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**UNIVERSITÄT
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Swiss Animal Experiments Law: Legal (and Political) Observations

by

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Animal Experiments: Laws, Politics, Ethics etc.



Overview

I. Preliminary Remarks

II. Legal Aspects

III. Political Aspects

IV. Concluding Remarks

I. Preliminary Remarks



I. Preliminary Remarks

A. University of Bern: Peter V. Kunz

- Curriculum Introduction of **Animal Law** in **2019**
- **Spring Semester:** «Bern Animal Law Seminar»; **Fall Semester:** Lectures
- Teaching & Research, e.g. Book re «**Swiss Animal Law**» (2023)

B. Outlook regarding Today's Lecture

- **Legal Perspective:** general Outline of **Swiss Animal Experiments Law**
- **Political Perspective:** **Public Sentiments & Popular Initiatives**

I. Preliminary Remarks



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C. Statistics on Animal Experiments

➤ **Switzerland**

(i) **2008**: 731'883 animals; (ii) **2019**: 572'069 animals («non-recovery experiments»: 18'290 animals); (iii) **2020**: 556'107 animals («non-recovery experiments»: 19'712 animals)

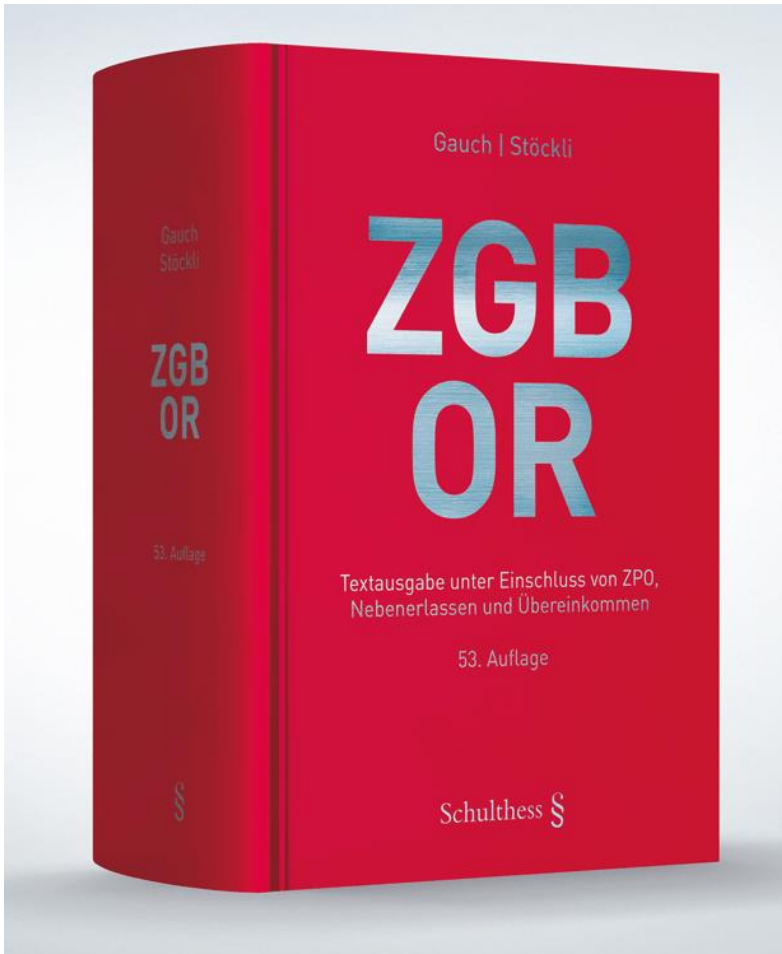
➤ **European Union**

2019: 10'401'673 animals (all EU-Members)

➤ **Global Estimates**

Lack of official Numbers; however, some Animal Welfare Organizations (and other NGOs) estimate: **approx. 130 mio. animals** (per year)

II. Legal Aspects



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What does «Animal Law» mean?

➤ Distinction(s)

The German term «**Tierrecht**» may lead to the (wrong) impression that such a «Recht» shall mean a subjective claim of an animal. The distinctions become clearer using English terms: (1) **Animal Law** and (2) **Animal Rights** (i.e. subjective claims) and (3) **Animal Welfare Law** («Tierschutzrecht»)

➤ Cross-Section of Law

The term «Animal Law» provides some sort of an «umbrella». Animal Law, as a **cross-section of Law**, thus, **comprises all Areas of the Law** (including e.g. Animal Experiments Law [«Tierversuchsrecht»]). Therefore, Animal Law consists of (i) Private Law, of (ii) Public Law, of (iii) Criminal Law and, finally, of (iv) Economic Law – allways with the **specific Focus on Animals**

II. Legal Aspects



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Regulation on Animal Experiments

➤ Principles of Federal Constitution

(i) Article 3 FC provides: «The Cantons are sovereign except to the extent that their sovereignty is limited by the **Federal Constitution**. They exercise all rights not vested in the Confederation». Furthermore, (ii) Article 80 FC makes clear: «The Confederation shall legislate on the **protection of animals**. It shall in particular regulate (...) **experiments on animals** (...)»

➤ Federal Level or Cantonal Level?

Therefore, **Animal Welfare Law** (including **Animal Experiments Law**) is **Federal Law**, at least in general. Yet, there remains some space for (additional) Cantonal Law; in any case, though, «federal law takes precedence over any conflicting provision of cantonal law» (Article 49 Al. 1 FC). Indeed, the **Cantonal Laws** must, for example, specifically provide – based on Federal Law – for the Organization of so-called **Cantonal Committees on Animal Experiments**

II. Legal Aspects



II. Legal Aspects

Details of Swiss Animal Experiments Law I/III

➤ Legal Sources

Animal Experiments Law is provided for on **all Legislative Levels** of the **Federal Law**, i.e. in the Federal Constitution («Bundesverfassung»), in various Federal Acts («Bundesgesetze») and in a variety of Federal Ordinances («Bundesverordnungen»); and finally, there are some International Treaties regarding Animal Experiments as well (e.g. European Treaty: SR 0.45)

➤ Federal Constitution

Animal Experiments are in Article 80 FC (title: «Protection on Animals») **explicitly** mentioned. Furthermore, the **Fundamental Rights** («Grundrechte») are **indirectly** relevant for Animals and for People involved in Animal Experiments: the Guaranty of Ownership (Article 26 FC), the Economic Freedom (Article 27 FC) and the Academic Freedom (Article 20 FC)

➤ AniWA and Ordinances

The **Animal Welfare Act** (AniWA; «Tierschutzgesetz») is the basic Federal Law, with many provisions regarding Animal Experiments (e.g. Articles 17 et seq. AniWA); however, AniWa is just a **Framework Law** («Rahmengesetz»), thus, the Details will be provided for in **Ordinances** by the Federal Council («Bundesrat») or by the Federal Food Safety and Veterinary Office («BLV»)

II. Legal Aspects

Details of Swiss Animal Experiments Law II/III

➤ Animal Welfare Law

The Animal Experiments Law («Tierversuchsrecht») is just **one part** of the much broader **Animal Welfare Law** («Tierschutzrecht»). With respect to all Experiments on Animals in Switzerland, therefore, the Animal Welfare Law, including the AniWA, is **always applicable**, e.g. regarding the **dignity** as well as the **well-being** of Animals (see Article 3 lit. a/lit. b AniWA)

➤ Legal Definition

Article 3 lit. c AniWA provides for a **specific Legal Definition**; Animal Experiment «means any procedure in which a live animal is used with the aim of» – for example – testing a «scientific hypothesis» or a «substance», or «teaching or training»

➤ Legislative Middle Way

In Switzerland, Animal Experiments are not governed by the Principles (i) of «**Laissez-faire**» or (ii) of **Prohibition(s) in General** but a (iii) **Monitoring by Authorities** («Aufsicht») takes place; not an independent Court needs to grant its «Judicial Approval» for Animal Experiments, however, because the **Supervision** shall be done by specific so-called **Committees on Animal Experiments**

II. Legal Aspects

Details of Swiss Animal Experiments Law III/III

➤ Cantonal Committee(s)

Based on Article 34 AniWA, each and every **Canton** «shall appoint a **committee** of experts for animal experiments which is **independent** of the authorization authority and in which the **animal welfare organizations** are appropriately represented»

➤ Federal Committee

The Federal Council appoints a **Federal Committee on Animal Experiments** which plays, in particular, an advisory role. In addition, it makes «itself available to the cantons for questions of a **fundamental nature** and **controversial cases**» (see Article 35 Al. 1 AniWA)

➤ Legislative Aim of the «3R Principle»

In accordance with Article 22 AniWA, the government **promotes the development** «of methods that replace animal experiments, enable fewer animals to be used or result in less strain for the animals»; this is the «**3R Principle**», i.e. «**Replacement**», «**Reduction**» and «**Refinement**»

III. Political Aspects



III. Political Aspects

Animal Experiments and Public Discussion

➤ Society and Media

Generally, **People in Switzerland** seem to be quite «**Animal Experiments-friendly**» which is also reflected in the present Swiss Animal Experiments Law. Apparently, most People care more about **their Life** and **their Health** than about the Suffering of Animals used in Experiments. The **Media** and Politics are, in general, balanced and not one-sided. In Switzerland, nevertheless, all Popular Initiatives against Animal Experiments usually get **quickly denounced as extremist**

➤ Multitude of Popular Initiatives since the 1980s

People may take to the Streets and emotionally demonstrate, for instance, against «Slaughter Houses» («Schlachthäuser», see next slide), but not against Animal Experiments. Most People are **egotistical** and simply **scared** that we might **run out of Medication**. Therefore, «**Animal Activism**» enjoys no good Image in Switzerland; the latest Popular Initiative, i.e. the «Tierversuchsverbots-Initiative», was **overwhelmingly rejected** in 2022: 20,9% «yes» and **79,1% «no»**

III. Political Aspects



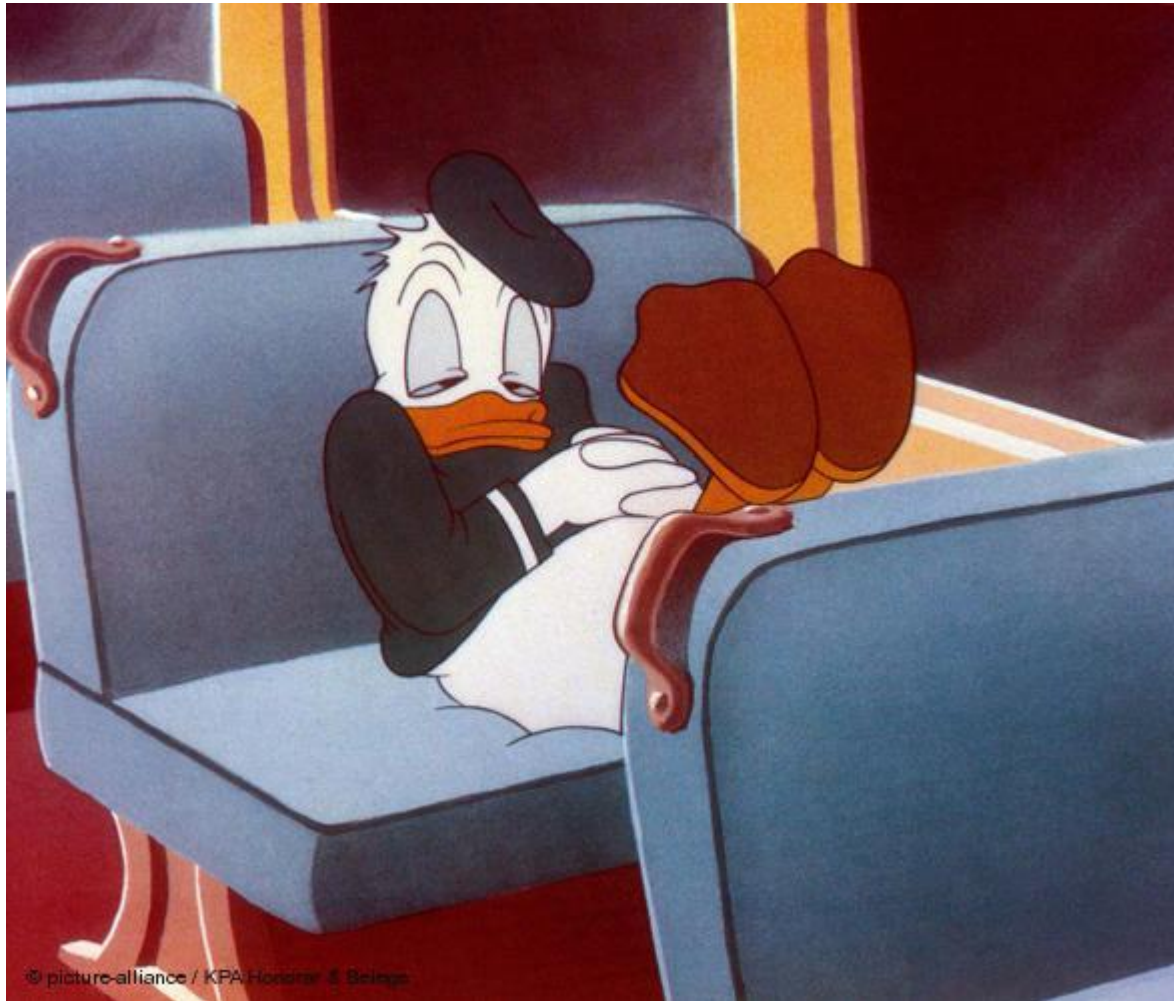
III. Political Aspects

Overview regarding Popular Initiatives

- **1980**
(i) Popular Initiative «**für die Abschaffung der Vivisektion**»: BB1 1980 III 515 f.
- **1985**
(ii) Popular Initiative «**Weg vom Tierversuch!**»: BB1 1985 I 1248 ff.; (iii) Popular Initiative «**zur Abschaffung der Tierversuche (...)**»: BB1 1985 III 264 ff.
- **2002**
(iv) Popular Initiative «**Tierschutz – Ja!**»: BB1 2002 492 ff.
- **2017**
(v) «**Tierversuchsverbots-Initiative**» : BB1 2017 6151

*Popular Initiatives aim for either **Limitations** on or **Prohibitions** of Animal Experiments*

IV. Concluding Remarks



IV. Concluding Remarks

➤ **Many Perspectives**

*Traditionally, Animal Experiments are **controversial** both in the Public (and in the Media) as well as in Politics; be that as it may, in my view, the Media as well as most Politicians show a rather **balanced View** regarding these Issues. The **Legal Perspective** is important, yet, **additional Aspects** need to be taken into Account: Ethics, Economics, Politics and – maybe above all – Emotions.*

➤ **Legal Perspective**

*Dozens of Provisions (e.g. **AniWA** and various **Ordinances**, even **International Treaties**) are the legal Basis for today's Animal Experiments in Switzerland. However, the Federal Constitution's **Fundamental Rights** should not be forgotten, i.e. (i) the Guarantee of Ownership, (ii) the Economic Freedom, and (iii) – last but not least – the Academic Freedom.*

➤ **Political Perspective**

*Until today, **Popular Initiatives** for Limitations on or for Prohibitions of Animal Experiments found never Success in Switzerland, a Country which proved and proves **rather** «**Animal Experiments-friendly**». New Popular Initiatives appear on the Horizon but the Outcome, in my View, will be the same as over the last half Century: **no likely Success** for «Animal Rights Initiatives» in Switzerland.*

**I thank you all
very much for your Attention**

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