

The Dignity of Animals

**A joint statement by the Swiss
Ethics Committee on Non
Human Gene Technology (ECNH)
and the Swiss Committee on
Animal Experiments (SCAE),
concerning a more concrete
definition of the dignity of
creation with regard to animals**



At the request of the Federal Veterinary Office, the Swiss Ethics Committee on Non Human Gene Technology (ECNH) and the Swiss Committee on Animal Experiments (SCAE) have deliberated on the concept of the dignity of creation with regard to animals, ahead of the revision of the animal protection law. The deliberations focused on the handling of genetically modified animals.

The aim of both Committees is to contribute, from an ethical and practical perspective, to the public debate on the relationship between humans and animals in general, and on the ethically acceptable handling of animals in particular. Recommendations are made regarding concrete ways in which the animal protection law should govern the handling of animals by humans, so as to address the aspect of the dignity of creation.

The dignity of creation in the Swiss constitution

The concept of the *dignity of creation* has been enshrined in the Swiss constitution (Bundesverfassung/BV) since 1992. Article 120 BV (Article 24novies of the old constitution) governs protection against the abuse of non human gene technology.

If protection is provided against abuse then it follows that genetic intervention in living creatures is, in principle, permissible. However, the dignity of creation must be given due consideration, since handling reproductive and genetic material of animals, plants and other organisms involves a particularly sensitive and complex area of the handling of living creatures by humans. The ECNH and SCAE base their deliberations on the assumption that the genetic modification of an animal and manipulation of an animal's genetic material do not necessarily constitute any disregard of its dignity. Both Committees are of the opinion that damage to dignity is related to the animal's inherent value.

We disregard an animal's dignity if we fail to make the possibility of violation the subject of an evaluation of interests, i.e. if we give it no consideration and take it for granted that human interests take precedence.

One of the difficulties of the Swiss discussion is the fact that the French version of the Swiss constitution uses the term "l'intégrité des organismes vivants". From an ethical standpoint, the meaning of the term "integrity" is unclear. At any rate, under no circumstances is it synonymous with the concept of the dignity of creation. In keeping with the international dis-

cussion, the dignity of creation refers to the inherent value of animals.

Article 120 of the Swiss constitution: Non Human Gene Technology

- 1 Persons and their environment shall be protected against any abuse of gene technology.
- 2 The Confederation shall legislate on the use of reproductive and genetic material of animals, plants and other organisms. In so doing, it shall take into account the dignity of creation as well as the safety and security of people, animals and the environment, and shall protect the biodiversity of animal and vegetable species.



The contradiction between a human's interest in entertainment and the interest of an animal in treatment appropriate to its needs. Budgerigars are highly social flocking birds. If they are isolated from others of their species, it is easier to make them talk. (Source: A. Steiger)

The relationship between humans and animals

In Europe, the protection and dignity of animals are now acknowledged objectives. This was not always the case. Up to the 20th century, neither European philosophy nor Christian theology regarded non-human creatures (with only a few exceptions) as an ethical issue. Only in the last few decades has there been a growing awareness and interest in the protection of animals, species and the environment. The extermination of animal species, mass animal farming, commercial livestock transportation, certain types of breeding programmes and, not least, the production of genetically modified animals are attracting ever sharper criticism.

The problems associated with the way humans handle animals and nature are well-known to broad sections of the population. Whether we *are entitled* to handle animals in this way is therefore becoming an ever more burning issue.

Against the concept that humans alone are entitled to dignity and protection, the discussion concerning the dignity of creation stands as a corrective to the immoderate and arbitrary way in which humans treat the rest of Nature. Humans are required to show respect and restraint in the face of nature, due to their own interest in sustainable resources as well as by dint of the inherent value ascribed to a fellow living creature. Living creatures should be respected and protected for their own sake.

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The dignity of humans and the dignity of creation: comparable but not identical

The positions taken in animal ethics can be broken down essentially on the basis of the moral status we accord to animals. The following fundamental positions may be distinguished, although each position in turn can be broken down into varying degrees of differentiation:

- a) A moral value is accorded *only to humans*. Accordingly, the moral status of animals is dependent on the value which humans accord to animals for reasons of self-interest.
- b) The moral consideration of wellbeing refers to *all sentient creatures*. Sentient animals are therefore also accorded a moral value.
- c) *All living creatures* are accorded a moral status.
- d) Moral respect and the protection that this implies covers not only all living creatures but also species, biotopes – in short, *all of living nature* in the sense of Albert Schweitzer's "veneration of life" argument.
- e) Not only living nature, but *everything that exists* is accorded a moral value.

For many years, the concept of dignity served to underpin the special status of humans vis-à-vis other living creatures. It is an expression of the supreme position which humans hold, from a philosophical standpoint, due to their reasoning and moral abilities, and from a theological standpoint, due to their likeness to God. During its long history, the concept of human dignity has repeatedly been re-interpreted, refined and redefined.

The concept of the dignity of creation is new to ethical and legal discussions. Nowhere else in the world apart from the canton of Aargau constitution has it been constitutionally enshrined. Since 1992 it has been represented in the Swiss federal constitution as a legal term. The constitution uses the term to cover animals, plants and other organisms but excludes humans.

Turkey hens suffer from such severe weakness in the legs that they may be unable to walk because their skeleton and limbs cannot support their weight, particularly in the breast muscles. (Source: P. Schlup)

A more concrete definition of the dignity of creation in the case of (vertebrate) animals

Individual-population-species: What does the animal protection law protect?

The current animal protection law aims to protect *individual animals* and not entire animal *populations or species*. Moreover, the animal protection law limits the use of the term "animals" to vertebrates. The ECNH argues that the entitlement to protection granted to animals by dint of their dignity is accorded to them due to their *inherent value*. Recognition of inherent value requires that animals be respected for their own sake, their specific characteristics, needs and behavioural patterns. Since, according to the constitution, the dignity of creation must be accorded not only to individual vertebrate animals but to all animals as well as plants and, possibly from an ethical standpoint, all forms of life, the animal protection law should be applied unreservedly to all animals in the zoological sense of the term.

However, because it is difficult to ascribe individuality to non-vertebrates (e.g. worms and insects) and because the animal protection law is aimed at the protection of individual animals, the SCAE argues that the applicability of the animal protection law should continue to be restricted primarily to vertebrates. Since they are based more on populations, the aspects of vertebrate dignity should be laid down in other legislation e.g. conservation of Nature and preservation of national heritage, or environmental protection.

The currently applicable animal protection law protects animals against unjustifiable suffering, pain or injury and stipulates that they must not be unjustifiably subjected to fear or anxiety. The discussion ahead of the comprehensive reform of the animal protection law now revolves around the question of creating more concrete legal provisions governing the constitutional term "the dignity of creation" and the associated impact which goes beyond the existing aspects of animal protection.

The ECNH and SCAE assume that the protection of individual animals against unjustifiable *suffering, pain, injury or anxiety* already covers significant aspects of the dignity of creation. Nevertheless, the SCAE shares the opinion of the ECNH that the constitutionally enshrined respect for the dignity of creation provides *more comprehensive* protection for animals. As an impetus for further deliberation, therefore, a proposal was drawn up for the systematic evaluation of damage to dignity:

- **Intervention in appearance**
- **Humiliation**
- **Excessive instrumentalisation**



Amusing or humiliating?

Evaluation of interests

The three categories proposed by the ECNH were critically examined by the SCAE from a practical perspective. The SCAE recommends that intervention in appearance be taken to mean not only intervention in external appearance but also manipulation of the *animal's abilities*.

Both Committees unanimously agree that the "humiliation" category is very much a human-centric concept. In practice, the emphasis is primarily on the aspect of animal husbandry, which in a very general sense demonstrates respect for an animal's inherent value.

The basic issue in terms of the *practical application* of the dignity of creation criterion is the question of the weighting or value accorded to this dignity vis-à-vis other assets and interests associated with the handling of animals. How can respect for the dignity of creation be ensured? In principle, this is only possible if an evaluation of interests is performed prior to every ruling on authorisation or permits. In this context, a general evaluation of interests, i.e. one that is applicable to all comparable cases, may prove sufficient.

Performing an *evaluation of interests* means, firstly, examining the conflict of interests, the determining the interests, assets and objectives of all affected parties, evaluating and rating them, and finally weighing them up against each other. The result of such an evaluation of interests is a reasoned judgement on whether intervention is justifiable or not for a defined category of cases. This raises the question of whether unavoidability or existential necessity alone constitute justifiable grounds for human interventions, or



A special gene in the Belgian Blanc Bleu results in double muscling in the hips and hind legs. This enhances the meat yield but also increases the risk of difficult births (dystocia). Caesarian sections are usually required. (Source: R. Thun)

Examples of different human interests whose different weightings produce opposing results in the evaluation of interests.

Hairless cats are bred as domestic animals. Their ability to retain warmth is impaired, and they often suffer from sunburn and other injuries. Comfort behaviour such as licking, as well as their sense of touch and orientation, are restricted. The argument posited in favour of breeding and keeping hairless cats is that their lack of hair allows people who suffer from allergies to keep a cat. This argument is of minor relevance, given the existence of other domestic animals which do not cause allergies. Moreover, the damage and injury to the animals' interests is significant. Hairless mice are not bred because of their hairlessness but because of their incomplete immune system. They are kept exclusively in sterile conditions in the laboratory and essentially remain healthy. Hairless mice are experimental animals raised for biomedical research, and as such are used to study the functioning of the human immune system. A better understanding of such processes could result in new treatments, for example to combat immune deficiency diseases. In contrast to hairless cats, human interests are accorded more weight in this instance, while the impact on the animals' health appears to be less. (Hairless mouse Source: E. Isenbügel)

Genetically modified animals

whether other criteria provide sufficient justification.

Under all circumstances the following considerations must be taken into account in any evaluation of interests:

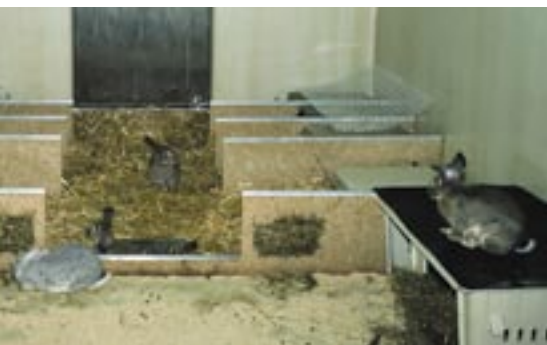
The more serious any interference in the dignity of animals and the more trivial, or even unnecessary, it is in terms of human interests, the more critically it must be evaluated. Conversely, however, the more negligible an intervention is for the affected animals and the more necessary it is in the interest of other living creatures, the more it must be considered tolerable.

The debate on respect for the dignity of creation has been sparked in particular in relation to the production, further breeding and use of genetically modified animals. This is an area in which the possibility to violate the dignity is particularly likely. At present, the production of genetically modified animals comes under the definition of animal experiments and, as such, requires a permit. Attributes peculiar to gene technology are:

- **the high use of animals associated with the technology**
- **the unpredictability of the concrete effects of any intervention on the animals' situation, behaviour and appearance**
- **The possibility of crossing species boundaries.**

The boundaries of conventional breeding lie in the impossibility of species cross-breeding. As yet, the boundaries of gene technology in this respect are unknown.

To determine whether the dignity of animals is respected despite genetic intervention and consequently whether the intervention is permissible, it is necessary to evaluate and weigh the *animal's interests in protection and the human interests in use*. To this end, however, human interests in use must first be determined and weighted. Not only do interests in use differ depending on the breeding objective: their *weighting* varies. The ECNH and SCAE believe that, in order to evaluate interests, it is necessary to differentiate the production objectives for genetically modified animals. By categorising such objectives, the different interests of humans in genetically modified animals can be



Rabbits are kept for the production of antibodies, which are required for diagnostic sets e.g. to identify infectious diseases in humans. The rabbits are repeatedly vaccinated, and small quantities of blood are subsequently taken from them. Provided their treatment is appropriate and they are handled with care, the stress on them is minor. (Source: M. Stauffacher)



English bulldog. The extremely short neck gives rise to breathing difficulties, dental abnormalities, frequent eyelid and skin diseases, as well as hip joint problems and difficult births. (Source: E. Isenbügel)

clearly identified and weighted. The following classification is proposed as a basis for discussion:

Domestic animals and animals for leisure or sport

Working and farm animals

- For pure performance enhancement
- For therapeutic and humanitarian purposes
- For the production of luxury goods
- For the production of foods and other goods
- For medical purposes

Experimental animals

- For basic research
- For applied research

The following aspects of human interests must be taken into account in an evaluation of interests: health, safety, quality of life, pursuit of knowledge, economic and environmental protection, aesthetics, comfort. For the animal's part, the same interests are weighted for all areas of use or consumption: no stress (suffering, pain, distress, injury) or other injuries to dignity (intervention in appearance – including, in the opinion of the SCAE, the "abilities of the animal" –, humiliation, excessive instrumentalisation). In terms of the instrumentalisation aspect, the ECNH and SCAE agree that animal consumption must be kept as low as possible. Also in terms of this aspect, the interest of individual animals in their own, if perhaps "unconscious", existence i.e. their synergetic relationship with the environment (development, preservation of existence and reproduction) must be taken into account.

The majority of members of the Committees take the approach that animal distress corresponding to particular criteria (suffering, pain, fear, injury,

The dignity of an animal is respected if violation of its dignity is considered justifiable on the basis of a careful evaluation of interests. However, dignity is violated if the evaluation of interests shows that the animal's interests outweigh the interests of the other parties.

intervention in appearance, humiliation and excessive instrumentalisation) constitutes an injury to dignity. The dignity of an animal is respected if violation of its dignity is considered justifiable on the basis of a careful evaluation of interests. However, dignity is violated if the evaluation of interests shows that the animal's interests outweigh the interests of the other parties.

In only very few cases, a consistent weighting of interests and thus a compelling result of the evaluation is reached. **However, both Committees unanimously agree that there should be a general prohibition on the production of genetically modified domestic animals, animals for leisure or sport, as well as animals produced solely for the purpose of manufacturing luxury goods. These are areas in which human interests are considered insufficiently important compared to animals' interests.**

In all other areas of use, the majority of members of the Committees calls for a case-by-case evaluation of interests that takes into account varying conditions. However, they continue to call for bans or strict observance of, for example, the "lack of alternative"



The eyes of the overbred "bubble eye" goldfish are enlarged and rotated upwards. Beneath the eyes there are liquid-filled sacs that may be as large as a pigeon's egg. The animal's sight is substantially impeded. (Source: E. Isenbügel)

or “existential necessity” condition. These divergent results of an evaluation of interests reflect, on the one hand, the different predictions of the consequences of a specific procedure. Yet this is precisely where different ethical positions come into play, resulting in more or less weight being accorded to animal interests vis-à-vis human interests.

Even if, for example, the interests of a vertebrate are not weighted in the same way as those of a non-vertebrate in an evaluation of interests, thus reflecting a hierarchical view of the concept of dignity, this does not exclude the possibility of “lower” animals and plants being accorded an inherent value.

The *further breeding, use and keeping of genetically modified animals* does not currently require a permit. The ECNH and SCAE therefore recommend that the law include a *second level of evaluation of interests* governing the further breeding, keeping and use of genetically modified animals. The evaluation of interests at this second level – essentially a more in-depth evaluation of the first-level production interests – must be performed equally for genetically modified animals as well as conventionally bred animals, since genetic engineering is not the only means by which an animal can be harmed. Animals bred in the traditional manner or produced using non-GM methods, may also be exposed to distress or otherwise suffer injury to their dignity. Witness, for example, extreme breeding programmes. **The ECNH and SCAE therefore take the**

unanimous view that genetically modified animals, animals raised by conventional methods, and animals bred as a result of conventional mating programmes, must be granted equal rights in terms of breeding, keeping and use.



Some domestic ducks have large holes in their skull and the brain is deformed. This is due to fatty layers inside the skull, which cause the ducks to suffer from balance disorders. The high-level loss of young among this species of duck is attributable, among other things, to a large cerebral hernia which, together with beak deformations, results in the death of chicks shortly before hatching. (Source: Th. Bartels)



This “fat rat”, the result of a natural genetic mutation, is used in research. It becomes so fat with increasing age that its keeper needs to turn it over if it lands on its back.

The dignity of creation beyond the animal protection law

The discussion regarding a more concrete definition of the dignity of creation generally focuses on the example of animals, and vertebrates in particular. However, the constitution also requires respect for the dignity of creation to be shown to plants as well. The discussion concerning the dignity of "lower" animals and plants is far more difficult to construct than the discussion on "higher" animals i.e. vertebrates.

There is also a problem in the case of "higher" animal species. Apes have a high level of "human" traits such as self-awareness, individuality and reasoning powers. This poses the question of whether these special characteristics can be suitably addressed by the requirement to respect the dignity of creation, or whether the approach to apes and possibly all primates must be governed by special regulations over and above the animal protection law. This issue still requires further examination.



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