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Pandamonium: Wildlife Law

‘To watch a panda in action – waddling, somersaulting, munching bamboo sprouts and heaving the occasional sigh – is to watch a child’s stuffed animal come miraculously to life’, pudgy, plushy, with eyes like teardrops.¹ The panda, in many ways, is an icon of China and also a symbol of the disappearing animal species in China and around the world. Ironically, the panda also symbolizes both the effectiveness and failure of China’s wildlife protection regulatory system. If only all wildlife in China could be as exotic looking and photogenic as the panda. If only the Chinese government could give a fraction of the attention and resources that pandas attract to many other animal species in China.

China, the home of the giant panda, has been using the icon of the panda in many different ways, far beyond saving pandas and other endangered animal species. This modern Chinese love affair with the panda has less to do with animal protection than other reasons.² Panda diplomacy existed long before the doctrinal invention of ‘soft power’ and was instrumental in breaking the diplomatic ice between China and Western countries.³ In 1972, China sent two pandas to the National Zoo in Washington, and in 1974, two pandas arrived at the London Zoo. Since then, China has shipped many hundreds of pandas, on loan or lease, to zoos all over the world. Each panda has a price tag, a privilege of hosting one of the gentle and lovable creatures.⁴ They are also lent from their native Sichuan to other zoos in China for a fee.

On the other side of Sichuan, the home of the giant panda, and in many other parts of China, Asiatic black bears, or moon bears, live an unbearably painful existence as a protected animal in China. A daily ritual of cruelty is being inflicted upon bears on the many bear farms in China in the name of doing good for the Chinese people. For the purpose of making traditional Chinese medicine, thousands of bears endure pain, misery and

indignity, locked in small metal cages in solitary confinement and away from other bears and nature while their human carers insert plastic tubes into their open wounds to extract bile from their gall bladders (see also Ch. 7 for bear farming).⁵ It is noteworthy that the Asiatic black bear used in Chinese bear farming is listed as vulnerable on the World Conservation Union's Red List of Threatened Animals and also as a Class II state-protected animal in China. The panda is a Class I state-protected animal, but the world-apart treatment pandas receives is not due to the different categories of protection they find themselves in the official protection list. It is mainly because of the different use the Chinese have for these bears' bodies. Pandas are useful for their appearance and symbolism, and moon bears are useful for the bile extracted from them. Chinese pragmatism writ large, literally found in the bodies of these creatures.

Despite political rhetoric of egalitarianism, inequality is common and is often accepted in its supposedly classless society in China. There are hierarchies of power and status, for both people and animals. The panda is more equal than all the other animal species in China. Pandas are treated like royalty and pampered like cuddly babies, with many nannies and carers raising and caring for them before they are born and after their death.⁶ However, despite the special status and privilege pandas enjoy, under Chinese law all animals and all wildlife, including pandas, share a commonality. They are resources to be utilized for human purposes. Their treatment varies according to their value and worth to human needs in China; some are regarded as more valuable than others and are treated accordingly. Utilizing animals, their body parts – be it flesh, hide, fur, horn, tooth, bile, fin, even bird nest – has been very much part of the Chinese culture for centuries, while not utilizing them is scorned as a waste of resources.

Here lies the paradox of wildlife protection law in China. Rare and valuable wildlife and endangered species are protected in order to utilize them, pain and suffering notwithstanding, for the present and the future. In this chapter, the legal framework and major laws regarding wildlife in China are outlined and discussed, with illustrations from both statutory law and case law. It particularly highlights the contradictions and instrumental thinking and approach towards wildlife protection in China as a whole. The terms 'wildlife' and 'wild animals' are used interchangeably.

Legal framework for wildlife in China

China has told the world in recent times that it is serious about wildlife protection and is cracking down on illegal wildlife trade and enforcing