

[About](#)

[Admissions](#)

[Academics](#)

[Faculty](#)

[Student Life](#)

[Library](#)

[Career Services](#)

[Giving](#)

[Calendar](#)

/ [Center for Animal Law Studies](#) / **Overview of Switzerland's Progressive Factory Farming Ban Initiative**

 MENU



Overview of Switzerland's Progressive Factory Farming Ban Initiative

This piece was written for Lewis & Clark's Emerging Topics in Animal Law course. All views expressed are those of the author.

By Jamie McLaughlin

Switzerland was the first country to ban battery cages for egg-laying hens,[1] and it could potentially become the first to impose a ban on factory farming. Sentience Politics, a Swiss political think tank that has also led campaigns seeking sustainable food and primate rights, has spearheaded the “No Factory Farming in Switzerland” initiative.[2] Launched in June 2018 with the help of other animal rights activists and organizations, the initiative received over 100,000 signatures which were submitted to the Federal Chancellery in Bern on September 17, 2019.[3] Switzerland has a direct democracy, allowing citizens and political or social groups to propose their own ballot measures.[4] By gathering at least 100,000 signatures within an 18-month period, citizens can propose changes to Switzerland’s Constitution.[5] This system enables citizens to advance initiatives that may not be a priority for Parliament.[6] In October 2019, the Federal Chancellery confirmed that Sentience Politics had submitted over 106,000 certified signatures, qualifying the initiative for submission to Parliament.[7]

The No Factory Farming in Switzerland initiative would modify Article 80 of the Swiss Constitution to abolish all factory farming within 25 years.[8] Article 80, The Protection of Animals, calls for regulation of animal care, keeping, use, transport, slaughter, trade, and import, including importation of products made from animals.[9] These practices are governed under Switzerland’s Animal Welfare Act (“AniWA”).[10] While Article 6 of AniWA prohibits animal husbandry methods “that contravene the basic principles of animal welfare,”[11] Article 7 allows for “mass-produced housing systems and installations for farm animals.”[12] These two articles are contradictory, because housing systems used in factory farming diminish animal welfare. If the initiative to ban factory farming were to pass, its 25-year transition period will allow time for Swiss farmers to convert from industrial animal agriculture methods to practices that increase farmed animal welfare.[13]

The Dignity Concept Applies to Swiss Farmed Animals

At the core of the No Factory Farming in Switzerland initiative is the application of the concept of “dignity” to farmed animals. Swiss Constitution Article 120, Non-human Gene Technology, Section 2 calls for “the dignity of all living beings” to be accounted for when developing nonhuman gene technology.[14] AniWA Article 3 includes this dignity concept and defines dignity as “the inherent worth of the animal that must be respected when dealing with it.”[15] “If any strain[16] imposed on the animal *cannot be justified by overriding interests*, this constitutes a disregard for the animal’s dignity.”[17] Unlike the U.S. Animal Welfare Act, AniWA does not exempt farmed animals. As a result, farmed animals are by law entitled to dignity under Switzerland’s Animal Welfare Act. However, the Swiss Animal Welfare Ordinance,[18] AniWA’s enabling statute, allows for many husbandry practices that do not reflect this. This means that the dignity of farmed animals in Switzerland is protected in theory, but not in practice. Overriding interests typically prevail over the dignity of farmed animals.

Katerina Stoykova[19] of Foundation for Animals in Law (Tier Im Recht “TIR”) is involved with the initiative. When Sentience Politics approached TIR to obtain a legal opinion of the initiative, Katerina joined the board[20] of the “Yes to the initiative against factory farming” association. She says that the initiative addresses the central need to legally apply the dignity concept to farmed animals:

The animal dignity concept is a constitutional principle that is reflected in the animal welfare legislation. Article 1 AniWA states that the purpose of the Act is to protect the dignity and welfare of animals. Farmed animals are not exempt from the scope of dignity protection and are to be respected in their inherent worth. It is forbidden to inflict pain, suffering or harm on an animal, induce fear in an animal, or disregard its dignity in any other way without justification (article 4 AniWA)...For a violation of animal dignity to be considered justified, the user interests must be weighed against the animal’s interest through a so-called balancing of interests. If the user’s interests do not suffice to justify the violation, the latter is considered an impermissible disregard for animal dignity.[21] As Gieri Bolliger notes, given that the dignity of living beings has a stance equal to that of fundamental constitutional rights, granting general priority to human interests is unconstitutional, because it undermines the core content of animal dignity protection and reduces it to an empty phrase.[22] In practice however, the dignity of farmed animals has become just that: A hollow notion serving as a Swiss agribusiness flagship, brought forward as an example of Switzerland’s high animal welfare standards at every occasion by animal use industries, and also by the Swiss government, to justify the ongoing intensive use of farmed animals and perpetuation of highly questionable practices.[23]

The unjustified strain of physical pain and suffering on animals does not respect their dignity.^[24] Additionally, AniWA states that animal dignity is disregarded when an animal “is exposed to anxiety or humiliation, if there is major interference with its appearance or its abilities or if it is excessively instrumentalized.”^[25] Human interference with farmed animal appearance or abilities, and excessive instrumentalization are common in industrial animal agriculture. For example, while Swiss advertisements feature cows with intact horns, about 90% of cattle in Switzerland are dehorned.^[26] Horns are primarily removed in order to reduce required barn space per cow.^[27] Dehorning is painful and may have lasting negative effects on the individual animal, but the practice is justified by farmers as a way to prevent injuries to other cows or humans.^[28] Increased barn size and more careful handling would make this modification unnecessary.^[29]

Additionally, farmed animal species are subjected to excessive instrumentalization^[30] through genetic modification to suppress or enhance traits that benefit the agricultural industry. Chickens in Switzerland have been “genetically programmed [for] negative correlation between reproductive and fattening performance...”^[31] “[T]he modern poultry industry relies on birds genetically selected to be highly productive in either egg or meat production, but not both.”^[32] Dual-purpose poultry is being bred by crossing layer hens and broiler chickens to create a line that produces both female egg layers and male broilers in an attempt to eliminate culling of male chicks.^[33] Practices like genetic modification, dehorning or other mutilations, may be recognized as customary Swiss animal husbandry practice, but they conflict with AniWA’s dignity requirement. The initiative’s proposed welfare standards would deem such practices unjustified.

Welfare Standards for Swiss Farmed Animals

Dignity for Swiss farmed animals could be achieved through higher mandatory welfare standards. The No Factory Farming in Switzerland initiative would create higher welfare standards by applying Bio-Suisse Guidelines as the baseline model for new animal husbandry regulations.^[34] Bio-Suisse is a private organization representing Swiss organic farmers that imposes rigorous standards for the use of their organic label.^[35] The 2021 Bio-Suisse standards for animal husbandry are extensive, calling for “[t]he species-specific needs of all domestic animals [to be] respected.”^[36]

A counter-initiative to No Factory Farming in Switzerland has been submitted to Parliament by the Swiss Federal Council.^[37] The counter-initiative opposes the use of Bio-Suisse standards.^[38] Instead it would use current Regular Outdoor Exercise program standards (“RAUS”), changing RAUS from voluntary^[39] to mandatory.^[40] The RAUS program provides government subsidies to farmers who adopt this set of voluntary welfare guidelines. While RAUS standards are publicly perceived as animal-friendly welfare improvements, in reality RAUS standards are marginally better than conventional Swiss farming practices.^[41] One welfare improvement under RAUS regulations requires that animals be offered outdoor space.^[42] However, for pigs, a small barren pen is sufficient^[43] and the RAUS outdoor space requirement is .65m² per pig.^[44] Although cows must be allowed to spend 26 days per month on pasture in the spring and summer and 13 days per month on pasture in the fall and winter, while in the barn they may be tethered in a stationary position with a rope around their neck and a second rope attached to their tail.^[45] RAUS does not limit the number of animals kept per farm, allows the same slaughter age as conventional farming, and does not prevent the use of genetic manipulation.^[46] Additionally, the counter-proposal states that mandatory RAUS standards would not apply to broiler chickens or rabbits.^[47] Because the Swiss Federal Council has based its counter-proposal on RAUS, their initiative offers minimal animal welfare improvement over current conventional farming practices.

In comparing the Bio-Suisse standards proposed under the No Factory Farming in Switzerland initiative with the RAUS standards of the counter-proposal, it is clear that farmed animals will have a significant welfare advantage were Bio-Suisse standards to be applied as a welfare baseline. Bio-Suisse standards are species-specific, and “lifetime productivity rather than maximum output is the goal over the animal’s lifetime.”^[48] The Bio-Suisse standards require outdoor access as well as bedding, limit the numbers of animals per farm, mandate types of feed for each species, and contain many other species-specific requirements.^[49]

While there is some overlap of the Bio-Suisse and RAUS standards, specific examples help illuminate the heightened farmed animal welfare requirements under Bio-Suisse. For instance, RAUS standards place no limit on numbers of animals per farm and

“Switzerland allows poultry farms to house up to 18,000 birds.”^[50] However, under Bio-Suisse standards, flock size “may not exceed 4,000 [chickens] per housing unit. A housing unit is one or more buildings where up to 4,000 [chickens] are reared.”^[51] Bio-Suisse broiler chicken farms may have no more than two housing units.^[52] A broiler chicken flock size of 8,000 under Bio-Suisse as compared to 18,000 under RAUS could equate to a significant welfare increase for the birds.

Under conventional farming rules, “fattening” pigs weighing up to 110kg are allowed a total area of .9m², while under RAUS, pigs are allowed 1.55m².^[53] Bio-Suisse standards require a slightly larger total area of 1.65m² per pig.^[54] Additionally, when the outdoor temperature is 25°C or higher (77°F), “[a] shower or wallow must be available...and [t]here must be shaded areas” for cooling.^[55] Under Bio-Suisse standards, “a rooting area is mandatory” for pregnant sows to “satisfy their natural urge to root.”^[56] “A rooting area is an integral part of the husbandry system...” and “[r]ooting areas may contain well-decomposed compost, forest soil, branches, bark chippings and leftovers from the trough, etc.”^[57] By adopting these requirements Bio-Suisse standards account for the specific needs of pigs.

Dairy farms typically separate mother cows from their newborn calves almost immediately after giving birth to prevent her baby from drinking her milk.^[58] In comparison, Bio-Suisse standards mandate that a suckling calf cannot be removed from her mother prior to three months of age.^[59] Weaning is extremely stressful and early separation of a dairy calf from its mother may have longer term negative effects on calves.^[60] Other notable Bio-Suisse welfare standards include: the prohibition of “tail-docking, tooth cutting, debeaking, toe-clipping and wing-clipping of poultry, [cajonizing],... dehorning of adult animals...[and pig nose rings];”^[61] mandatory medical treatment of sick or injured animals,^[62] and required anesthesia for the slaughter of fish.^[63] Comparison of RAUS and Bio-Suisse indicates that the application of Bio-Suisse standards as a baseline would provide greater farmed animal welfare protections.

The No Factory Farming in Switzerland initiative is complex and somewhat broad, requesting many changes to Swiss husbandry practices. In distilling down the initiative, TIR’s Katerina Stoykova considers the following to be the most crucial changes needed:

Explicit inclusion of farmed animal dignity into the Constitution and, consequently, a ban on practices that most obviously violate animal dignity, such as dehorning cattle, culling of day-old chicks or the use of unhealthy animal breeds, solely for economic reasons. Also, for the initiative to truly have an impact, there is an urgent need for smaller herd sizes, even though Switzerland already has an ordinance regulating maximum stock levels. Another crucial aspect is import regulation. The Federal Council is very cautious when it comes to implementing trade barriers of any kind, so this will prove a difficult endeavor (in its counterproposal, the Federal Council already signaled its aversion to an import ban). It seems like the most realistic outcome would be a declaration requirement for products that do not meet Swiss standards. However, we will try to push for more, in order to prevent animal products from outside (that will presumably be much cheaper) to flood the Swiss market.^[64]

Initiative Status as of Fall 2021

The initiative and counter-proposal are now being debated in Parliament. If the initiators of No Factory Farming in Switzerland do not agree to modifications, the verbatim initiative can go to the Swiss public for a vote, along with the counter proposal.^[65] Under those circumstances, whichever proposal gets the highest vote count would be adopted. However, Parliament can negotiate with the initiators to revise the initiative, possibly to include the most crucial aspects noted above by Stoykova, and removing some less important points.^[66] In this case, Parliament would put forward an indirect counter proposal that would modify the initiative, proposing amendments to existing legislation without changing the Swiss Constitution.^[67] For example, Parliament could present options to amend the Animal Welfare Act or the Act on Agriculture to incorporate the changes demanded by No Factory Farming in Switzerland. For this to succeed, the initiators would need to agree to the changes by pulling back the initiative.^[68] As this process continues, Swiss citizens can influence the process through public comment.^[69]

At the heart of the initiative is the need to acknowledge and apply the concept of dignity, present in the Constitution and the Animal Welfare Act, to farmed animals. While they may be protected better than in other countries, in reality Swiss farmed animals are not

protected as well as Swiss citizens believe.^[70] Switzerland's constitutional principles of animal welfare must be upheld in practice as in theory. Under Bio-Suisse standards, the dignity guaranteed to farmed animals by the Swiss Constitution and AniWA will have a chance to be recognized. Improved welfare standards would give farmed animals some of the simple things that we as humans take for granted: the ability to go outdoors, sunshine, a soft place to sleep. These needs are basic to us and should not be seen as luxuries for them. Maybe Swiss Parliament will consider this as they continue to debate the farmed animal welfare standards of the initiative and counter-proposal. Switzerland has another opportunity to make history, as they did when they were the first country to ban battery cages. If they succeed in adopting higher farmed animal welfare standards, Switzerland will raise the bar for animal agriculture practices worldwide.

Footnotes

[1] Appleby, M.C., *The EU Ban on Battery Cages: History and Prospects*, in D.J. Salem & A.N. Rowan (Eds.), *The State of the Animals II*, 165, Humane Society Press Washington, DC (2003),

https://www.humanesociety.org/sites/default/files/archive/assets/pdfs/hsp/soa_ii_chap11.pdf.

[2] *Initiatives, Switzerland: Abolition of factory farming*, Sentience Politics, <https://sentience-politics.org/de/politik/>.

[3] *Initiative against Factory Farming*, Foundation Franz Weber, <https://www.ffw.ch/en/projects/initiative-against-factory-farming/>.

[4] Julia Slater and Olivier Pauchard, *The Swiss Vote More Than Any Other Country*, Swiss Info, (March 29, 2010),

<https://www.swissinfo.ch/eng/the-swiss-vote-more-than-any-other-country/8483932>.

[5] *How Many Steps Does It Take to Pass a Swiss Law?*, Swiss Info, (December 2, 2019),

https://www.swissinfo.ch/eng/explainer_how-many-steps-does-it-take-to-pass-a-swiss-law-/45280436.

[6] Slater, *supra* note 4.

[7] Yes+ Initiative, <https://factory-farming.ch/initiative/>.

[8] *Id.*

[9] Bundesverfassung [BV] [Constitution] Apr. 18, 1999, art. 80 (Switz.).

[10] Animal Welfare Act of 16 December 2005, (Switz.), https://www.fedlex.admin.ch/eli/cc/2008/414/en#chap_1.

[11] Animal Welfare Act of 16 December 2005, art. 6 (Switz.), https://www.fedlex.admin.ch/eli/cc/2008/414/en#art_6. Note that because the text cited is an English translation of the Swiss Animal Welfare Act, and English is not an official language of Switzerland, this quote may not be a verbatim translation of Article 6. All quotes of the Swiss Constitution and Swiss law in this blog post have been taken from English translations as cited.

[12] Animal Welfare Act of 16 December 2005, art. 7 (Switz.), https://www.fedlex.admin.ch/eli/cc/2008/414/en#art_7.

[13] Yes+ Initiative, *supra* note 7.

[14] Bundesverfassung [BV] [Constitution] Apr. 18, 1999, art. 120 (Switz.).

[15] Animal Welfare Act of 16 December 2005, art. 3 (Switz.), https://www.fedlex.admin.ch/eli/cc/2008/414/en#art_3.

[16] Ordinance of the FSVO on the Protection of Animals in Breeding, Dec. 4, 2014, (Switz.),

<https://www.blv.admin.ch/dam/blv/en/dokumente/tiere/rechts-und-vollzugsgrundlagen/ordinance-fsvo-animal-welfare-breeding.pdf.download.pdf/455.102.4%20Ordinance%20of%20the%20FSVO%20on%20the%20protection%20of%20animals%20breeding.pdf> (accessed Oct. 5, 2021). This document contains strain categories and the criteria for classification of an animal in a strain category as well as the resulting symptoms from breeding animals with such characteristics.

[17] Animal Welfare Act, *supra* note 15, (emphasis added).

[18] Animal Welfare Ordinance of 23 April 2008, (Switz.), <https://www.blv.admin.ch/dam/blv/en/dokumente/tiere/rechts-und-vollzugsgrundlagen/tschv-en.pdf.download.pdf/Animal%20Protection%20Ordinance%20455.1.pdf>.

[19] Tier Im Rect, Team, Katerina Stoykova, https://www.tierimrecht.org/en/about-us/team_en/.

[20] Sentience Politics, Team, Katerina Stoykova, <https://sentience-politics.org/de/about/team/>.

[21] Animal Welfare Act of 16 December 2005, art. 26 (Switz.) A disregard for animal dignity is an animal cruelty offense under AniWA.

[22] See Gieri Bollinger, *Animal Dignity Protection in Swiss Law—Status Quo and Future Perspectives*, 37, 55, Schulthess Juristische Medien AG, 1st ed. 2016.

[23] Email from Katarina Stoykova, Tier Im Recht, to author (Oct. 7, 2021) (on file with author).

[24] Animal Welfare Act, art. 3, *supra* note 15.

[25] *Id.* An animal's dignity can be violated even where pain does not occur. For example, a human guardian may have a companion poodle groomed with a mohawk haircut and dyed pink. The poodle is not injured, but dignity is lost.

[26] Ig Hornkuh, <https://hornkuh.ch/en/home>.

[27] *Id.*

[28] Susan Misicka, *No Bonuses for Horned Cows, Decide Swiss Voters*, Swiss Info, (November 25, 2018, 17:34),

https://www.swissinfo.ch/eng/november-25-vote_are-cows-with-horns-worth-a-bonus-for-the-swiss-/44564548.

[29] *Id.*

[30] Bernice Bovenerk, *Ethical Perspectives on Modifying Animals: Beyond Welfare Arguments*, 10:1 *Animal Frontiers*, 47, Jan. 2020,

<https://academic.oup.com/af/article/10/1/45/5699797>.

[31] I.D.M. Gangnat et al., *Swiss Consumers' Willingness to Pay and Attitudes Regarding Dual-Purpose Poultry and Eggs*, 97:3 *Poultry Science*, 1089, March 2018, <https://doi.org/10.3382/ps/pex397>.

[32] *Id.*

[33] *Id.*

[34] *TIR Considers Federal Council's Counter-Proposal to the Factory Farming Initiative Inadequate*, Tier Im Rect, (May 21, 2021),

<https://www.tierimrecht.org/en/news/2021-05-21-tir-criticizes-federal-councils-counter-proposal-to-the-factory-farming-initiative-as-insufficient-/>. Adopting the Bio-Suisse guidelines serves as a protection from dilution of the initiative's demands, and

will provide guidance for the legislation process by Parliament, should the initiative be adopted.

[35] *Who is Bio Suisse*, Bio-Suisse, <https://partner.bio-suisse.ch/en/whoisbiosuisse.php>. Products approved under Bio-Suisse carry the "Bud" mark, a small green and white label representing a plant bud.

[36] *Standards for the Production, Processing and Trade of "Bud" Products*, Bio-Suisse, II §4.1, (January 1, 2021), https://partner.bio-suisse.ch/media/VundH/Regelwerk/2021/standards_bio_suisse_2021_en.pdf, [hereinafter Bio-Suisse Standards].

[37] Tier Im Rect, *supra* note 31.

[38] *Id.*

[39] B. Odermatt, et al., *Animal Welfare Payments and Veterinary and Insemination Costs for Dairy Cows*, 9:1 *Agriculture*, 3 (2019), <https://doi.org/10.3390/agriculture9010003>. RAUS makes direct payments to farmers who use the RAUS welfare standards. There are different standards for different animals. Farmers who keep more than one species do not have to use RAUS for all animals on the farm. For example, Farmers can use RAUS standards for their dairy cows, and not for their pigs.

[40] Tier Im Rect, *supra* note 31.

[41] Lara Biehl, *BTS and RAUS: The Two Animal Welfare Programmes*, *The Animalist*, <https://the-animalist.ch/en/research/animal-agriculture/bts-and-raus>, (accessed October 14, 2021). Switzerland has two voluntary direct payment farmed animal welfare standards: RAUS and BTS. BTS is the Particularly Animal-Friendly Housing Systems standard. Unlike RAUS, BTS does not require outdoor access for farmed animals. BTS does require multi-surface spaces for walking, feeding and resting. The resting areas must have straw or bedding. However, the required space per animal is the same as conventional farming standards. So, while there is some division of space under BTS, the same number of animals remain packed into tight quarters. BTS is not part of the Federal Council's counter-proposal.

[42] *Id.*

[43] *Id.*

[44] *Id.* Equivalent to just over two square feet. This applies to pigs weighing 110kg (around 242 pounds).

[45] *Id.*

[46] *Id.*

[47] Tier Im Rect, *supra* note 31. Under the counter-proposal, broiler chickens would have some outdoor access. In their counter proposal, the Federal Council is eliminating the RAUS standard for broiler chickens and rabbits because applying RAUS would mean having to build all chicken farms next to pastures and also using other breeds that would actually be capable of going outside.

[48] Bio-Suisse Standards, *supra* note 35, at II §4.1

[49] Bio-Suisse Standards, *supra* note 35, at II §4.

[50] Tier Im Rect, *supra* note 31. Flock limits vary by bird age or size. In some cases, up to 27,000 birds are allowed per farm.

[51] Bio-Suisse Standards, *supra* note 35, at II §5.5.2.2.

[52] *Id.*

[53] Biehl, *supra* note 39.

[54] Bio-Suisse Standards, *supra* note 35 at II §5.4.1.3. This applies to pigs up to 110kg (around 242 pounds). 1.65m² is about 5.4 square feet of total area per pig.

[55] Bio-Suisse Standards, *supra* note 35, at II §5.4.1.6.

[56] Bio-Suisse Standards, *supra* note 35, at II §5.4.1.5.

[57] *Id.*

[58] *More Time with the Mother—Better for the Calf?*, Thuenen, <https://www.thuenen.de/en/ol/projects/cattle-husbandry/more-time-with-the-mother-better-for-the-calf/>.

[59] Bio-Suisse Standards, *supra* note 35, at II §4.2.2.

[60] Mary Bates, *The Emotional Lives of Dairy Cows*, Wired.com, (June 30, 2014), <https://www.wired.com/2014/06/the-emotional-lives-of-dairy-cows/>.

[61] Bio-Suisse Standards, *supra* note 35, at II §4.5.5.

[62] Bio-Suisse Standards, *supra* note 35, at II §4.5.

[63] Bio-Suisse Standards, *supra* note 35 at II §5.7.7.

[64] Interview with Katerina Stoykova, attorney at Tier Im Rect, (Sept. 30, 2021).

[65] *Id.*

[66] *Id.*

[67] *Id.*

[68] *Id.*

[69] *Id.*

[70] Susan Misicka, *How Well Are Swiss Animals Protected?*, Swiss Info, (January 18, 2020, 15:00), https://www.swissinfo.ch/eng/animal-welfare_how-well-are-swiss-animals-protected-/45489148?utm_campaign=own-posts&utm_medium=displaylist&utm_source=swissinfoch&utm_content=o.

Author

Jamie McLaughlin



Boley Law Library embraces the forest. Floor-to-ceiling windows allow you to look out on nature when studying in Oregon's largest law library.

menu

Offices & Services
For Our Neighbors
Employment
Campus Safety
Title IX
COVID Info
Law News & Media

Contact Us
Phone Directory
Maps & Directions

Editor Login

contact

Lewis & Clark Law School
10101 S. Terwilliger Boulevard
Portland, Oregon 97219 USA
503-768-6600



Faculty

Student Life

Library

Career Services

Giving

Calendar

