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# A Comparative Analysis of the Animal Protection Laws in the United States and Switzerland

By: Kelly Ziyu Xia



In the words of Mahatma Gandhi, “The greatness of a nation and its moral progress can be judged by the way its animals are treated.”[1] This statement underlines the significance of how a society cares for those under its dominion, particularly those who are defenseless. Animal welfare laws vary widely across the globe, reflecting the diverse approaches taken by different countries to protect the interests of animals. While the United States has made commendable strides, the current legal framework for animal protection remains inadequate. Both Switzerland and the United States have federal laws that aim to protect animal welfare, but they differ in scope and focus. The key difference lies in the recognition of animals as sentient beings possessing intrinsic value.

In the United States, animal welfare laws are subject to dual jurisdiction, governed by state and federal regulations. At the federal level, the cornerstone of these laws is the Animal Welfare Act (AWA), which primarily regulates the treatment of animals in research facilities which receive federal funds.[2] Other federal legislation, such as the Horse Protection Act of 1970[3] and the Preventing Animal Cruelty and Torture Act of 2019,[4] fragmentally supplements the AWA. Meanwhile, state and local regulations exhibit substantial variability in terms of both implementation strategies and the standards they establish

for animal protection. Although state anti-cruelty statutes, like California's Proposition 12,[5] tend to be more rigorous than the AWA, a challenge arises in enforcing state-level anti-cruelty laws. This challenge, known as the "myth of AWA preemption,"[6] occurs when courts interpret the AWA as preempting state laws that seek enhanced protection against animal cruelty, despite the plain language of the AWA which states otherwise.[7]

The AWA, while presenting an outward appearance of protection, is quite hollow. Concerns arise over the Act's exemptions and limitations. For instance, the AWA's definition of "animal" excludes a considerable portion of animals commonly used in scientific research, such as birds, rats, and mice.[8] Furthermore, the AWA provides no coverage for farm animals, animals involved in fur or fiber-related activities, agriculture, horse races, dog races, and field trials.[9] Even when animals fall within the AWA's definition, the Act essentially endorses animal experimentation by entrusting judgment to agencies and research facilities, permitting unrestricted practices whenever scientists deem them "necessary." [10]

In stark contrast, Switzerland takes a fundamentally different approach to animal welfare. The Swiss animal protection laws are underpinned by two central legislations: the Animal Welfare Act (2005) and the Animal Welfare Ordinance (2020). At the core of Switzerland's approach is the Animal Welfare Act, a federal law that, though not explicitly addressing animal sentience, recognizes animal "dignity." [11] Dignity goes beyond just preventing pain and suffering; it protects animals from humiliation, excessive instrumentalization, and substantial interference with their appearance or abilities.[12] This concept of dignity underscores the intrinsic worth of animals by placing stringent requirements on any activities that may subject animals to strain and demanding such actions be justified only when there is a compelling overriding interest weighed against the welfare of the animals.[13] For example, animal experiments may only be performed if no alternative methods exist.[14] In addition, research facilities must conduct a harm-benefit analysis to determine whether or not an animal experiment may be authorized and conducted.[15] Such analysis is a "proportionality test" where expected human interests, or the gain in knowledge, is balanced against the interests of the animal, which include pain and suffering and how a particular stress will affect the animal's characteristics, functions, and habits.[16] The proportionality is threefold: the intervention must be suitable, necessary, and reasonably proportionate.[17] Economic interests alone are never sufficient to justify a violation of animal dignity.[18] This principle subjects facilities and agencies to higher standards and a heftier burden of proof, promoting alternative avenues for scientific progress.

Because the Swiss Animal Welfare Act acknowledges the sentience of animals, Switzerland's commitment to animal welfare extends across a broader spectrum than the United States protections. The Swiss Animal Welfare Act applies to vertebrates and invertebrates as designated by the government.[19] The Act encompasses extensive regulations on all facets of animal welfare, such as animal husbandry, animals in captivity, entertainment, scientific research, and the treatment of wild animals. [20] The provisions of the Act are among the most stringent worldwide.[21]

The Animal Welfare Ordinance, though not a Swiss federal law, complements the Swiss Animal Welfare Act by further outlining detailed and comprehensive regulations, such as stipulating the minimum dimensions and equipment for enclosures, enrichment options, social contacts, outdoor runs, and animal house climate, setting high standards of care in diverse contexts. [22] The Ordinance governs practices ranging from farming practices—including rearing, transport, and slaughter—to treating companion animals, animals used for entertainment, and those in scientific research.[23]

The heart of the Swiss animal protection laws lies in the Swiss Civil Code Art. 641a, which states, "[a]nimals are not objects." [24] This perspective contrasts sharply with the United States, where animals are legally classified as property.[25]

thus limiting the scope of legal protection and welfare measures. Under the legal framework in the United States, animal protection laws are more of an appearance, where animals are seen merely as a means to an end, not as ends in themselves.

In 2020, the number of animals used for experiments in Switzerland decreased by 2.8% compared to 2019, with 556,107 animals used for experiments.[26] There is, unfortunately, no reliable way to determine exactly how many animals are used for testing in the United States, but it is estimated that over 100 million experiments are conducted on animals there each year. [27] This statistical comparison again highlights the practical results of the inadequacy of the United States' animal protection laws. Recognizing animals as sentient beings with non-tradable interests beyond human use and consumption would represent a vital step in the profound advancement of the United States' animal protection laws. This step is essential to fulfill our moral obligation to animals and demonstrate genuine progress in our nation's commitment to compassion, empathy, and justice for all living beings.

**Kelly Ziyu Xia is a Staff Editor at CICLR.**

[1] Peter Singer, *Moral Progress and Animal Welfare*, ABC (July 13, 2011), <https://www.abc.net.au/religion/moral-progress-and-animal-welfare/10101318> [<https://perma.cc/Q6U9-X64C>].

[2] Carole Lynn Nowicki, *The Animal Welfare Act: All Bark and No Bite*, 23 Seton Hall Legis. J. Legis. Pub. Pol'y 443, 467 (1999).

[3] The Horse Protection Act of 1970 is a federal law that prohibits the showing, sale, auction, exhibition, or transport of sore horses. *See Horse Protection Act and its Administration*, USDA APHIS, [https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/hpa/ct\\_hpa\\_history\\_and\\_administration](https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/hpa/ct_hpa_history_and_administration) [<https://perma.cc/3KK3-3GAC>].

[4] The Preventing Animal Cruelty and Torture Act of 2019 is a federal law that makes some of the most egregious forms of animal cruelty a federal crime. It applies to the knowing sale, marketing, advertising, exchange, distribute, or creation of animal crush videos. Animal crush includes conduct of intentional crushing, burning, drowning, suffocating, impaling, or sexual exploitation of animals. *See* 18 U.S.C. § 48 (2019).

[5] Cal. Health & Safety Code § 25991.

[6] Ani B. Satz & Delcianna Winders, *Animal Welfare Act: Interaction with Other Laws*, 25 Animal L. 185, 185 (2019).

[7] *Id.*

[8] *See* Eleni G. Bickell, Cong. Rsch. Serv., RL 47179, *The Animal Welfare Act: Background and Selected Issues* (2023).

[9] Claire Hamlett, *The Animal Welfare Act Actually Doesn't Protect Most Animals*, Sentient Media (July 12, 2023),

<https://sentientmedia.org/animal-welfare-act/> [<https://perma.cc/2ZT3-EBKV>].

[10] Nowicki, *supra* note 2, at 464.

[11] Tierschutzgesetz [TSchG] [Animal Welfare Act (AWA)] Dec. 16, 2005, SR 455, art. 1 (Switz.).

[12] *Id.* at art. 3.

[13] Gieri Bolliger, *Legal Protection of Animal Dignity in Switzerland: Status Quo and Future Perspectives*, 22 Animal L. 311, 355 (2016).

[14] *Id.* at 383.

[15] *Id.* at 346.

[16] *Id.* at 351.

[17] *Id.* at 346.

[18] Bolliger, *supra* note 13, at 352.

[19] Switzerland Federal Food Safety and Veterinary Office, *Animal Welfare*, <https://www.blv.admin.ch/blv/en/home/tiere/tierschutz.html> [<https://perma.cc/QY3C-CVDP>] (last modified May 28, 2020).

[20] *Id.*

[21] *Animal Welfare*, Swiss Farmers, <https://www.swiss-farmers.ch/knowledge-and-facts/production/animal-welfare/> [<https://perma.cc/D62D-PSRU>].

[22] See Tierschutzverordnung [TSchV] [Animal Welfare Ordinance (AWO)] Apr. 23, 2008, SR 455.1 (Switz.).

[23] Switzerland Federal Food Safety and Veterinary Office, *supra* note 19.

[24] Schweizerisches Zivilgesetzbuch [ZBG], Civil Code [CC], Dec. 10, 1907, SR 210, art. 641a (Switz.).

[25] Gary L. Francione, *Animals as Property*, 2 Animal L. I, 2 (1996).

[26] *2020 Statistics on Animal Experimentation*, swissuniversities (Sept. 7, 2021),

[https://www.swissuniversities.ch/fileadmin/swissuniversities/Dokumente/Forschung/Tierversuche/Information\\_-\\_2020\\_statistics\\_animal\\_experimentation.pdf](https://www.swissuniversities.ch/fileadmin/swissuniversities/Dokumente/Forschung/Tierversuche/Information_-_2020_statistics_animal_experimentation.pdf) [<https://perma.cc/P7AA-8VJ4>].

[27] Elizabeth Gray, *20 Animal Testing Statistics You Need to Know in 2023*, Pet Keen, <https://petkeen.com/animal-testing-statistics/> [<https://perma.cc/U6SE-VNKY>] (last updated Sept. 28, 2023).