Project a worldwide recognition in conservation.

Cocks is also a technical advisor to PT Alam Bukit Tigapuluh (a company that manages restoration concessions and protects the forest in Indonesia), Head of the Orangutan Project, Head of the Project Elephant International, Head of the International Tiger Project, Vice President of the Orang Utan Republik Foundation, and is located in the Aceh Forest, Nature and Environment Advisory Board. He has

published several articles on orangutans in peer-reviewed journals. peers. Leif is also the author of the books "Orangutans and their battle for Survival" (2002), the Amazon bestseller, "Orangutans, my cousins, my friends" (2016) and "Finding Our Humanity" (2019).

In addition, it has been the oldest member of the Management Program of Australasian species; quarantine approved counselor; breeding advisor of zoo; zoo accreditation officer; contact point of UN-GRASP in the country, international species coordinator, guardian international horse herd registry and president of a world global conservation program of the World Association of Aquariums and Zoos.

6.- Translation into Spanish of the expert report prepared by Leif Cocks, outlined in the preceding paragraph, made by the interpreter Mrs. Ana María Casadiego, to which the respective translation certificate is also attached.

7.- Expert report entitled "*Mémoire d'Amicus Curiae soumis dans The affair of the Orang-outan Sandai at the request of the Interspecies Justice Foundation*" (Amicus curiae brief filed in the case of the orangutan Sandai at the request of the Interspecies Justice Foundation) dated June 30 2022, evacuated by Caroline Regad and Cédric Riot.

Please also note, regarding their authors, that **Caroline Regad** and **Cédric Riot** are university professors and researchers from the Faculty of Law of the University of Toulon, specialists in Animal Law and founders and directors of the diploma program of Animal rights. In addition, they are experts of the Program of

United Nations, *Harmony with Nature*, and co-authors and co-editors of the Declaration on the legal personality of animals, of 29 March 2019, called the “Toulon Declaration”. Also, they are co-authors and co-editors of the Letter of Rights of the Living proclaimed on May 26, 2021 in association with the Program Harmony with Nature belonging to the United Nations. next to it above, are directors of scholarly works on personality Juridical of the animals and on the right of the living thing.

8.- Translation into Spanish of the expert report prepared by Caroline Regad and Cédric Riot, outlined in the preceding paragraph, carried out by the Interspecies Justice Foundation.

9.- Expert report entitled “*Amicus Curiae brief submitted in the Sandai Orangutan case, requested by the Interspecies Justice Foundation. In support of Sandai Orangutan Habeas Corpus admission and awarding*” (Amicus Curiae report presented regarding the case of the Orangutan Sandai, made at the request of the Interspecies Justice Foundation. In support of Habeas Corpus in favor of the Orangutan Sandai admission and adjudication) of June 2022, evacuated by Marc Bekoff.

Please also keep in mind, regarding its author, that **Marc Bekoff** He is Emeritus Professor of Ecology and Evolutionary Biology at the University from Colorado, Boulder. He has published 31 books (or 41 depending on whether multi-volume encyclopedias are counted), has won several awards for his research in animal behavior, animal emotion (cognitive ethology), compassionate conservation, and animal protection, has worked closely with Jane Goodall, and is a former fellow at Guggenheim. He also works closely with inmates

at the Boulder County Jail. In June 2022 Marc was Recognized as a Hero by the Academy of Dog Trainers. His latest books are: The Animals' Agenda: Freedom, Compassion, and Coexistence in the Human Age (with Jessica Pierce), Canine Confidential: Why Dogs Do What They Do, and Unleashing Your Dog: A Field Guide to Giving Your Canine Companion the Best Life Possible (with Jessica Pierce) and also contributes in a regular for Psychology Today. The most recent book by Marc and Jessica A Dog's World: Imagining the Lives of Dogs in a World Without Humans was published by Princeton University Press in October 2021. Dogs Demystified: An AZ Guide to All Things Canine It will be published by New World Library in March 2023.

10.- Translation into Spanish of the expert report prepared by Marc Bekoff, outlined in the preceding paragraph, performed by the interpreter Mrs. Ana María Casadiego, to whom is also attached her respective certificate of translation.

11.- Expert report entitled "*Amicus Curiae presented in the case of Orangutan Sandai, at the request of the Interspecies Justice Foundation: in defense of robust legal protection for Sandai as a subject of rights*", dated June 24, 2022, evacuated by Óscar Horta.

Please also keep in mind, regarding its author, that **Oscar Horta** He is Professor of Moral and Political Philosophy at the Faculty of Philosophy of the University of Santiago de Compostela, of which he was also vice-dean, undergraduate coordinator and acting dean. Previously, he was a researcher at the Spanish Foundation for the Science and Technology. He has been a visiting researcher at the

Rutgers Universities (USA), Rome, Copenhagen, Gothenburg, Porto, Abo (Finland) and Lisbon. He won the Ferrater Mora Essay Prize. He has been a co-founder of the Animal Ethics Foundation / Ethics Animal. He is the author of several books in different languages, and of more than one hundred scientific publications, including articles in academic journals such as Global Policy, Law, Ethics and Philosophy, Res Publica, Philosophy Compass, The Journal of Applied Philosophy, Theoria, Ethical Theory and Moral Practice, Acta Analytica, Isonomia, The Journal of Agricultural and Environmental Ethics, Les Ateliers de l'Éthique or Moral Philosophy and Politics, among others, as well as the International Encyclopedia of Ethics.

12.- Expert report entitled "*Amicus Curiae: Sandai as a Person, Individual and/or Subject of Rights*", evacuated by Alfonso Henríquez R.

Please also keep in mind, regarding its author, that **Alfonso Henríquez R.** is a Doctor of Law, professor at the Faculty of Sciences Legal and Social University of Concepción. Investigator Program of Research in Science, Development and Society in Latin America (CIDESAL); European Studies Program (PEE); Group of Research in Public Policies on University Education, University of Concepcion. In addition, he is a Visiting Professor Program at Law, Environment and Climate Change (DACC), University of Conception.

13- Expert report entitled "*Amicus Curiae Brief Submitted in the Sandai Orangutan case Prepared by the request of the Interspecies Justice Foundation*" (*Amicus Curiae Report Presented in the Orangutan Case*

Sandai Made at the request of the Interspecies Justice Foundation), dated July 10, 2022, evacuated by Lyudmila Shegay.

Please also keep in mind, regarding its author, that **Lyudmila Shegay** is a Kasaka lawyer, LL.M in Animal Law from Lewis & Clark Law School. In addition, she is Co-Founder and Executive Director at the Animal Law Institute of Asia, and Associate Professor of Law at KIMEP University, Kazakhstan.

14.- Translation into Spanish of the expert report prepared by Lyudmila Shegay, outlined in the preceding paragraph, performed by the interpreter Mrs. Ana María Casadiego, to whom is also attached her respective certificate of translation.

15.- Expert report entitled "*Amicus Curiae presented in the case of the Orangutan Sandai, at the request of the Interspecies Justice Foundation. Deconstructing Rights Discourse to Include Sandai*", dated June 24, 2022, evacuated by Rosa María De la Torre Torres.

Please also keep in mind, as regards its author, that **Rosa María De la Torre Torres** has a Doctorate in Constitutional Law from the Complutense University of Madrid; Research Professor at the Michoacán University of San Nicolás de Hidalgo; holder of the Chair Selected Topics of Animal Law from 2018 to date. In addition, he is a member of the National System of Researchers of the CONACyT, Level II, and General Coordinator of the Group of Research in Animal Law GIDA AC

16.- Expert report entitled "*Amicus Curiae presented in the case of the Orangutan Sandai, at the request of the Interspecies Justice Foundation. In*

support for Sandai and his granting of freedom", July 2022, evacuated by Mariana Amalia Montero, on behalf of the Spanish organization Human Animal Liberation Time (HALT).

Please also keep in mind, regarding its author, that **Mariana Amalia Montero** is a lawyer from the University of Buenos Aires, Argentina, Master in Animal Law from the Autonomous University of Barcelona, and vice-president of the ONGHALT (Human Animal Release Time).

17.- Expert report entitled "Amicus Curiae on behalf of CEDA Chile. Motion to request intervention as Amicus Curiae in support to the plaintiff", dated July 7, 2022, evacuated by Ana María Casadiego Esquivias, on behalf of the Center for the Study of Animal Law CEDA Chile.

Please also keep in mind, regarding its author, that **Ana María Casadiego Esquivias** is a lawyer specializing in legal human rights and with a master's degree in human rights and domestic violence; Master in animal law and society, researcher associated with the Center of Studies Specialized in Chilean Animal Law CEDA Chile.

SECOND ADDITION: We request that SSI please bear in mind, and access, to the exposed and requested below:

That the *amicus curiae* -or friend of the court- is a legal institution through which third parties, without being a party to the process, provide their opinion or any other background on any point of law or other aspect, with the in order to collaborate with the court in the resolution of the subject matter of the

process. Thus, this institute allows you to subject people outside the judicial process that is in process, but who **have a specialty or expertise** in the matter that has been submitted to judgment, they can express their opinions to the respect, in order to provide significant contributions to the elucidation of the case.

Rooted in Roman law, and extensively developed in the Anglo-Saxon law, the "Friends of the Court" have been relevant in presentations before the Commission and the Inter-American Court of Human Rights Human Rights, promoting the development of participatory democracy, for stimulate the access of the people to the decisions adopted by any of the powers of the State, in this case, the Judiciary.

Various jurisdictional bodies founded the "Friends of the Court" in article 44 of the American Convention on Human Rights, highlighting the importance of participatory democracy.

In turn, in the Chilean legal system, this institution arises from Articles 19 No. 14 of the Political Constitution of the Republic, as assures all persons "*The right to present petitions to the authority, on any matter of public or private interest, without other limitation than that of proceeding in respectful and convenient terms*", as well as article 1 paragraph 3 of the same normative body, insofar as it prescribes that "*The State recognizes and protects intermediate groups through the which society is organized and structured and guarantees the adequate autonomy to fulfill its own specific purposes.*"

Along with the foregoing, various Chilean laws contemplate explicit or implicit the figure of the *amicus curiae*, among these, article 19 of Law 20,600, article 3 numerals 2 and 3 of Law 20,405, among others provisions.

Due to the above considerations, it is that we come to request respectfully to SSI, that the above is taken into account, and that all those expert reports are included in the process individualized in the first addendum of this presentation, as “Friends of the Court” or **amicus curiae**.

THIRD ADDITION: I request SSI to have accompanied the following background:

a) Instruments relating to the origin and early years of Sandai

1.- Document entitled “*International Studybook of the Orangutan (Pongo pygmaeus, Pongo abelii)* (2015)”, made by Megan Elder, published on November 7, 2016.

On page 54 of this instrument, it is possible to observe its date and place of birth, as well as the dates on which he was transferred to Stuttgart, Koln, La Palmyr and finally to the Buin Zoo

2.- Article titled “*Fission–fusion species under restricted living conditions: a comparative study of dyadic interactions and physical proximity in captive bonobos and Bornean orangutans*”, written by Dorothee Classen1, Stefanie Kiessling, Madhur Mangalam, Werner Kaumanns, and Mewa Singh, and published in the specialized journal Current Science, volume 110, N°5, of the March 10, 2016.

On page 841 it is possible to observe that Sandai was part of a group of orangutans from the Cologne Zoo, which was observed for 828 hours. In addition, on page 842 it is possible to observe a table containing Sandai's name, his date of birth (20 August 1993), as well as the names of his parents (Tuan and Lotti).

3.- Research entitled “*Social relationships in captive Bornean Orangutans (Pongo Pygmaeus)*”, written by Dorothee Claßen, during the year 2011.

On page 19, it is possible to observe Sandai's name, his date of birth date, the name of your parents, your place of birth and your current whereabouts, at the time, in France.

b) Instruments related to the entry of Sandai into Chilean territory

4.- CITES Export Certificate No. FR1401700118-E, dated 21 February 2014, which authorized the export of Sandai from France to Chili; and CITES Import Certificate No. 6797, dated July 7, 2014, which authorized the importation of Sandai from France to Chile, this last ringing by the SAG.

5.- Sanitary Export Certificate for orangutans (*I put pygmaeus*) for *exhibition purposes*, from France to Chile, Spread by the Ministry of Agriculture of France, dated July 10, 2014.

6.- Exempt Resolution No. 5055/2014, dated July 9, 2014, pronounced by Mr. José Roberto Rojas Cornejo, in his capacity as Chief (TYP) of the SAG Renewable Natural Resources Protection Division that “Authorizes Mr. Ignacio Idalsoaga Gajardo de Buinzoo, the hospitalization of exotic mammals for *exhibition purposes*”.

7.- Inspection Report of Agricultural Products Law 18,164 (Art. 3), dated July 10, 2014; and Certificate of customs destination for agricultural products Law 18,164 (Art. 1° and Art 2° inc. 3°), dated 11 July 2014.

8.- Letter No. 4099/2014, dated July 9, 2014, sent by José Alfredo Herrera Rodríguez, in his capacity as Chief (TYP) (S) of the Division of Livestock Protection of the SAG, and addressed to Ignacio Idalsoaga, in his capacity as representative of the Buin Zoo, regarding the request to import a male orangutan, promoted by the second.

9.- Sampling Protocol No. 4250, dated July 21, 2014, carried out by the SAG regarding the orangutan Sandai.

10.- Exempt Resolution No. 13-017, dated July 7, 2014, which establishes sanitary measures in the place indicated, signed by Fabiola Barredo Herrera, Head of the SAG Maipo Office, regarding the orangutan Sandai.

c) Instruments related to the supervisory work of the SAG

11.- Instrument entitled "Technical Criteria for the Control of Wild Fauna in Captivity", D-FYS-FIS-PR-003, of the SAG.

Under point "3.5.3 Accommodation: predator and prey species in enclosures distant", on page 71, it is indicated that:

It is very important that if animals are kept in an establishment that are prey and predators, they are located in different sectors of the same. In this regard, it is essential to consider that the senses in animals have a different development than humans. In humans, the sense of sight is more developed than the others, so it is a mistake to believe that if animals cannot display will have no problem. However, most Both predator and prey animals have a sense of smell and hearing much more developed than humans, so you don't see their threat does not mean that they do not perceive it. Therefore, if they are in

proximity, the prey feels that it is under permanent threat and the predator perceives its prey, but cannot catch it. It generates a response of chronic stress and frustration that can eventually lead to the appearance of abnormal behaviors, making them increasingly more vulnerable to disease.

The establishments that have this variety of species must consider an adequate design of the accommodation distribution to avoid these kinds of problems.

12.- Instructions entitled "Inspection of Holders of Wild Fauna registered in the RNTFS [National Registry of Holders of Wild Fauna] FYS-FIS-PR-003-version 01", from the SAG.

13.- Inspection record No. 002775, dated April 3, 2014, issued by the SAG, which includes the inspection of the hospitalization area of Sandai, located in the Buin Zoo Zoological Park.

14.- Audit or Verification Act No. 004727, dated January 27, June 2014, issued by the SAG, in which the inspection of the Buin Zoo hatchery and exhibition center. The minutes state that "*In relation to animal welfare: backyard sector lacks enrichment and Setting – In the accommodation sector and the interior sector, the setting – Curriculum and experience of the staff in direct charge of the orangutan*".

d) Instruments that document the conditions of deprivation of liberty and Sandai exhibit

15.- Set of photographs that show Sandai in the closed cabin in which it is exhibited, and which show the adjacent patio to which it would have access

under certain circumstances, where a Handed Gibbon is kept White.

16.- Set of 11 videos in which it is possible to appreciate the interior of Sandai exhibition, the courtyard where the Girón de Manos Blancas is kept, the adjacent yard in which two Bengal tigers are kept, the nocturnal visits to which Sandai is subjected, and some campaigns of activists who have advocated for their freedom:

- a) Video titled “Layout of the Tigres, Sandai, and Gibón patio areas of Manos Blancas”, captured by members of Fundación Justicia Interspecies on April 23, 2022.
- b) Video titled “White-Handed Gibbon and Sandai”, captured by members of Fundación Justicia Interespecie on April 23, 2022.
- c) Video titled “Patio Gibón de Manos Blancas y Sandai”, captured by members of Fundación Justicia Interspecies. on April 23, 2022.
- d) Video titled “Sandai and Bengal Tiger”, captured by members of Fundación Justicia Interespecie on April 23, 2022.
- e) Video titled “Sandai and Bengal Tiger 2”, captured by members of Fundación Justicia Interespecie on April 23, 2022.
- f) Video titled “Sandai's State of Mind”, captured by members of Fundación Justicia Interespecie on April 23, 2022.
- g) Video entitled “Sandai 2 Mood”, captured by members of Fundación Justicia Interespecie on April 23, 2022.
- h) Video entitled “Sandai exhibited in night visits (Campaign Freedom for Sandai)”, made by the activists of the campaign “Freedom for Sandai”.

- i) Video entitled "Activism - Sandai needs our help (Campaign Freedom for Sandai)", made by the activists of the campaign "Freedom for Sandai".
- j) Video entitled "Sandai Activism (Freedom for Sandai Campaign)", made by the activists of the "Freedom for Sandai" campaign.
- k) Video entitled "Buin Zoo Night Show (Freedom for Sandai)", made by the activists of the campaign "Freedom to Sanday."

Regarding the videos, **it is requested to bear in mind** that, to facilitate the access to them by the Court, these will be accompanied by a flash drive in the Secretariat of your Court; will be mailed electronic Secretariat of your court; and they can also be downloaded, in ".rar" format, from the following links:

- https://drive.google.com/file/d/1QVehNcskiYEScQMZAA_MLF6k6Kng6fW/view?usp=sharing
- https://drive.google.com/file/d/1L51_e0iCXLHJxUBEfJZX8hkP0muV_BYIC/view?usp=sharing

17.- Instrument entitled "Stereotypes as indicators of lack of welfare in zoo animals", prepared by X. Manteca and M. Salas, and published in the Zoo Animal Welfare Education Center, No. 2, of October 2015.

e) Relevant animal jurisprudence

18.- Copy of Habeas Corpus judgment No. 833085-3/2005, attempted in favor of the Chimpanzee "Suiza", pronounced on September 28, 2005, by the Brazilian Law Judge Edmundo Lúcio Da Cruz.

19.- Copy of the judgment of Habeas Corpus attempted in favor of the orangutan "Sandra", pronounced by the Federal Chamber of Criminal Cassation of the Autonomous City of Buenos Aires, Argentina, on the 18th of December 2014, in case No. 68831/2014, titled "Orangutana Sandra s/ writ of cassation S/ HABEAS CORPUS".

20.- Copy of Amparo Action sentence attempted in favor of the orangutan "Sandra", pronounced by the Contentious Court, Administrative and Tax No. 4 of the city of Buenos Aires, in charge of Judge Elena Liberatori, dated October 21, 2015.

21.- Copy of the Habeas Corpus sentence attempted in favor of the chimpanzee "Cecilia", and pronounced on November 3, 2016, by the Third Court of Guarantees of the Judiciary of Mendoza, file No. P-72.254/15.

22.- Copy of the review judgment originated by virtue of a habeas corpus attempted in favor of the mona chorongo "Estrellita", and pronounced with dated January 27, 2022 by the plenary session of the Constitutional Court of Ecuador, in case No. 253-20-JH.

f) Documentation related to the Sanctuary of Sorocaba, Brazil.

23.- "Letter of Acceptance" sent by Dr. Pedro A. Ynterian, Owner of the Sanctuary of Great Primates of Sorocaba, Brazil, to Fernanda Valencia, Legal Director of the Fundación Justicia Interespeie, dated 14 of June 2022. In this letter, the aforementioned Sanctuary accepts to welcome in its

facilities to Sandai, as well as cover air freight and lifetime care of the protected

24.- Set of photographs of the Sanctuary of Great Primates of Sorocaba, located in São Paulo, Brazil.

g) Documentation related to the Interspecies Justice Foundation

25.- Private deed dated February 8, 2021, through which the Interspecies Justice Foundation is constituted and its statutes are established, signed by Diego Felipe Plaza Casanova, Fernanda Jesús Valencia Rincón and María Soledad Robledo Aguirre, whose signatures have been authorized by Competent Notary Public.

26.- Private deed dated March 10, 2021, of "Rectification and Complementation of Statutes Interspecies Justice Foundation", signed by Fernanda Jesús Valencia Rincón, whose signature has been authorized by Competent Notary Public.

27.- Certificate of Validity of Non-Profit Legal Entity, issued on July 24, 2022, by the Civil Registry Service and Identification, with respect to the Fundación Justicia Interespecie or "Justicia Interespecie", registration No. 317399, dated April 12, 2021.

28.- Certificate of Directory of Non-Profit Legal Entity, issued on July 24, 2022, by the Civil Registry Service and Identification, with respect to the Fundación Justicia Interespecie or "Justicia Interespecie", registration No. 317399, dated April 12, 2021, in which It is known that Mr. Diego Felipe Plaza Casanova is the current president of the organization.

h) Court order

29.- Public deed of judicial mandate conferred by the Foundation Interspecies Justice to the lawyer Nicol Andrea Hertel Baez, dated March 14, July 2022, granted before the Notary of Huechuraba de Mr. Mauricio Bertolino Rendic, repertoire N°1726-2022.

FOURTH OTHER: We ask SS to provide the following measures in order to prove the facts denounced:

1.- Report to the Agricultural and Livestock Service (SAG), in accordance with the pointed out in the main.

2.- Report to the Buin Zoo SA Zoological Park, in accordance with the above in the main.

3.- Request the Agricultural and Livestock Service (SAG) to send the records relating to the inspections carried out on Sandai's cabin in the Buin Zoo, on the occasion of compliance with the minimum conditions that fall on the hatcheries and exhibition centers, in particular with respect to the article 60 letter d) and e) of the Regulations of the Hunting Law and article 19 letter f) and n) of Decree No. 29 of 2013 of the Ministry of Agriculture.

4.- Order the constitution of a Minister or Minister of this I. Court in the exhibit room of Sandai, in the Zoological Park Buin Zoo, in order that Your Honorable Lordship has all the background for the resolution of the matter. The foregoing will allow Your Honor Illustrious to impose itself in essential circumstances of the passenger compartment, such as its dimensions, lighting, enrichment, exposure to the public, arrangement of the furniture in pursuit of the exhibition, proximity to the tigers of bengala –natural predators of the shelter-, among others.

In this regard, the Supreme Court of Justice, in Judgment Rol 6080-2013, of August 22, 2013, affirmed the "*importance that it is necessary for the respective Court of Appeals to order what is necessary for the best decision of this type of matters, such as, for example, the timely visit of a Minister to the place where the events occurred (...)*".

In addition, this criterion was emphasized by the Excma. Supreme Court to order in Official Letter ADM No. 1125-2013, where the different Courts of Appeals of the Country, in order to keep in mind in the processing of amparo appeals, which refer to situations that affect the Rights of people secluded in penitentiary establishments, the need to provide what is pertinent to Gather the best information that allows an adequate resolution, including the constitution of a minister in the place of occurrence of the facts to verify them and, eventually, order immediate corrective measures.

5.- Order the performance of a veterinary expertise in order to verify the physical and mental conditions in which Sandai finds himself.

FIFTH OTHER: We ask SSI to keep in mind the acceptance lent by the Sanctuary of Great Primates of Sorocaba, Brazil, to **receive to Sandai** in his dependencies, and to **cover for life** the expenses necessary so that the protected person can live in said specialized center, in where it will not be exposed to the circumstances outlined in the main part of this presentation.

That, as indicated, said acceptance has been formalized through the "Letter of Acceptance" dated June 14, 2022, accompanied to this presentation, and signed under numeral 23) of the third preceding addendum.

SIXTH ADDITION: We ask SSI to keep in mind that, according to indicated by the Sanctuary of Great Primates of Sorocaba, through the Charter of Acceptance already outlined, in case of accepting the transfer of Sandai to Brazil, the Interspecies Justice Foundation “*(...) must take responsibility and carry out the entire salvage operation (transport in IATA standard box and necessary veterinary care/controls), as well as Provide all medical examinations required by the authorities of Brazil, duly carried out and documented*”; **responsibility that by this act we come to assume.**

Likewise, we also ask SSI to keep in mind that the Sanctuary has stated that *“It is also essential that everyone is well informed that both the Governments of Chile and Brazil must approve the Certificates of Export and Import required, issued by the CITES Authority of each country, obeying the international standards that govern the transport of beings in danger of extinction”*; **certificate management and administrative procedures that we have also come to assume.**

SEVENTH ADDITION: We ask SS to keep in mind that, according to the provisions of article 21 of the Political Constitution of the Republic, Any **individual** who is arrested can resort to the remedy of amparo , detained or imprisoned in violation of the provisions of the Constitution or the laws, **whether he does it for himself or for anyone on his behalf.**

From this angle, it is clear that the active legitimization is very broad, although without the remedy of amparo being considered an action popular, since the Constitution has only tried to *“consecrate a form peculiar appearance, justified in the nature of the claim*

wielded (...)"²⁷

For the same reason, taking into account the breadth of the active legitimization and the purpose pursued by the resource there is no doubt that it is an instrument informal in its presentation and content, without being required in its respect conditions or special requirements to deduct it. Even Law No. 18,120, on appearance in court, it is not applicable with respect to him as indicated its article 2.

That, furthermore, it should be taken into consideration that in the statutes of the Interspecies Justice Foundation, accompanied under the numeral 25) of the third addendum of this presentation, it is possible to observe in his article third, that "*The purpose of the Foundation will be to contribute to the generation of cultural and legal conditions that allow advancing the interests of non-human animals in our predominant discourses (...)"*", adding that "*Ultimately, for the fulfillment of its purpose, the Foundation may exercise, among others, the following actions: (...) 3. Participate directly or indirectly in strategic animal litigation.*"

Therefore, it is requested to keep in mind that the **active legitimization** for appear as an intervener in these cars is given by the rules existing constitutional provisions that establish a broad active legitimacy in the exercise of the action in favor of the protected party; establishing an interposition deformalized of the action attended its nature and urgent character; So as well as for the core foundational object of the Interspecies Justice Foundation, which is related to the defense of the interests of animals not humans.

²⁷ Tavolari Oliveros, Raúl, "Habeas corpus", Legal Ed. of Chile Santiago, 1995, p. 111.

EIGHTH ADDITION: Please SSI keep in mind that my part proposes that all judicial resolutions, proceedings and proceedings be notified via email to the email boxes of:

hbnicolhb@gmail.com

justiceinterspecies@gmail.com

Y

diego.cedachile@gmail.com, because it is sufficiently effective and does not cause helplessness.

NINTH OTHER: Please SSI keep in mind that my legal capacity to represent the Interspecies Justice Foundation consists of the Certificate of Directory of Non-Profit Legal Entities, issued on the 24th of July 2022, by the Civil Registry and Identification Service, regarding the Interspecies Justice Foundation, accompanied under numeral 28) of the third addendum to this presentation, in which it is credited that Mr. Diego Felipe Plaza Casanova is the current President of the Foundation.

That, in addition, said quality of President appears in the sixth clause of the private deed dated March 10, 2021, of "Rectification and Complementation of Statutes Interspecies Justice Foundation", signed by Fernanda Jesús Valencia Rincón, whose signature has been authorized by a Notary Competent public, which has been accompanied under numeral 26) of the third other precedent.

That, finally, it is requested to bear in mind that, as can be deduced from the fifteenth and sixteenth articles of the private deed dated 08 February 2021, by which the Justice Foundation is constituted Interspecies and its statutes are established, accompanied under numeral 25) of the third addendum of this presentation, will correspond to the President of the Foundation their judicial and extrajudicial representation.

TENTH OTHER: I request SSI Please note that

I designate as sponsoring attorney, and I confer power to represent myself in this cause, to the lawyer authorized to practice the profession, Mrs.

NICOL ANDREA HERTEL BAEZ, identity card No. 17.030.686-4, domiciled at Avenida Los Leones 2270, Department 1004, commune of Providence, with the powers contained in the judicial mandate conferred by public deed granted before the Notary of Huechuraba de Mr. Mauricio Bertolino Rendic, repertoire N°1726-2022, accompanied under the numeral 29) of the third addendum of this presentation, lawyer who also signs this libel as a sign of acceptance of the court order granted.