The Ranking Argument – Challenging Favourable Comparative Rhetoric about Animal Welfare Law

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Abstract

This article captures and critiques a recurring and prominent political argument against animal welfare improvements in Switzerland which we term the “ranking argument”. This states that Swiss animal welfare law ranks among the strictest in the world, therefore no improvements are called for. This argument was advanced three times by Swiss government authorities in 2022 alone, but also in a case dating back to 1984, to advise the electorate on popular initiatives aiming at animal welfare improvements. We argue that, while the argument commits a fallacy of relative privation and is ethically dubious, it can be deployed to great effect by agents opposed to norm change in animal welfare regulation. We conclude with some thoughts on how the ranking argument can and should be challenged in public discourse.

Keywords

Ranking argument, Swiss Animal Welfare Act, Status quo defence, Swiss popular initiatives, Fallacy

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The Ranking Argument – Challenging Favourable Comparative Rhetoric about Animal Welfare Law

I. Introduction

2022 could have been an historic year for non-human animals (henceforth “animals”) living in Switzerland, with three significant popular votes on initiatives (i.e., popular initiatives allow citizens to modify the Swiss constitution and cantonal constitutions, as well as regulations at the cantonal and municipal level) that aimed at improving their welfare, and in one case, even at granting basic rights to some of them. At the federal level, there were the “Yes to the ban on animal and human experiments” initiative in February and the “Factory farming Initiative” in September. At the cantonal level in Basel-Stadt, there was the popular initiative “Basic rights for primates” in February.

In each instance, the government authorities took a stand against the respective initiative, and voters rejected the proposals at the ballot in line with government recommendations. Without passing judgment about the initiatives overall, we aim to draw critical attention to a particular type of argument that was advanced by government authorities in each case. This argument is that Swiss animal welfare law ranks among the strictest in the world, so no improvements are called for. We will call this the “ranking argument”.

The ranking argument has a long tradition in response to Swiss popular initiatives: In 1984, the argument was already used by the Federal Council in its recommendation to reject the popular initiative “For the suppression of vivisection”\(^1\), at a time when the intrinsic value of animals was not yet legally recognized in Switzerland, when only vertebrates were covered by animal welfare regulation, when the limiting of animal experiments to those deemed indispensable and the 3R principles (i.e., replacement, reduction and refinement of animal use in research) were not required by Swiss law, when cosmetics were tested on animals regularly and when almost four times as many animals were used in research each year as today (1'992'794 animals in 1983).

After presenting the use of the ranking argument by the Swiss government in the four initiative cases mentioned above, as well as by influential industry voices in Swiss public discourse, we argue that it commits a fallacy of relative privation. We then explain that this fallacious argument can still be de-

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ployed to great effect in debate because it functions against the backdrop of uneven power relations between defenders and opponents of the status quo of Swiss animal welfare law. Finally, we conclude with some thoughts on how the ranking argument can and should be challenged in public discourse.

II. The ranking argument in Swiss public discourse

Popular initiatives are considered to be one of the pillars of Swiss direct democracy, allowing all citizens to propose modifications to the Swiss constitution, as well as to cantonal constitutions and often to regulation at the cantonal and municipal level. Upon being approved by the Federal Chancellery, a federal popular initiative must gather 100,000 valid signatures of persons entitled to vote in the timespan of 18 months in order to be put to a vote. At the cantonal level, while numbers and timespans vary by canton, Basel-Stadt for example requires an initiative to collect 3,000 valid signatures within 18 months. Votes on popular initiatives are not merely consultative, but are a binding legislative mechanism. The Federal Council (federal initiatives) or the State Councils (cantonal initiatives) of the affected cantons take a position, recommending either acceptance or rejection. The fact that the government issues recommendations at all is regularly criticized by citizens as an illicit influence on the vote, a problem that is recognized by the federal government itself.²

In the 2022 animal welfare votes, the argument that Swiss animal welfare law is already among the best in the world and therefore needs no improvement occurred in various government communications. The immediate aim of this section is to showcase some striking instances of the argument in use. We then add what is, to our knowledge, the oldest instance of the Swiss government’s use of the ranking argument, advanced merely five years after the first national animal welfare law was introduced in Switzerland. In each case, we briefly describe the context of the popular initiative.

Factory farming initiative:

The Factory farming initiative was submitted to vote on September 25th 2022. If accepted, additions about animal rights and welfare would have been made to the Swiss Constitution, such as the right not to be factory farmed and new criteria for animal care, housing, slaughter, outdoor access and group size in farming. The Federal Council, in its address³ on the initiative of August 25th 2022, argued as follows:

“It is obvious that the welfare of animals must be guaranteed, and this is already the case in our country. The Swiss law on animal protection is indeed one of the strictest in the world.”⁴

In this case of the ranking argument’s use by the government, the use of the French adverb “en effet”, here translated as “indeed”, suggests that Swiss law’s status as one of the strictest in the world regarding animal welfare is somehow proof that animal welfare is sufficiently guaranteed. We do not wish to take the statement of Alain Berset, Federal Council’s spokesperson at the time, out of context in a misleading way; the justification for the Federal Council’s rejection of the initiative continues with several arguments on penalties for violations, specific conditions of husbandry and economic consequences. However, none of these are logically connected to the ranking argument.

⁴ Translated from French: “Il est évident que le bien-être des animaux doit être garanti, et c’est d’ailleurs déjà le cas dans notre pays. La loi suisse sur la protection des animaux est en effet l’une des plus strictes au monde.”
Ban on animal and human experiments:

The proposed *Ban on animal and human experiments* was submitted to vote on February 14th, 2022. In case of acceptance, the Swiss Constitution would have been modified to ban, among other things, animal experimentation (which would have been considered as a crime) as well as the trade, import and export of products being the direct or indirect subject of animal experimentation. The Federal Council in its address on the initiative of January 19th, 2022, argued as follows:

“The Federal Council and the Parliament reject this initiative for several reasons. The Swiss legislation is already one of the strictest in the world regarding animal experimentation.”

Here, the ranking argument appears as one of the reasons to reject the initiative. Berset starts by stating that The Federal Council and Parliament reject the initiative “for several reasons” and the ranking argument is presented as the first reason. Here again, the additional reasons are not logically connected to the ranking argument.

Basic rights for non-human primates:

The initiative *Basic rights for non-human primates* was submitted to voters of Basel-Stadt on February 13th, 2022. If they had accepted it, an amendment would have been made to the Cantonal Constitution to guarantee basic rights for non-human primates (i.e., right to life and to physical and mental integrity). On this occasion, the State Council of Basel-Stadt used the ranking argument in its report, stating:

“The federal animal protection legislation is considered one of the strictest in the world. Accordingly, it comprehensively addresses the physical and psychological well-being of all animals, including non-human primates, as well as their right to life.”

Here, it is not only suggested that the ranking argument somehow proves that the well-being of all animals is being addressed, but also that non-human primates’ right to life is.

1984 Suppression of vivisection case:

In its message concerning the *Suppression of vivisection* initiative of 1984, the Federal Council used the argument in section 8 titled “No counter proposal”, subsection 8.1 titled “Regulations in the law are sufficient”. In its message concerning the popular initiative of May 30th, 1984, the Federal Council added:

“A counter proposal in the form of a constitutional provision explicitly subjecting animal experiments to other restrictions than those in Article 25bis, 2nd paragraph, letter d, is superfluous for the following reasons:

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5 Swiss Federal Council (2022) Votation 13.2.22 - Interdiction de l’expérimentation animale et humaine - Allocu-
tion du CF. [https://www.youtube.com/watch?v=tQvvV4xD_Ks](https://www.youtube.com/watch?v=tQvvV4xD_Ks) (accessed on 19.07.2023).

6 Translated from French: “Le conseil fédéral et le parlement rejettent cette initiative pour plusieurs raisons. La legislation suisse est déjà l’une des plus strictes au monde en matière d’expérimentation animale.”

7 Regierungsrat des Kantons Basel-Stadt (2021) An den Grossen Rat 17.1389.04 - Bericht, Kantonale Volksiniti-

8 Translated from German: “Die eidgenössische Tierschutzgesetzgebung gilt als eine der strengsten der Welt. Sie befasst sich denn auch umfassend mit dem physischen und psychischen Wohlergehen aller Tiere inklusive nichtmenschlicher Primaten sowie mit ihrem Lebensrecht.”

9 Translated from French: “Pas de contre-projet”.

10 Translated from French: “La réglementation au niveau de la loi suffit”.

Compared to the regulations in other countries, the Swiss legislation on animal experimentation can be described as strict.\footnote{Translated from French: “Un contre-projet sous forme d’une disposition constitutionnelle soumettant expressément les expériences sur animaux à des restrictions autres que celles de l’article 25bis, 2e alinéa, lettre d, est superflu pour les motifs suivants: Comparée aux dispositions en vigueur à l’étranger, la législation suisse dans le domaine des expériences sur animaux peut être qualifiée de sévère.”}

Here again, the ranking argument is the first presented to argue that a counter proposal would be superfluous. While other arguments on the types of experiment prohibited and the efforts to replace and reduce animal use in research follow, they have no logical connection to the ranking argument.

Having showcased the Swiss government’s uses of the ranking argument at multiple levels of the political landscape (i.e., Federal, cantonal), on different topics (e.g., animal experimentation, animal rights, animals used for food) and across time (in 2022 as well as almost 40 years earlier), we should also point out that the argument is, more generally, a staple in Swiss public discourse when it comes to the treatment of animals. Indeed, the ranking argument is used by almost any organization representing industries or fields of activity in which animals are used for human purposes. In the field of animal research, one could point to the Swiss National Science Foundation\footnote{Swiss National Science Foundation – SNSF. Animal Testing. https://www.snf.ch/en/279vMLLnUaSctG03/topic/animal-testing (accessed on 19.07.2023).}; in the field of animals used for entertainment and education, to Zooschweiz\footnote{Zooschweiz – Zoosuisse. Grundrechte für Primaten. https://zoos.ch/politik/grundrechte-fuer-primaten/ (accessed on 19.07.2023).}, the organization representing Swiss zoos; in the field of animal-derived foods, to the Farmers’ association\footnote{Agriculture durable. L’élevage. https://www.agriculture-durable.ch/themes/elevage/ (accessed on 19.07.2023).}, as well as to Proviande\footnote{Proviande. De la viande, oui, mais de la viande Suisse. https://www.proviande.ch/fr/de-la-viande-oui-mais-de-la-viande-suisse (accessed on 19.07.2023).}, the leading institution in the meat industry, and Swissmilk\footnote{Swissmilk. Lois strictes pour le bien-être des vaches. https://www.swissmilk.ch/fr/durabilite/bien-etre-animal/lois-strictes-pour-le-bien-etre-des-vaches/ (accessed on 19.07.2023).}, the leading industry association of the Swiss dairy industry.

A paradigmatic case of the ranking argument in Swiss public discourse could be seen in the campaign by the opposition to the \textit{Factory farming initiative}. That campaign started in March 2022 and ended in September of the same year. If we focus on the digital campaign, we see that Facebook is the platform where the opposition gathered the most followers, with a total of 6,600 following the French page\footnote{Facebook page “Non à l’initiative inutile sur l’élevage”. https://www.facebook.com/non.initiative.inutile.elevage (accessed on 19.07.2023).} and 1,300 following the German page\footnote{Facebook page “Nein zur unnötigen Massentierhaltungsinitiative” https://www.facebook.com/massentierhaltungsinitiative.nein (accessed on 19.07.2023).} at the end of 2022. In June, a video (see illustration 1 below) was published on both pages stating the following:
French version:

“The initiative on “factory” farming. We will vote on this initiative on September 25. And you can say NO without feeling guilty. Our (illustration of chicken, cow and pig) have nothing to envy to the other livestock of the world. In our country, there is no factory farming.”

German version:

“Initiative on “factory farming”. You will vote on this on September 25. And you can confidently say NO. Our (illustration of chicken, cow and pig) have better husbandry conditions in Switzerland than anywhere else in the world. There can be no question of factory farming.”

In the French version (see illustration 1), the opposition campaign explicitly told Swiss voters not to feel guilty about current Swiss animal welfare regulations. The reasoning behind this guilt relief was that animals in other countries have worse husbandry conditions, from which it was concluded that there is no factory farming in Switzerland. In the German version, Swiss voters are encouraged to vote no with confidence. Again, the reasoning was that animals in Switzerland have better husbandry conditions than anywhere else. While the French version explicitly uses the argument in an attempt to lessen feelings of guilt, the German one brings the argument to its strongest form by calling Swiss animal welfare law “the strictest” rather than merely “one of the strictest”.

Illustration 1: Use of the ranking argument in the French campaign by the opposition to the Factory farming initiative (from left to right)

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In addition, a total of 10 illustrations presenting comparisons between Swiss and foreign standards have been published between June and September 2022 on each Facebook page cited above. These illustrations (see illustration 2 below) compared Swiss to European, Chinese, and Brazilian regulations on topics such as housing conditions for cattle, chicken, pigs and laying hens, open-air-access, outdoor time for cows, floor systems for pigs, maximum number of pigs per barn, number of years since the ban on battery cages and mandatory anaesthesia for castration of pigs.

Illustration 2: Comparing Swiss to Chinese and European regulations in the French campaign by the opposition to the Factory farming initiative

While, to our knowledge, no studies exist to determine the efficacy of the ranking argument as used by governments, industry groups, and political campaigns, there is evidence that many Swiss citizens do trust animal welfare regulations due to the ranking argument and its use by governmental authorities. A study by gfs.bern before the vote on the Factory farming initiative revealed that 55% of participants either totally or mostly agreed with the statement “Switzerland already has one of the strictest animal protection laws in the world. There is therefore no need to tighten it further.”

In this section, we have shown that in addition to the government authorities, many Swiss private and public agents use the ranking argument and that we have reason to assume that this influences public opinion. However, it remains to be demonstrated why this is problematic. In the next sections, we will therefore show that the ranking argument is a kind of fallacy that is used as a strategic defence of the status quo.

III. The ranking argument as a fallacy of relative privation

All four cases of the Swiss government’s use of the ranking argument presented above have the following logical structure:

1. Swiss law is one of the strictest in the world regarding animal welfare.
2. Therefore, no improvements are called for.

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25 Translated from French: “La Suisse a déjà une des législations les plus sévères au monde pour la protection animale. Il n’y a donc aucun besoin de la durcir encore.”
As we can see, the ranking argument is a fallacy of relative privation, also known as the "not as bad as" fallacy. This type of fallacy consists in using a comparison to a worse — thus, “relatively deprived” — scenario to infer that the better scenario is beyond criticism. For example, a parent might respond to their child’s criticism of a meal by pointing out that there are children in the world that are starving, and therefore, the meal is good enough. Of course, the conclusion does not follow — the meal may be inadequate no matter how many people around the world are starving.

Likewise, in the case of the ranking argument presented above, conclusion (2) does not follow from premise (1). In fact, even if Swiss law was the strictest law regarding animal welfare in the universe, this would not prove that no improvements are called for, nor that the treatment of animals in accordance with such law is ethically permissible. The fact that most other laws, or even all other laws, are less strict does not give any relevant information as to whether animal welfare is protected to an ethically justifiable extent. The ranking argument is thus an instance of the relative privation fallacy. Somewhat unusually, however, it lays the rhetorical emphasis on the better scenario — that Swiss animal welfare law is (among) the best — rather than the worse one — that other countries have worse regulation. This contrasts with classic examples of the fallacy, including the above starving-children example, in which the badness of the worse scenario is emphasized. Thus, the ranking argument shows that the “not as bad as” fallacy can also be the “already the best” fallacy.

Now, as relative privation is an informal fallacy, not a formal one, there may be circumstances in which it is a perfectly sound inference. Under certain conditions, something’s being better than the existing alternatives does indeed imply that it is sufficiently good, and no further improvements are called for. In the remainder of this section, let us explain why the ranking argument as used by Swiss authorities is not one of these cases.

One set of conditions under which the relative privation fallacy is a sound inference is presented by competitive environments: If a football team is already sufficiently superior to all other teams in its league, and there is no goal over and above winning (such as perfecting the art of the game for its own sake), then this does indeed imply that the team is good enough and no further improvement is needed. But animal welfare regulation is not a competition of this type — the goal is to protect animals, not just to protect them to a greater extent than other legislations. Being, relatively seen, the best amongst others might indeed not be enough judged against an objective standard of good welfare that is scientifically and philosophically sound.

Another type of case concerns tactical decisions whether to accentuate one’s strengths or instead mend one’s weaknesses. If a football team is already among the best when it comes to penalty kicks, but has a comparatively weak defence, then it should arguably invest in improving defence, not penalty kicks. But again, animal welfare regulation is not a competition and improvements to it do not directly compete with improvements in other areas of regulation.

In fact, one can speculate that the ranking argument derives some of its persuasive strength from the supposition that animal welfare regulation is primarily a scheme aiming at attracting domestic consumers in the face of foreign competition. Of course, if the purpose of animal welfare regulation were not to protect animals, but to provide a marketing device to domestic animal industries, then being the best would indeed imply being good enough. But this view conflicts both with the letter of the law, which acknowledges that animals have a value worth protecting for its own sake, and with its spirit, as the Swiss Federal Supreme Court asserted already in 1989 that animal protection was a “postulate for its own sake.” In addition, it again contrasts with the scientific and philosophical en-

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26 Swiss Animal Welfare Act (AniWA) from 16 December 2005 (SR 455), Art. 3a “Definitions”.
27 BGE 115 IV 248 S.254 E.5.a.
deavour to research animal welfare as a matter that can be described and assessed according to objective criteria and that ultimately matters to the animals themselves, not just to the consumers.\(^{28}\)

In addition to the argument being a fallacy, premise (1) can be called into question. First, because “one of the strictest” is not a precise metric. To be “one of the strictest”\(^{29}\) in the ranking could mean being among the top five percent, in the top half, above the lowest third or some other fraction. Secondly, because the word “strict” itself is vague. Regulations can be strict in many different respects, for example regarding their regulatory substance (i.e., are the regulations such that they heavily intervene in the matter?), their regulatory density (i.e., is there a lot of detailed regulation on the matter?) or the extent of their implementation (i.e., is the regulation strongly implemented and enforced?). In this sense, Swiss law could be considered to be strict in some respects and not in others. Thirdly, depending on factors and data sources, Swiss law may barely make it into the top ten. In 2021, a worldwide study\(^{30}\) aiming to create an “Animal Right Index” ranked Switzerland in 10th position, with a similar grade to 18 other countries. Indeed, several examples of stricter regulations than the Swiss ones can be found, like the European Directive 2010/63/EU on the protection of animals used for scientific purposes\(^{31}\) that addresses the rehoming of animals used (i.e., giving a new home to research animals on ce they are of no more use instead of killing them as it generally happens) as well as an upper limit of harm (i.e., a limit of pain, suffering and distress above which animals should not be subjected), which is absent in Swiss law.

While recognizing the ranking argument as a fallacy of relative privation helps to see the gaps in its logic, it does not explain why government authorities and other participants in the public debate persist in using the argument. In the following section, let us address this question.

IV. The ranking argument as a strategic defence of the status quo

Given that the ranking argument is a fallacy, one may wonder why government authorities, lobby groups, and others have been so eager to advance it. Surely, advancing fallacies presents a risk to the crucial resource of public credibility.

The answer, we suggest, lies in how the argument functions in the context of established norms and institutions. Sociologist Alan Bloomfield (2016) has introduced the notion of “norm antipreneurs” to describe agents who aim at preserving status quo norms and preventing norm change. They are the mirror image of the “norm entrepreneur”, the agent seeking to undermine certain established norms and establish new ones in their place. As Bloomfield argues, norm antipreneurs are typically in a more comfortable position of power than norm entrepreneurs.\(^{31}\) For, while entrepreneurs must show both that the status quo leads into problems that are grave enough to warrant norm change, they must also show that their proposed new norms are a reliable alternative. Norm antipreneurs, in contrast, do not need to convince anyone of anything, because their desired norms are already established. They thus have the simpler task of sowing doubt. Moreover, they benefit from the phe-


nomenon of status quo bias in decision-making, which is the disproportionate tendency of individuals to stick with the status quo.32

Bloomfield points out that norm antipreneurs have two basic types of arguments at their disposal, both aiming at undermining the norm entrepreneur’s attempt at persuasion: First, they can deny that established norms give rise to any significant problems that would warrant norm change; second, they can claim that newly proposed norms are counterproductive or otherwise unreliable as solutions to the alleged problems. Importantly, neither type of argument needs to be sound in order to fulfil its purpose of sowing doubt.

The ranking argument is a straightforward example of the first type of argument on the part of norm antipreneurs. Though fallacious, the argument succeeds at framing Swiss animal welfare law as being devoid of problems, let alone problems that would warrant legal change. Considering the ranking argument as a norm antipreneur tactic thus helps to understand why the argument is not undermined by its own fallacious character. Ultimately, it is an argument that does not aim at persuasion, but at sowing doubt about whether norm change is necessary.

The understanding of the ranking argument as a norm antipreneur tactic is further bolstered by the fact that it is often combined with its counterpart, the counterproductiveness argument. Here is an example found in another section of the Federal Council’s 1984 message recommending the rejection of the initiative Suppression of vivisection33:

“Switzerland has strict and effective legislation on animal experimentation compared to other countries. If animal experiments were to be transferred abroad, the situation for all animals would become more precarious.” 34

This argument can be presented in the following logical structure:

1. Switzerland has strict and effective legislation on animal experimentation compared to other countries.
2. Therefore, if animal experiments were to be transferred abroad, the situation for all animals would become more precarious.
3. Accepting the initiative would transfer animal experiments abroad.
4. Therefore, the initiative must be rejected.

Unlike the ranking argument, this argument does not claim that changing the norm is unnecessary, but rather that it is counterproductive. Here, the situation abroad is used to conclude that the initiative would be counterproductive by creating a more precarious situation for animals. As in the case of the ranking argument, premise (1) can be called into question. In this case, calling (1) into question automatically calls conclusion (2) into question. Premise (3) could be true, but could also be a case of a slippery slope argument35 since a ban on animal experimentation in Switzerland does not necessar-

34 Translated from French: “[…] sévère et efficace si on la compare à celles en vigueur à l’étranger. En cas de transfert à l’étranger des expériences sur animaux, suite à l’acceptation de l’initiative, la situation pour l’ensemble des animaux deviendrait plus précaire.”
35 The Stanford Encyclopedia of Philosophy defines the slippery slope argument as follows: “The fallacy of the slippery slope generally takes the form that from a given starting point one can by a series of incremental inferences arrive at an undesirable conclusion, and because of this unwanted result, the initial starting point should be rejected.”
ily imply the transfer of all Swiss animal experimentation abroad. In fact, there is no robust logical path to accepting conclusion (4), the rejection of the initiative.

As we can see, this last type of argument combined with the ranking argument form a clear case of fallacious strategic defence of the status quo, as presented by Bloomfield. From this comfortable position, there is no need to prove that the norm is ethical when using these types of arguments. The status quo can simply be defended by arguing against the existence of problems with the norm and by undermining potential new norms. Since any such fallacious defence poses an important risk of causing harm and affecting trust in the institutions and actors using it, it must be challenged in the public discourse, as we will argue now.

V. Challenging the ranking argument in the public discourse

Apart from being an obstacle to improvements in Swiss animal welfare regulation, the ranking argument poses a risk to the credibility and trustworthiness of the authorities that put it forward and to the integrity of the decision-making of voters who find this misleading argumentation persuasive. Use of fallacious reasoning by government institutions is generally dubious from a democratic perspective and encourages an unhelpfully simplistic public debate. It is also worth noting that the government’s denial of any room for improvement in animal welfare regulation sets the public up for disillusionment when shortcomings in animal welfare are publicized.

While there can be little hope that antipreneurs will stop using the ranking argument in Swiss animal welfare discourse completely, challenging it may help to mitigate its effects. Government authorities should reflect on their use of the ranking argument and should, as far as possible, stop using it for the sake of public debate and to ensure their own credibility.

From the outside, authorities should be publicly criticized for deploying a fallacy. Comparisons with animals abroad, or with some hypothetical life that Swiss animals would have abroad, should be challenged by steering the conversation back to what the animals deserve and to what extent regulations ensure it. Of course, doing that will not be easy when the ranking argument is used as a strategic defence of the status quo, even more so when there is a clear intention to relieve people’s guilt and manipulate their willingness to critically engage with the topic. Ideally, however, use of the ranking argument should become unacceptable for government authorities. This does not make it impossible for authorities to defend current regulation, as long as they can point out respects in which regulations give animals what they deserve. Avoiding the ranking argument simply removes one fallacious rhetorical device from the defender’s arsenal.

Finally, while we argued that references to rankings to justify current animal laws must stop, such rankings can be used in an uncynical, aspirational way. As we said, the Swiss Animal Welfare Act may barely make it into the global top ten depending on the factor and the definition of “strictness”. Such rankings, whether provided by an independent organization or by state authorities, could therefore be useful to reveal current shortcomings and form aspirations for the future. However, one must not overlook the limitations of such rankings. As we argued above, “looking up” in rankings and closing gaps with improvements will not necessarily lead to just regulations, as it might be the case that even the very best current regulation falls short of ethical or scientific standards. Moreover, a discussion based on the fact that “strictest” regulations exist poses the risk of getting stuck in the logic of the ranking argument. Therefore, if we want to challenge the ranking argument and still be able to “look up” for improvements, the distinction between using a ranking as justification and using it as a tool must be clear.
VI. Conclusion

In this article we presented the “ranking argument”, which, in our case example of the Swiss debate, argues that because Swiss animal welfare law ranks among the strictest in the world, no improvements are called for. We have shown that it is a prominent argument in Swiss public discourse, used by private as well as public institutions. In particular, we presented its use by Swiss government authorities, on three occasions in 2022 alone, but also in a case dating back to 1984, to advise the electorate on popular initiatives aiming at animal welfare improvements. We argued that the argument commits a fallacy of relative privation, is ethically dubious and can be deployed to great effect in debate because it functions against the backdrop of uneven power relations between defenders and opponents of the status quo of Swiss animal welfare law. Finally, we concluded with some thoughts on how the ranking argument can and should be challenged in public discourse, in particular by arguing that government authorities should, as far as possible, stop using the ranking argument for the sake of public debate and to ensure their own credibility.

Conflict of interest

On behalf of all authors, the corresponding author states that there is no conflict of interest.

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