

Animals in Constitutions of the World



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Overview

I. Introduction

II. Constitutions Referencing Animals

III. Classic Examples

IV. Importance of Constitutionalizing Animal Welfare

V. Questions and Discussion



I. Introduction

Common features of constitutions

- Supreme law and principal governing document of a country
- Reflects a nation's identity and highest values

→ the “Top” of a country's legal hierarchy

- Difficult to amend (specific procedure)
- Laws included in constitutions carry special force and authority





II. National Constitutions Referencing Animals

Keyword «[animal](#)» : 51 hits (October 2015)

- Afghanistan
- Antigua and Barbuda
- Austria
- Azerbaijan
- Bahamas
- Barbados
- Belize
- Bolivia
- Botswana
- Brazil
- Brunei
- China
- Colombia
- Congo, Democratic Republic of the Congo
- Congo, Republic of the Congo
- Dominica
- Ecuador
- Egypt
- Gambia
- German Federal Republic
- Ghana
- Grenada
- Guyana
- Hungary
- India
- Iran
- Jamaica
- Jordan
- Kenya
- Kiribati
- Laos
- Lesotho
- Luxembourg
- Malaysia
- Malta
- Mauritius
- Mexico
- Nauru
- Nepal
- Niger
- Nigeria
- Panama
- Pakistan
- Papua New Guinea
- Samoa
- Seychelles
- Sierra Leone
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Sudan
- Sri Lanka
- St. Kitts and Nevis
- St. Lucia
- St. Vincent and the Grenadines
- Sudan
- Sweden
- Switzerland
- Taiwan
- Togo
- Turkey
- Tuvalu
- Venezuela
- Zambia
- Zimbabwe



II. National Constitutions Referencing Animals

Most of the 51 constitutions do not reference animal welfare

- Norms protecting animals as part of the environment / wildlife conservation
- Norms mentioning animals as agricultural products



II. National Constitutions Referencing Animals

Most of the 51 constitutions do not reference animal welfare

- Norms regarding people's property interests
- Norms mentioning animals as national symbols

Art. 7, para. 2 Constitution of Nepal (2000)

"The Rhododendron Arboreum is the national flower, Crimson shall be the national color, *the Cow the national animal* and *the Lophophorus the national bird* of Nepal."



III. Classic Examples



1. India

1949 Art. 51a (Fundamental Duties)

"It shall be the duty of every citizen of India

(...)

g. to protect and improve the natural environment including forests, lakes, rivers and wild life, and *to have compassion for living creatures.*"



बोहोल्डा

III. Classic Examples



2. European Union

- Established in 1951



- Essentially an area of economic activity and trade without internal borders

III. Classic Examples



2. European Union

2009 Art. 13 Lisbon Treaty (“Constitution”)

"In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, *since animals are sentient beings*, pay *full regard to the welfare requirements of animals*, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage."

→ Animal welfare is on equal footing with other EU key principles

General objective: Increase the standard of animal welfare in the entire EU

III. Classic Examples

3. Switzerland

a) 1893 Art. 25^{bis}

"The slaughter of animals without prior stunning before the withdrawal of blood is prohibited without exception for every type of slaughter and every species of cattle."



III. Classic Examples



3. Switzerland

b) 1973 Art. 25^{bis} / 2000 Art. 80

"1. The Confederation *shall legislate on the protection of animals.*

2. It shall in particular regulate:

- a) the *keeping* and *care* of animals;
- b) *experiments on animals* and *procedures carried out* on living animals;
- c) the *use* of animals;
- d) the *import* of animals and animal products;
- e) the *trade* in animals and the *transport* of animals;
- f) the *killing* of animals.“

III. Classic Examples

3. Switzerland

b) 1973 Art. 25^{bis} / 2000 Art. 80

- Animal welfare is a national objective
- Important part of the Swiss legal system, equal value as other national objectives
- Obligation for the legislature to enact animal protection laws



Strongest possible foundation for national animal welfare law



III. Classic Examples

3. Switzerland

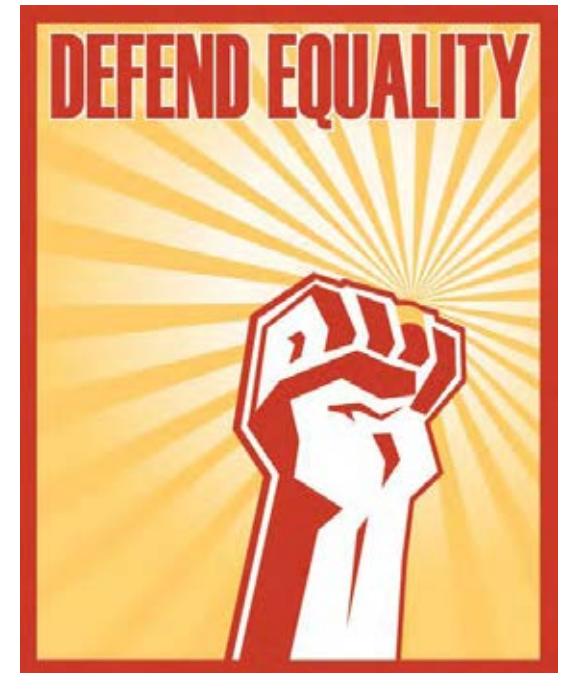
b) 1973 Art. 25^{bis} / 2000 Art. 80

- „Equality of weapons“

No precedence of fundamental rights or other national objectives over animal welfare,

- e.g. for
- Freedom of religion
 - Freedom of science and research
 - Right to artistic expression
 - Right to pursue a chosen profession

→ conflicting constitutional interests must be balanced



III. Classic Examples



3. Switzerland

c) 1992 Art. 120

“2. The Confederation shall legislate on the use of the reproductive and genetic material of animals, plants, and other organisms. In doing so, it shall take into account *the dignity of creature* and the security of man, animal and environment, and shall protect the genetic multiplicity of animal and vegetal species.”

Dignity = “Inherent worth of the animal that shall be respected when dealing with it.”

III. Classic Examples

3. Switzerland

c) 1992 Art. 120

→ Shift from a **pathocentric** approach to a **biocentric** approach



Sentience



Inherent moral value

III. Classic Examples

3. Switzerland

c) 1992 Art. 120

- Animals are protected beyond „classic“ stresses (pain, suffering, harm, anxiety) also from „ethical“ stresses like
- humiliation
 - excessive instrumentalization
 - substantial interferences with an animal's appearance or abilities



III. Classic Examples

3. Switzerland

Consequences

Comprehensive animal welfare legislation / case law

- Animals have their own legal status (2003)
- Animal Welfare Act (1981/2008)
 - Socially living animals cannot be kept alone
 - Statutory bans
(e.g. zoophilia, doping, import of cetaceans, etc.)



III. Classic Examples

3. Switzerland

Cantonal Constitutions

Geneva

1974 Art. 178a

“Hunting of mammals and birds is forbidden in all its forms in all parts of the canton of Geneva.”





III. Classic Examples

4. International Comparison

- Animal welfare as the national legislator's responsibility (competence clause)
e.g. Austria, Kenya, Malaysia, Mexico
- Animal welfare as a national objective / obligation to legislate animal cruelty
 - India
 - Switzerland
 - Germany
 - Slovenia
 - Luxembourg
 - Brazil
 - Egypt



IV. Importance of Constitutionalizing Animal Welfare

Take Home Message

- Strong symbolic significance
 - fundamental value of a nation
- „Equality of weapons“ in conflicts with fundamental rights
- Animal welfare becomes a national objective
 - binding on all governmental actors
- Solid foundation for strong animal welfare legislation, enforcement, and case law



Thanks for your attention!

"It is only when nations recognize animals and provide them certain constitutional guarantees that we can expect a more enlightened and equitable code of conduct towards other living beings. Animal protection is already an issue of public concern and morality. This must be reflected in legislation."



Maneka Sanjay Gandhi

Indian Minister for Women & Child Development