

SUMMARIES OF THE PRESENTATIONS AT THE EGALS¹ SEMINAR 2017
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Subjecthood and Personhood: An Evolutionary Perspective

by Dr. Andrzej Elżanowski*

Most if not all vertebrates and probably some other Metazoa (animals as currently defined in science), are sentient. Sentience is the outcome of converting biological values into good (positive) or bad (negative) experience. The good or bad experiences (feelings) are generated in a vertebrate brain by dedicated structures in response to exposure to biologically beneficial or detrimental factors that impact Darwinian fitness. In order to be effective as a reward or punishment for biologically productive or counterproductive behaviors, an experience must be associated with its source object or event. This is what consciousness is about. Sentience is the experiential aspect of consciousness. In operational terms, consciousness is the identification of an object or event using its mental (central) representation. A positive or negative representation motivates appetitive or agonistic behaviors. Having such representations identifies a being as a subject, and acting upon them – as an agent.

Sentience conveys individual interests. Every subject/agent strives to maximize the positive (gratifying) and to minimize the negative (punitive) experience and thus has an interest in everything that allows her/him to achieve that goal. An interest is the positive value of future actions or events for a subject. In line with Western philosophies of law (Hans Kelsen, Alf Ross, Neil MacCormick, Leon Petrażycki) having interests is a sufficient condition for the capacity to hold legal rights. Vertebrates (and possibly some other animals as far as their sentience is demonstrated by science) ought to be granted legal rights and thus be treated as subjects rather objects of law.

However, the recent attempts to extend legal rights beyond Homo sapiens focused on a few mammalian species that share with humans at least basic cognitive faculties of persons: rationality (Boethius, Aquinas, Kant) which, in the basic sense, manifests itself as a conscious choice of means to an end and thus requires an understanding of causality; and the mental projection of oneself through

¹ EGALS is the abbreviation for Educational Group of Animal Law Studies: <http://egals.university/>.

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time and space (Locke) which requires reflective self-awareness (the ability to look upon oneself from an observer's perspective). Projection in the past implies knowing (not only having) once own biography (as opposed to probably unordered memories of non-personal agents). Most (if not all) capacities limited to persons (autonomy, responsibility, language) are contingent upon these two capacities. Reflective self-awareness as revealed by mirror self-recognition tests, and rationality as revealed by tool production and/or spontaneous use, have been demonstrated in the corvid birds (ravens, crows, rooks, magpies, jays etc), elephants, dolphins, and all hominids (humans and great apes). Self-projection in time and space has been demonstrated at least for the corvids and hominids but seems likely to be used by all named birds and mammals. In addition, most if not all of them are capable of empathy, at least the empathic concern of their close companions.

Based on the cognitive attributes of a person, non-human hominids and dolphins (but not elephants who are decimated in most parts of their range) have been proposed to be granted the status of legal persons. These laudable attempts are intended to breach the species(ist) barrier and certainly help to discredit the pervasive human exceptionalism and supremacy. However, in the long term this strategy has at least three drawbacks: (1) The concept of a legal person is largely coextensive with the legal subject and not predicated, at least explicitly or directly, on any cognitive capacities, which is why chimps were refused the status of legal persons. (2) A consensus on the definition of a person is not in sight because a stepwise evolutionary assembly of the personal agency is still under study and because of the heavy bias in the use of personhood in predominantly anthropocentric bioethics. (3) Most important, ethical personocentrism contradicts the equal consideration of (many) interests and assumes that persons are categorically more valuable. In fact, it is unclear why the life of a person should be a priori more valuable than the life of a non-personal subject. Personhood is a self-aware but not necessarily a good agency. At least in primates, it does not translate into "moral" or social goodness, and the evolutionary advent of personhood and simple (proto)morality coincides with the advent of true cruelty as observed in the chimps. Consequently, since the origins of genus *Homo* over 2 ma, the enormous amount of suffering inflicted by humans (to themselves and other vertebrates) may exceed the suffering in nature (non-human predators, weather etc.). Neither does personhood increase the intrinsic value of a life. Peter Singer's claim "that to be harmed by the loss of future, an entity should be aware of itself as having a future" is mistaken and has been widely criticized.

In conclusion, all subjects (sentient beings), not only persons, should be immediately granted some, even if limited, legal rights. In addition to fundamental (ethical) reasons (as outlined above), at

least three practical considerations support this conclusion: (1) whether personal or not, all non-human subjects have to be represented by guardians; (2) having interests is much more straightforward than any personal attributes; (3) public support for limited legal rights of all non-human subjects would be boosted by human bonds with companion animals whose interests are evident even to some lawyers and lawmakers.

The Hopes and Failures of Animal Dereification

by Tomasz Pietrzykowski*

According to article 1 of the Polish Animal Protection Act of 1997, “an animal, as a living creature capable of suffering, is not a thing. Man owes it respect, protection and care. 2. In matters not regulated by specific provisions of this act the rules on things shall apply, as appropriate, to animals”.

The point of this provision is the so-called dereification of animals. This term has been coined from the Latin word “*res*” meaning “thing”. Hence, animal de-reification in this sense means making an animal no longer a thing in law. Similar rules have been passed in many other countries in Europe and elsewhere – Austria (1988), Germany (1990), Switzerland (2003) and France (2015). It is noteworthy that in many countries the relevant provisions are included in civil codes and therefore seem to modify the status of animals in private law only. Contrariwise, the location of the clause within Polish legislation makes it affect the status of animals in all branches of law.

Adoptions of dereification clauses were usually accompanied by high expectations, in particular on the part of pro-animal activists and the public opinion. Many believed that it was a decisive step forward – if not an epoch-making breakthrough in the development of animal rights. Others, however, approached it more skeptically, pointing out that dereification unaccompanied by other legislative changes would probably remain a noble ideological declaration with no significant effect on the actual legal practice.

After 20 years, it has become clear that the scepticism was well-justified. Although general standards of animal protection have been gradually increasing over time, it does not seem that such legal progress is in any significant way related to the act of dereification. In Poland, the very rule dereifying animals is often invoked in legal and public discourse but does not seem to have had any material effects

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on either actual legal practice or social attitudes. Several important rulings of the highest Polish courts in recent years have also lent support to the view that dereification actually turned out to be inconsequential.

A good example of such a landmark case may be the judgment of the Supreme Court pertaining to the question of the animal as a victim of illegal conduct. Polish law allows pro-animal NGOs to partake in criminal proceedings and “exercise the rights of a victim” of a crime or an offence against animals (such as animal abuse or unlawful killing). The Supreme Court resolved that an animal must not be legally regarded as a victim (whose rights in the proceedings are exercised by an NGO) because it is not a person in law. Thus, an NGO entering criminal proceedings must be held as exercising the rights of an owner or a caretaker of an animal as the formal victim wronged by such crimes (V KK 370/13, 2014).

Similarly, jurisprudence as well as legal practice supported by popular legal consciousness continue to regard animals as legitimate objects of regular ownership, sale or storage, as if they were ordinary commodities. All standard private law transactions are executed and performed principally in the same way as for any other kinds of property. In private law doctrine, it is pointed out that, despite animal dereification, „the difference between the content of the right to an animal and ordinary property rights is neither theoretically nor practically significant” (M. Goettel, *Sytuacja zwierzęcia w prawie cywilnym* (situation of animal in private law). Warszawa: Wolters Kluwer 2013, p. 423).

The most striking example of the actual immateriality of dereification is the famous judgment of the Polish Constitutional Tribunal of 2014 (K 52/13) on the ritual slaughter of animals (being one of the most shameful and compromising legal mistakes in the whole history of the court in question). The decision was based on the argument that, while the Constitution protects the freedom of practicing religious rituals, animal welfare is not a legal value of constitutional rank. The concern for animals could limit religious freedom only as a part of the constitutional concept of ”morality” but – according to the Tribunal – the moral relevance of animal suffering remains unsettled to this day (!). Irrespective of all such bizarre findings produced by the Tribunal, what seems crucial here is that, in its whole reasoning, it did not even mention the dereification clause. On the contrary, it did not find it an obstacle to conceive animals as practically nothing more than objects of constitutionally protected religious rituals.

All this raises the question whether dereification is inherently futile or just not construed correctly, due to a lack of sufficient theoretical elaboration. My tentative answer to that question is that the present situation of animals could significantly be improved by means of a much more extensive and assertive interpretation of the legal consequences implied in the present dereification clauses. In the long run, however, the legal status of animals should be upgraded to *non-personal subjects of law* by means

of a properly drafted constitutional amendment, without which the clear limitations of the sole statutory dereification cannot be overcome.

Protection of Animal Dignity in Swiss Law

by Gieri Bolliger*

With regard to animal welfare law, Switzerland has repeatedly assumed a pioneering role. This is reflected, for example, in the fact that animal welfare has been one of its constitutionally protected national objectives for over forty years. Furthermore, the Swiss Animal Welfare Act (AWA) is generally considered one of the most progressive and strict in the world.

The AWA protects not only the well-being of animals but also their dignity. In 1992, Switzerland amended its Federal Constitution by adding a provision requiring the legislature to pass laws on the use of reproductive and genetic material from animals, plants, and other organisms, and in doing so, to take into account the "dignity of living beings", including animal dignity. Following the introduction of this constitutional provision, in 2008, protection of animal dignity was enshrined in the AWA. Originally, animal dignity was a theological and philosophical concept that now, after its implementation into legislation, represents a fundamental principle as well as a main purpose of Swiss animal welfare law.

The concept of animal dignity protection is based on the conviction that animals are not primarily in the world for human interests. On the contrary, they exist for their own sake and are to be legally protected in their species-specific characteristics, needs, and behaviors as well as in their inherent worth, which provides animals protection beyond their physical and mental well-being. This concept is still unique in the world and represents a biocentric expansion of Swiss law by granting animals a moral value irrespective of their sentience. It signifies protection of an animal's inherent worth including ethical (non-sentientist) aspects that are not necessarily associated with any physical and mental injury, such as humiliation, excessive instrumentalization, and substantial interference with an animal's appearance or abilities. Going far beyond the pure sentientist protection from pain, suffering, harm, and anxiety, the concept represents – both for animal welfare and animal welfare law – a new dimension in animal law in general and has drawn tremendous attention and interest from all over the world.

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Against the background of animal dignity protection, the Swiss legislature passed a number of reforms and amendments including a criminal provision. Since 2008, the AWA explicitly prohibits the disregard for animal dignity and includes a criminal offense for this in the rank of animal cruelty. This is equal to other severe animal welfare crimes, such as mistreatment, neglect, cruel or mischievous killing, or abandonment. Under the AWA, anyone who, for example, "mistreats, neglects, unnecessarily overexerts an animal, or disregards its dignity in any other way" commits an act of animal cruelty (article 26, paragraph 1, litera a AWA). As seen, disregarding animal dignity "in any other way" includes, for instance, humiliation, excessive instrumentalization, or substantial interference with an animal's appearance or abilities as long as there is no justification by prevailing interests. The statutory language clarifies that the mistreatment, neglect, or unnecessary overexertion of animals also constitute a disregard for their dignity. All animal cruelty cases in Switzerland qualify as misdemeanors and are penalized with a custodial sentence (imprisonment) of up to three years or a monetary penalty that can amount, depending on the offender's income, at least theoretically, up to more than one million Swiss francs.

However, in contrast to human dignity, animal dignity is given only a relative value in Swiss law, meaning that violations of animal dignity can usually be balanced out and legally justified by prevailing human interests. As a result, also in Switzerland, there are a number of highly questionable uses of animals that are still considered legitimate and are neither subject to legal scrutiny nor essentially questioned by society. Consequently, highly debatable practices, such as animal experiments, the intensive keeping of farmed animals, or the presentation of wild animals in circuses, are legally restricted – maybe more than elsewhere – but are still permitted. In other words, Swiss law still legitimizes the use of animals in general, and even the national animal welfare law itself contains numerous provisions that allow severe harm to animals for various "intended uses".

Significant deficits exist not only in Swiss legislation, but also in the enforcement of the animal dignity concept by the cantonal criminal and administrative authorities. Protection of animal dignity is still hardly reflected in judicial decisions, and even in criminal cases in which offenders obviously violate absolute animal welfare prohibitions (for example cases of zoophilia), judicial authorities barely recognize and address the forbidden activities as disregarding animal dignity. Furthermore, judgments on the non-sentientist aspects of animal dignity are still almost non-existent. The criminal authorities seem to refrain from addressing and sanctioning activities that are not necessarily associated with pain, suffering, harm, or anxiety for animals. However, neither from a constitutional standpoint nor from an animal welfare view, is it acceptable that the statutory animal cruelty offense of disregard for animal

dignity is largely ignored in practice. As a result, there is a lack of lawsuits concerning even obvious disregards for animal dignity, such as excesses in animal breeding or unnatural performances of wild animals in circuses. This is even more troubling as animal dignity protection represents a central purpose of Swiss animal welfare law, while its disregard, like any other animal cruelty, constitutes an offense that must be prosecuted and punished *ex officio* by the competent authorities.

These circumstances clarify the urgent need for better education of Swiss law enforcement authorities regarding animal welfare law in general and the meaning and significance of the animal dignity concept in particular. Additionally, an increase in awareness of animal dignity protection is essential in Swiss society as a whole, especially since offenders can only be prosecuted if the competent authorities are informed about criminal acts, and this requires willingness to file criminal charges by attentive and educated citizens.

Animal dignity protection is a relatively new concept and the possible implications have yet to be fully understood. This takes time and patience, but various positive incipient stages in Swiss animal law are obvious. Even if the recognition of animal dignity neither signifies that the use of animals by humans is essentially questioned nor that animals are provided with their own rights, the animal dignity concept unquestionably represents a milestone for animal welfare law. With this fundamental new approach, Switzerland has taken an ambitious and farsighted step forward into a new sphere of legal animal protection. Admittedly, there are still many other – and perhaps more important – animal welfare issues to be solved than protecting animals from non-physical stresses such as humiliation or excessive instrumentalization. However, the animal dignity concept includes a programmatic dimension, the importance of which should not be underestimated. Protection of animal dignity has a strong appellative character and the respective demands from humans are not only scientific objectivity and logic, but also empathy and a deep personal commitment when assessing an animal's interests. One can assume that once the animal dignity concept has found broad acceptance, both within society and legal institutions, general awareness of the need to protect animals from any kind of cruelty will rise enormously. In other words, a progressive animal welfare concept like Swiss animal dignity protection can indeed prove to be the motor of change in societal perceptions that subsequently pave the way for further developments in animal welfare legislation and the interpretation of other laws as well as for improvements in jurisdiction.

Protection of animal dignity delivers an important message: Swiss law acknowledges animals as autonomous beings with an inherent worth that must be protected for their own sake and not merely as a reflection of their owners' rights. Against the background of an increasingly and highly welcomed

international collaboration in animal law matters, the Swiss animal dignity concept can hopefully serve as a role model for other countries, regardless of terminology.

For more information see Gieri Bolliger, *Animal Dignity Protection in Swiss Law – Status Quo and Future Perspectives*, Zurich 2016.

The Principle of Proportionality in Animal Experimentation – A Dead Letter?

by Katerina Stoykova *

The principle of proportionality is embedded in almost every national legal system and is consequently a fundamental principle of Swiss law, including Swiss animal experimentation law. It requires that measures in the public interest be weighed up against encroachments on private – i.e. individual – interests or fundamental rights. The Swiss Federal Constitution enshrines this principle in Article 5 (principles of the rule of law): “State action must be in the public interest and proportionate.” In general, the principle states that a measure must be a suitable or appropriate as well as a necessary means of asserting a public interest, and it has to be weighed against the interference with the private interests concerned. Consequently, the purpose and the effect of a measure or intervention must be proportionate. In other words, measures of low public interest that constitute at the same time a serious interference with individual liberties and rights must be avoided. In addition, the principle stipulates that, in the case of several possible measures which are all in the public interest, the milder measure should always be given preference. Lastly, the conflicting interests must be weighed against each other to determine whether the end justifies the means.

Fundamental rights can be interfered with if this is necessary to protect other constitutional rights or fulfill constitutional responsibilities. With regard to animal experimentation, the fundamental right of academic freedom (Article 20 of the Federal Constitution) may, under certain circumstances, need to be restricted because the government is constitutionally required to ensure animal welfare (Article 80 of the Federal Constitution) and the observance of the dignity of living beings is a constitutional principle (Article 120, Paragraph 2, of the Federal Constitution).

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Thus, the rules of animal experimentation law result from this weighing up of interests on a constitutional level: animal welfare and animal dignity are specifically protected by the Animal Welfare Act, which stipulates in Articles 3 and 4 that animal dignity is violated when stress is imposed on an animal without justification on grounds of prevailing interests and that no one shall inflict pain, suffering, harm or anxiety in an animal or disregard its dignity in any other way without justification. This goes to show that animal experiments cannot be justified solely through the objectives pursued, but are, at least in theory, subject to a rigorous proportionality assessment.

This means that every planned animal experiment must be weighed up against the interference with the wellbeing and dignity of the animal involved by means of a so-called harm-benefit analysis. In other words, the specific interests on the research side, which are conclusively defined in Article 137 Paragraph 1 of the Animal Welfare Ordinance, must be balanced against the stress on the animal resulting from the experiment so that it can be determined whether the desired objective of the experiment justifies the means and the adverse effect, respectively, on animal welfare.

To assess whether an experiment is justified, it is necessary to carry out a three-stage proportionality test, whereby the experiment is evaluated with regard to its suitability and necessity and the conflicting interests are weighed against each other by means of a harm-benefit analysis. All three requirements must be satisfied cumulatively – i.e., the experiment must be suitable and necessary and the anticipated benefit must outweigh the harm caused to the animal(s) – or else the experiment, at least in theory, cannot and must not be approved by the licensing authority.

First, the licensing authority must assess whether the experiment is suitable for providing answers to the questions posed by the applicant. A distinction is made between direct and indirect suitability: the former states whether the specific method/experiment is suitable for achieving the desired result in the animal at hand, while the latter answers the basic question whether the acquired data is transferable to humans (or other animals).

Unfortunately, both the direct and indirect suitability of an experiment are rarely, if ever, questioned by the authorities, despite the fact that it is usually unclear whether a certain animal is an adequate testing subject in a specific experiment or if an experiment will give a satisfactory answer to a particular question (e.g., is a frustrated mouse a suitable subject to examine the causes of depression in general?), while the transferability rates of the acquired data (from animals to humans or to other animals) have been proven to be very low. Furthermore, experiments are generally conducted under isolated conditions, therefore making it nearly impossible for them to be reproduced in other environments. The

authorities are also generally reluctant to carefully scrutinize the quality – i.e., the informative value – of a specific experiment in retrospect.

The question of suitability also includes the distinction between basic and applied research. Basic research is experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any particular applications or use in view. Applied research is also undertaken to acquire new knowledge; however, it is directed primarily towards a specific practical aim or objective. It can hardly be assessed whether any benefits will result from the insights gained from basic research and whether there actually are any user interests at hand. The application of (positive) insights or the expected benefit gained from basic research is therefore very uncertain, which is why the question of suitability in this respect can almost never be answered positively. And yet, despite this, the licensing authorities rarely reject applications both for applied and basic research with animals.

This is in particular due to the composition of the committees on animal testing. Every Swiss canton has its own committee, which is composed of a certain number of representatives of research, animal welfare, and ethics and/or a veterinarian. In the canton of Zurich, the committee on animal testing consists of seven representatives of the University and Federal Institute of Technology (ETH), an ethicist, three animal welfarists (currently with expertise in veterinary medicine, biology, and legal sciences), and a veterinarian. This imbalance clearly shows why animal experiments are hardly ever considered unsuitable.

The second stage of the proportionality assessment aims to determine whether the experiment is necessary at all. In general, every animal experiment is subject to the 3R principle, according to which available methods must be applied to replace, reduce, and refine animal use. The licensing authority must thereby examine whether the applicant has rightly ruled out the use of alternative methods, i.e. those that do not involve the use of animals. The Animal Welfare Act also specifically requires the government to promote alternative methods. However, government funding for the development of alternative research is still extremely low compared to the funds provided for experiments involving animals (currently the government spends approx. 76 million Swiss Francs on research in general, often comprising animal experiments, while the specific funding of alternative methods that amounted to a mere 300.000 Swiss Francs was discontinued in 2016. Even though, according to the Federal Food Safety and Veterinary Office, greater attention is to be given to alternative research in the future, the question as to when, how, and in what form the federal government intends to fulfill its mandate remains unclear.

If the authority concludes that the planned experiment is suitable and necessary to achieve the objective, it must balance the conflicting interests and determine whether the user interests outweigh the interests of the animals involved by means of a so-called harm-benefit analysis. Because it is virtually impossible to predict whether the experiment will yield a benefit or lead to the desired goal, it is very difficult to balance such potential user interests and the evident interests of the animals involved in being spared stress, pain, fear, anxiety, etc. This is especially true for basic research where no tangible application can be anticipated a priori.

Accordingly, a recent case concerning the authorization of basic research on primates in Zurich, Switzerland, led to a huge public outcry. In 2009, two experiments with primates were forbidden by the Supreme Court, which held that the anticipated benefits are so unclear that they can in no way justify the certain harm inflicted on the animals. Despite this precedent case, in 2017, the Zurich committee on animal testing approved a new application for basic research on primates by a researcher at the Federal Institute of Technology. This is particularly disturbing because not only is there a precedent set by the Supreme Court, but the current experiment is also very similar to the one that had been planned in the 2009 case. This goes to show just how political and arbitrary the decisions of the licensing authorities are. In Zurich, the members of the committee on animal testing are selected by the State Council, which, after the 2009 setback for animal experimentation, did everything possible to establish a more research-oriented composition of the committee to ensure Zurich remains a popular site for scientific research.

In conclusion, it must be stated that, in theory, the interests of the animals and those of the user, i.e. the researcher and humans in general, have equal constitutional status and severe harm or pain cannot be justified by any benefit whatsoever. In practice, however, the decision-making bodies follow a very research-oriented approach and hardly ever raise ethical questions when assessing applications for animal experiments. This leads to very one-sided decisions and the entire three-stage proportionality assessment is reduced to an empty shell.

What Is Animal Law?

by Birgitta Wahlberg*

Animal law is globally taking shape as a new area of law. Thereby also the theoretical ground of the subject and the teaching of the subject is under development. Partly due to the failure of the concept of ‘animal welfare legislation’ and protection of animals as objects of law, the legal questions and cause of concerns are increasingly raised in society concerning the protection and legal status of animals. At the crossroads of different disciplines animal law jurisprudence has to respond both to the theoretical and practical legal questions raised. This, in turn, has an impact on how we understand and what we teach as ‘Animal Law’.

The aim of this presentation was to raise awareness of the ongoing process of development in the field of animal law and to make some preliminary thoughts and outlines of future development areas. As animal law is at the forefront of its development and have not yet established its place in the field of different law disciplines, these outlines must also be read from that viewpoint.

Currently animal law is taught in several universities and there are hundreds of animal law courses arranged annually around the globe (Animal Law Courses Globally: https://www.google.com/maps/d/viewer?mid=1Hdgt9cZy_JxSsv0QnAmJ_xAKQbU&ll=14.42242218_1857963%2C-83.65962209999992&z=2). Animal law, as taught at present, mainly explores the content, interpretation and application of the animal protection legislation in force on different levels of law (constitutional, domestic, state) and/or the outcomes of current case law (including litigation). In other words, exploring the law as *de lege lata*. Yet, some animal law courses includes fundamental questions about the relation between human (*homo sapiens*) and nonhuman legal positions, and explores the nature, history and impact of legal rights and/or interests on animals and on human-nonhuman legal relations. Thereby, in other words, also using *de lege ferenda* arguments.

Thus, substantially the majority of the animal law classes taught at present are focused on an ‘animal welfare and protection law’ point of view, overlapping with traditional areas and theories of law, and a minority of the courses are focused on an ‘animal rights or interest law’ point of view, or other aspects of law which have an impact on animals lives or living conditions. Accordingly, a general

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perception is that ‘Animal Law’ is the same as ‘animal protection’, – as animal protection is taken care of in legal terms in different legal systems –, often combined with some ethical questions concerning the use of animals for human purposes. Since there is no existing, common, global and established definition of ‘Animal Law’, in practice, each teacher can define ‘Animal Law’ as they want or choose not to define it at all.

However, the denotation of how animal law is defined has a significant impact on our understanding of the field of law and on how the content is taught to students, – comprehending the basic understandings and theories (which are fundamentally quite similar regardless of the legal system, e.g. questions combined with animals legal status) and more specific legal themes and questions of concern (which can be quite different based on different legal systems). Thus, it is fundamentally important, at this stage of development, that the following questions are considered by the EGALS: Is animal law part of any traditional field of law which relates to animals (depending also on the questions raised and methods used in research), or is it – or should it be – consciously developed into a specific field of law such as e.g. environmental law? To simplify, what makes animal law to ‘Animal Law’?

The peculiarity of animal law in relation to other fields of law and disciplines of science can be summarized into four points; 1) animal law comprises legal matters concerning non-human animals (only animals hereafter) from a non-anthropocentric point of view taking into account animals welfare, interests and rights – i.e. implying that the legal questions related to animals are to be considered from a zoocentric perspective (which facilitates the interests of all species thoroughly taken into account), 2) animal law is multidisciplinary, in a sense that all the legal questions cannot be answered without knowledge from other fields of science such as e.g. natural science, political science and science of economics, 3) animal law is ‘multijurisprudential’, meaning that even though animal law is, or should be considered as a specific field of law and jurisprudence, the theories from other fields of law such as e.g. constitutional law, administration law, environmental law and criminal law, as well as the theories of different legal systems, are needed for the protection of animals – both in the spectrum of the ‘welfare’ concept as of the ‘interest’ and ‘right’ concept – and the development of animal law as a new field of law and jurisprudence, 4) The fundamental theoretical legal questions which are raised within the framework of animal law is of international matter, e.g. the legal status of animals and its impact on the protection of animals.

The division of different areas of law and their content and theories are constantly evolving by nature rather than to be permanent and unchangeable. The legal science subject currently called ‘Animal

Law' is partly reasserting animals legal position, partly describing and explaining the content, interpretation and enforcement of the legislation concerning the protection of animals, while the theory of animal law should explore the theoretical basic assumptions of the research subject (animals) and the fundamental questions in relation to that subject, – as the essence of 'Animal Law'. In other words, to summarize, the content of 'Animal Law' should relate to the theoretical understandings and practical issues of animal protection as an own subject within the jurisprudence.

Animal law – or should it actually be called Animal Jurisprudence – provides legal knowledge and understanding of animals and establishes a fundament for practical animal law issues to be solved. As animal jurisprudence it should include at least three focus areas or branches: the animal welfare and protection area, the animal rights area and the area of regulations which are secondary to animals, but that involves, affects, or implicates on animals by regulating about human actions without imposing either indirect and enforceable duties upon humans to treat animals in a certain way or granting rights to animals themselves. All these three areas of law and regulation should be reviewed in classes in the light of animals legal status in terms of *de lege lata* and *de lege ferenda*.

How the field of law is understood and taught should provide students and researchers a broad picture of the animal jurisprudence, both for the benefit of coexistence between humans and other animals, and the development of the subject as part of the science of law.