

Comparative analysis of animal rights protection regulations in the legal systems of Peru and Switzerland, 2024

Análisis comparado de la normativa sobre protección de los derechos de los animales en el ordenamiento jurídico del Perú y de Suiza, 2024

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Jaime Cuse Quispe

<https://orcid.org/0000-0001-6424-4934>

jcusequ@ucvvirtual.edu.pe

Universidad César Vallejo. Lima, Peru

Abstract

The overall objective of the study was to analyze the differences and similarities between Peruvian and Swiss legislation on the protection of animal rights in 2024, showing that while Switzerland has an advanced regulatory framework with strict penalties and a comprehensive approach, Peru has made significant progress, such as Law No. 30407, although it faces limitations in its implementation due to cultural barriers and institutional deficiencies. A qualitative approach was used, based on comparative law analysis and interviews with experts to validate the information from a practical perspective, which made it possible to identify gaps in enforcement and public awareness in Peru. It is concluded that, although progress has been made, it is necessary to strengthen institutions, improve the application of sanctions, and promote a cultural change that supports the legislation. The Swiss experience, which includes models such as the animal protection lawyer, represents a key reference point for improving the national legal framework and promoting a more ethical and harmonious coexistence between humans and animals.

Keywords: comparative law, animal rights protection, strict penalties

Resumen

El estudio tuvo como objetivo general analizar las diferencias y semejanzas entre la legislación peruana y suiza sobre la protección de los derechos de los animales en el año 2024, evidenciando que, mientras Suiza posee un marco normativo avanzado, con sanciones estrictas y un enfoque integral, Perú presenta avances importantes, como la Ley N.º 30407, aunque enfrenta limitaciones en su implementación debido a barreras culturales y deficiencias institucionales. Se recurrió a un enfoque cualitativo, basado en el análisis del derecho comparado y en entrevistas a expertos para validar la información desde el escenario práctico, las cuales permitieron identificar vacíos en la fiscalización y la sensibilización pública en Perú. Se concluye que, aunque hay progresos, es necesario fortalecer las instituciones, mejorar la aplicación de sanciones y promover un cambio cultural que respalde la legislación. La experiencia suiza, que incluye modelos como el abogado protector de animales, representa un referente clave para mejorar el marco legal nacional y fomentar una convivencia más ética y armónica entre humanos y animales.

Palabras clave: derecho comparado, protección de los derechos de los animales, sanciones estrictas

Introduction

In the contemporary legal context, the discourse surrounding the protection of animal rights has transcended ethical boundaries to become a topic of constitutional and political significance in multiple countries. This phenomenon reflects a paradigmatic shift in legal conceptions, expanding the scope of protection beyond human beings to include animals as sentient beings deserving of respect, dignity, and legal protection. In this regard, the evolution of international norms indicates a transition from an anthropocentric approach toward a biocentric or ecocentric perspective that acknowledges the intrinsic value of all forms of life. Within this framework, a comparative study of animal protection legislations in Peru and Switzerland becomes particularly relevant, as it allows for the identification of advancements, challenges, and normative gaps in the legal safeguarding of animals, while also offering opportunities to strengthen the Peruvian legal framework through foreign experiences.

At the international level, various legal instruments and philosophical doctrines have advocated for the recognition of animals as subjects of rights. Authors such as Tom Regan (2003) and Peter Singer (1975) initiated contemporary discussions on the ethical and legal considerations of animals by arguing that their capacity to suffer warrants legal protection. This perspective catalyzed a new approach within Animal Law.

Countries like Germany and Switzerland have been pioneers in incorporating these ideas into their constitutional frameworks. In 1992, Switzerland integrated the principle of "dignity for creatures" into its constitution, becoming one of the first states to explicitly recognize animal dignity as a protected legal good. Years later, in 1998, Germany introduced animal protection as a constitutional mandate, solidifying a regional trend toward the legal recognition of animal welfare. These advancements stand in contrast to the Latin American reality, where despite a growing awareness, legal protections remain hindered by structural and cultural limitations.

In the Peruvian context, the enactment of Law No. 30407, the Animal Protection and Welfare Law (*Ley de Protección y Bienestar Animal*, 2016), marked a significant milestone. This legislation repealed less restrictive legal frameworks and recognized animals as sentient beings for the first time, granting them protection against acts of cruelty or unjustified suffering. However, its implementation has revealed significant deficiencies: the lack of effective enforcement mechanisms, the absence of articulated public policies, and weak institutional structures responsible for compliance have limited its real impact. Consequently, a disconnect persists between the letter of the law and its effectiveness.

Switzerland, in contrast, serves as a global benchmark in animal protection. Its Federal Animal Protection Law (*Ley Federal sobre la Protección de los Animales*, 1978) and institutional framework ensure a comprehensive welfare system that encompasses the breeding, transport, experimentation, entertainment, and trade of animals. Moreover, the establishment of the Animal Protection Lawyer (APL) in the Zurich canton in 1992 represented a pioneering advancement in the field of Animal Law. This legal figure acted as a legal representative for animals in judicial processes, safeguarding their interests and ensuring the effective application of the law. Although it was abolished in 2014, its existence set an international precedent for direct legal defense of animals.

From a doctrinal perspective, the evolution of animal rights has been influenced by various ethical-legal theories. The animal welfare theory (Singer, 1975) posits that human actions should aim to minimize suffering while maximizing animal welfare, while the animal rights theory (Regan, 1987) asserts that animals possess inherent rights due to their status as "subjects of a life" endowed with intrinsic value. Other approaches include the sentientism by Jeremy Bentham (1789), which introduces the capacity to suffer as a fundamental moral criterion, and the capabilities approach by Martha Nussbaum (2007), which broadens the notion of justice beyond human beings.

The *Convenio Europeo sobre la Protección de los Animales en Explotaciones Ganaderas* (1976), the *Convenio sobre el Transporte Internacional de Animales* (1968), and the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES, 1973) have established minimum standards for animal welfare. Additionally, the World Organization for Animal Health (WOAH) has issued codes and guidelines (2006, 2009, 2017, 2024) regarding the ethical use of animals, significantly influencing the legislation of various states. Although many of these instruments lack binding authority, their moral and technical weight has guided substantial legal reforms in numerous countries.

In Latin America, countries like Mexico, Ecuador, Argentina, and Colombia have begun to gradually incorporate animal protection into their constitutional and penal frameworks. The Ecuadorian Constitutional Court, for instance, in its Ruling No. 253-20-JH/22, recognized animals as subjects of rights, underscoring the necessity of interspecies legal interpretation (Corte Constitucional de Ecuador, 2022).

In Peru, recent legal studies find that while a solid normative foundation exists, a property-focused perspective continues to dominate law enforcement. Villavicencio (2023) and Paredes (2022) note that Article 206-A of the Peruvian Penal Code (*Código Penal Peruano*, 2022), which criminalizes animal cruelty, remains linked to property considerations, contradicting the nature of animals as sentient beings. This creates interpretative gaps that weaken the law's effectiveness and perpetuate objectifying views. Morales (2023) and Rojas (2024) emphasize the need to fully recognize animals as legal subjects, ensuring effective judicial mechanisms in their favor, including through provisions like "post-mortem rights" or the creation of animal insurance.

Empirically, the situation of animal abuse in regions such as Madre de Dios, Peru, highlights the gap between legal frameworks and social realities. For example, during Operation "Mercury 2019," reports indicated the abandonment of dozens of domestic animals following police actions against illegal mining (Calloquispe, 2019). Additionally, persistent wildlife trafficking—one of the most widespread illicit activities in the Peruvian Amazon—demonstrates the inadequacy of existing control and sanction mechanisms (Radio Madre de Dios, 2022).

In light of this context, the present study aims to analyze the differences and similarities between Peruvian and Swiss legislation regarding the protection of animal rights, with the goal of identifying strengths, weaknesses,

and opportunities for improvement within the Peruvian legal framework. This analysis is situated within the Sustainable Development Goals (SDGs), particularly SDG 16 (ONU, 2015), which promotes justice and strong institutions. Specifically, the study aims to: (a) compare the legal frameworks of both countries, (b) examine the factors limiting effective implementation of the legislation in Peru, and (c) assess the extent to which the Swiss model can serve as a reference for enhancing national policies.

The theoretical significance of this research derives from its contribution to the development of Animal Law as an autonomous discipline within the Peruvian legal order. The comparison with the Swiss system—which is considered one of the most advanced globally—allows for the delineation of concrete strategies to improve the implementation of Law No. 30407, optimize control mechanisms, and promote legal and social education on animal welfare. Furthermore, the results may serve as a reference for lawmakers, public institutions, non-governmental organizations, and activists committed to defending animal rights, facilitating the design of normative reforms consistent with international standards.

Ultimately, the legal relevance of this study lies in its contribution to strengthening the rule of law. Legislation that effectively protects animals reflects a legal order committed to justice, equity, and respect for all forms of life. Thus, this research aims not only to describe legal differences but also to propose harmonization and reform strategies aimed at the effective realization of the principles of dignity and animal welfare.

In summary, this work falls within the field of Comparative Law, adopting an analytical and propositional approach. It seeks to contribute to the legal debate concerning the status of animals within the normative framework, examining how different legal cultures—one European and one Latin American—confront the same ethical and legal challenges. The study demonstrates that the protection of animal rights cannot solely depend on the enactment of laws but requires political will, social education, robust institutions, and coherence between constitutional values and social practices. Only through a comparative, critical, and constructive lens can we advance toward a legal paradigm that recognizes animals as legitimate members of the moral and legal community, reaffirming Peru's commitment to inclusive, sustainable, and truly universal justice.

Methodology

This study adopted a qualitative approach, with the primary objective of comprehensively understanding and analyzing the legal frameworks regulating the protection of animal rights in Peru and Switzerland. Such an approach, characterized by its flexible and reflective nature, facilitates the formulation of research questions before, during, or after data collection, thus promoting a dynamic analysis of facts and their interpretations, as noted by Hernández and Mendoza (2020). Consequently, the research sought to explore the legal phenomenon from a comprehensive and critical perspective, taking into account the normative, social, and ethical contexts involved.

The investigation was classified as basic research, oriented toward the theoretical analysis and description of study categories without directly intervening in reality. Its purpose was to expand legal knowledge concerning the subject under study, relying on doctrine, jurisprudence, and comparative legislation. Within this framework, grounded theory design was applied, which, according to Monje (2011), reverses the traditional research process by commencing with data collection to develop emerging concepts and theoretical categories. This design proved suitable for identifying relevant normative and doctrinal patterns in animal protection within both the Peruvian and Swiss legal systems.

The categories and subcategories for analysis were defined based on the theoretical framework and the study's objectives. The first category, pertaining to animal rights, encompassed the rights to life, freedom from mistreatment, a suitable environment, and the imposition of penalties for acts of cruelty. The second category focused on Peruvian legislation and included the most pertinent articles of Law No. 30407, such as the prohibition of unjustifiable slaughter, penalties for mistreatment, the obligation to provide a suitable living environment, and provisions for imprisonment and fines. The third category, concerning Swiss legislation, examined provisions within the Federal Animal Protection Law, including sanctions for severe mistreatment, regulations on living space and nutrition, bans on exploitation in entertainment, and penalties outlined in Article 35. These categories facilitated systematic comparison between the two legal systems, identifying similarities, differences, and the efficacy of implementing animal welfare norms.

The research setting encompassed two normative realms: the Peruvian context focused on Law No. 30407 and its application within the national reality, and the Swiss context, utilized as a reference for its advanced legal model in animal welfare. In both contexts, an analysis of laws, doctrine, jurisprudence, and public policies related to animal protection was conducted, providing an integrative understanding of the phenomenon from a comparative perspective. The sample comprised eleven specialists in criminal law and comparative law, including practicing lawyers, judges, and university professors holding a master's degree in law. Their participation was

essential for contrasting theoretical perceptions with practical legal realities, offering diverse viewpoints on the efficacy and challenges of current legislation. Selection was carried out through purposive sampling, considering participants' professional experience and specialized knowledge.

For data collection, semi-structured interviews were conducted with the selected experts and complemented by a documentary analysis guide aimed at examining normative and doctrinal sources. According to Naupas et al. (2014), research techniques are essential procedures for ensuring the validity and reliability of results. Accordingly, the primary instrument was the interview guide designed following the recommendations of Yin (2009), which assert that such tools allow for in-depth and flexible information gathering, adapting questions to the interviewee's context. Additionally, the documentary analysis guide enabled a systematic review of legal texts, international treaties, and relevant jurisprudence, thereby enhancing the study's validity through data triangulation.

Prior to the fieldwork, documentary information pertaining to the study categories was collected. The data were organized and processed using Atlas.ti software (version 23), which facilitated the coding of interview responses and linked them to the doctrinal and normative excerpts analyzed. The use of this tool allowed for a rigorous interpretation of discourse and visual analysis through conceptual networks that illustrated the relationships between categories, subcategories, and findings.

The processing of information relied on two complementary methodological approaches. First, a comparative method was applied, following the proposition of David et al. (1978), allowing for the examination of the structures and principles of major legal systems worldwide to identify similarities and differences. Second, the dogmatic-legal method was employed, defined by Kelsen (1960) as the systematic and interpretative analysis of normative content. This dual approach integrated the theoretical dimension of law with empirical observation of its application, consolidating a robust and coherent analysis.

Finally, the research adhered to the ethical principles outlined by Creswell et al. (2017), emphasizing the protection of participants, confidentiality, informed consent, and transparency in handling results. All participants were informed about the study's objectives, their voluntary participation, and the solely academic use of the information. Additionally, respect for the dignity, rights, and welfare of interviewees was ensured, complying with the international ethical standards applicable to scientific research in law.

Results

Protection of animal rights

The results reveal that legislation serves as a crucial instrument for reducing animal mortality. Participants agreed that a robust normative system can diminish exploitation and mistreatment, provided effective control and enforcement mechanisms are in place. As Participant No. 1 noted, well-designed laws, when efficiently applied, contribute to species conservation and the regulation of illegal activities, whereas weak or fragmented regulations foster vulnerability and impunity. This finding aligns with the assertion that animals should be protected for their intrinsic value, not solely for their social or economic utility (Regan, 1987).

Significant differences were also identified between urban and rural areas regarding access to justice and awareness of animal welfare. Participants (P-02 and P-04) indicated that in rural regions, limitations in infrastructure, education, and communication hinder reporting of mistreatment and the enforcement of penalties. In contrast, urban areas exhibit greater institutional presence, municipal programs, and awareness campaigns, although they still struggle with enforcement weaknesses. This territorial gap highlights the structural inequality that persists in the application of law and affects the universality of animal protection.

Moreover, the notion of an "optimal space for animal welfare" emerged as a central element. Participants concurred that animals require appropriate environments that ensure their physical, emotional, and behavioral health. As expressed by Participant No. 9, the lack of suitable spaces leads to stress, aggression, and health risks, which in turn impacts social coexistence. This perspective is connected to the animal welfare theory, which emphasizes the moral obligation to reduce suffering in all sentient beings (Singer, 1975).

Finally, interviewees highlighted the challenges within the Peruvian judicial system. According to Participant No. 10, the penalties outlined in Law No. 30407 are insufficient and their application is limited by a lack of evidence and procedural inefficiencies. While some progress has been noted—evidenced by recent convictions—impunity persists in most cases, leading to public distrust. This observation is corroborated by documentary data, which show that only twelve convictions for animal cruelty were issued in 2023, while the majority of complaints were archived. This outcome underscores the need to strengthen institutional capacity and judicial commitment to ensure effective legal protection.

Legal analysis of Peruvian legislation: Law No. 30407

Peruvian Animal Protection and Welfare Law recognizes animals as sentient beings and establishes penalties for acts of cruelty, abandonment, or unjustified slaughter. However, the results indicate that its implementation still suffers from severe structural deficiencies. Participants agreed that animal slaughter should only occur for ethical reasons and under professional supervision. Participant No. 10 emphasized that only a veterinarian should determine euthanasia in cases of irreversible suffering. This criterion aligns with the principles outlined in Article 1 of Law No. 30407, which prohibits slaughter without just cause, reflecting compliance with OIE international standards.

Regarding the role of governmental institutions, significant deficits in enforcement were identified. Interviewees (P-04 and P-08) indicated that entities such as SENASA and local municipalities lack the resources and trained personnel necessary for effective oversight of animal holding facilities. This shortcoming aligns with documentary analysis showing that, although Law No. 30407 assigns clear responsibilities, the lack of inter-institutional coordination hinders effective enforcement. Naupas et al. (2014) emphasize that control and systematicity are essential in any research or management process; their absence explains the limited effectiveness of animal welfare policies in Peru.

Participants also questioned the lack of commitment from local authorities. Participant No. 10 noted that municipalities show little interest or execute sustainable programs for animal control and protection, perpetuating mass abandonment and public mistreatment. This finding reaffirms the need to strengthen institutional competencies and civic education regarding animal rights.

Legal analysis of Swiss legislation

Swiss Federal Animal Protection Law is distinguished by its comprehensive approach and rigorous enforcement. It addresses all dimensions of animal welfare—physical, psychological, and environmental—and imposes severe penalties on those who violate its provisions. Document analysis indicates that Swiss regulations precisely govern the transport, slaughter, breeding, experimentation, and use of animals in entertainment, emphasizing the prevention of unnecessary suffering. Furthermore, the law establishes periodic supervision mechanisms, such as audits and institutional controls, which ensure effective compliance.

One of the most significant contributions of Swiss legislation was the establishment of the Animal Protection Lawyer (APL) figure, created in the canton of Zurich in 1992. Although this role was discontinued in 2014, its existence set a historical precedent by recognizing animals as victims within judicial processes and ensuring their legal representation (Blattner, 2020). This model serves as an ethical and legal reference for countries seeking to strengthen their animal protection frameworks, such as Peru.

The impact of Swiss legislation transcends legal realms, reflecting a social culture committed to animal ethics, where respect for other species forms a part of national identity. This cultural environment facilitates the application of laws and enhances their effectiveness, demonstrating that normative success relies on both legal design and the ethical and educational maturity of the society that supports it.

Comparison between Peru and Switzerland

The contrast between the two legal systems, depicted in Figure 6 of the original study, indicates that Switzerland outperforms Peru across all evaluated categories: animal welfare, regulation of slaughter, protection in entertainment, penalties, and civic education. The average scores (Switzerland: 8.4; Peru: 5.2) reflect a significant disparity in the practical application of norms. In Switzerland, legislation is supported by a robust institutional system and a consolidated legal culture, while in Peru, administrative weaknesses and limited civic education hinder compliance. These results confirm the assertions of Kelsen (1960) regarding the importance of a coherent and effective normative system for ensuring substantive justice.

The emerging category of "Legal Culture" encapsulates the social and cultural factors influencing law application. In Switzerland, high trust in the judicial system and ethical education ensure normative compliance. Conversely, in Peru, utilitarian views and traditional practices persist, complicating the social acceptance of animal rights. This cultural difference elucidates the gap between written law and its actual effectiveness, reaffirming the need to strengthen awareness and legal education.

Discussion

The empirical and documentary findings confirm that Peruvian legislation, while advanced in its formulation, demonstrates significant deficiencies in execution. As Singer (1975) and Regan (1987) point out, true animal protection necessitates an ethic of recognition rather than simply punitive measures. Switzerland serves as a model reference by integrating ethical principles, effective judicial mechanisms, and a culture of respect for

animals. The research conducted by Cifuentes et al. (2022) on the Colombian experience aligns with these results. In conclusion, the findings indicate that legislative development alone does not ensure the protection of animal rights. A holistic approach that combines legislation, education, legal culture, and institutional strengthening is essential. The comparison between Peru and Switzerland reveals that genuine legal transformation requires not only stricter laws but also a society that is informed, committed, and empathetic toward all forms of life.

Conclusions

The comparative analysis of Peruvian and Swiss legislation on animal protection in 2024 reveals substantial differences in their approaches, normative structure, and implementation. Switzerland boasts an advanced legal framework grounded in principles such as “dignified treatment” and supported by a culture of respect for animals. While Peru has made progress with Law No. 30407 by recognizing animals as sentient beings, it maintains an anthropocentric focus by categorizing offenses as property crimes in the Penal Code, thereby restricting its reach. The implementation of the law faces cultural, structural, and educational barriers, particularly in rural areas.

A detailed comparison indicates that both countries share an interest in animal protection, albeit with divergent strategies. Peru emphasizes criminal sanctions for acts of cruelty, whereas Switzerland adopts a more integrated approach, regulating aspects such as husbandry, transport, and slaughter, and incorporating innovative mechanisms like the Animal Protection Lawyer. A central similarity is the acknowledgment of animal sentience; however, Swiss application is more coherent, profound, and effective.

Factors limiting efficacy in Peru include a shortage of institutional resources, lack of trained personnel, and the absence of clear enforcement protocols. Low public awareness and a poorly developed legal culture regarding animal welfare perpetuate attitudes of indifference. Current criminal penalties lack a deterrent effect, suggesting the need for complementary administrative and educational measures.

Swiss legislation serves as a reference model for Peru. Elements such as “dignified treatment,” severe sanctions, stringent oversight, and figures like the Animal Protection Lawyer could be adapted to the national context to enhance Law No. 30407 and address existing cultural, economic, and structural barriers.

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