

Bioethical Consideration of the Status of Animals

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Summary

In this paper, the author explores the reception of the non-human living beings in modern philosophical and practical approaches. The analysis is aimed at examining both the views of the representatives of classical anthropocentrism, as well as the theses of the representatives of various non-anthropocentric teachings. Anthropocentrism is, in short, a worldview that is based on Aristotle's vision of man as a special being among other natural beings. Advocates of the questioning of the dominant anthropocentric perspective of the *cosmos*, on the other hand, are trying to establish the new relation by relativizing of the difference between humans and non-human living beings, by attributing specifically human qualities and categories, such as dignity, moral status and rights, as well as feelings, memories, communication, consciousness and thinking to non-human living beings. Non-anthropocentrists, consequently, believe that it is necessary to relax the usual strict hierarchy among beings in nature, that is, the discrediting of animals in relation to man, and that within the applied ethics, *alias* bioethics, it is possible, even necessary, to establish the so called "animal ethics".

Key words: bioethics, consideration, status, animals, moral approach, proper treatment

The dignity¹ of an individual is usually viewed from the perspective of the reasonableness of one's nature, and such nature is attributed primarily to man. Only he is considered to be liberated from the empire of goals, while the so-called non-human living beings associated to relations and relationships that exist in nature. Only men are aware of themselves and able to distance themselves from themselves in favour of higher goals, to relativize their own interests, up to self-surrender.² This gives him, as a moral being, an absolute status that justifies his characteristic dignity, which entitles him not to be "enslaved" by anyone and that as a moral person he is not deprived of his own goals.

His unique dignity also generates his unique rights. In that sense, Article 1 of the "Universal Declaration of Human Rights" from 1948 states: "All human beings are born free and equal in dignity and rights".³ And in Article 23 of the „Устав Републике Србије“ ("Constitution of the Republic of Serbia") the constitution-maker states: "Human dignity is inviolable and everyone is obliged to respect and protect it".⁴ This is not only an ontological statement, but at the same time a source of the law and therefore Article 3 of the Constitution stipulates: "Rule of law is a fundamental prerequisite for the Constitution which is based on inalienable human rights".⁵ The highest ranking legal act of Serbia seems to be written on the postulates of Kant's ethics, which strived to reach the highest ethics,⁶ while it developed the dignity of living beings and the rights stemming from it only for people, and thus indirectly contributed to the fact that until recently the "dignity" of animals⁷ and

¹ Human dignity has often been linked to Immanuel Kant's second formulation of the categorical imperative: "Act so that you use humanity, as much in your own person as in the person of every other, always at the same time as end and never merely as means". Consult: Kant, I. (2002). *Groundwork for the Metaphysics of Morals*. New Haven and London: Yale University Press, 46-47. Trans. A. W. Wood. See also: Eterović, I. (2017). *Kant i bioetika*. Zagreb: PERGAMENA, Cent. za int. bioet. Fil. fak. Sveuč. u Zagrebu, 104-110.

² Consult: Derrida, J. (2002). The Animal That Therefore I Am (More to Follow). *Critical Inquiry* 28, 2: 369-418. Internet address: <http://www.jstor.org/stable/1344276>.

³ "The Universal Declaration of Human Rights". Internet address: <http://www.un.org/en/universal-declaration-human-rights/>.

⁴ „Устав Републике Србије“ (2006). Београд: Канц. за сарад. с мед. Владе Републике Србије, 9. Trans. Ž. Kaluđerović.

⁵ „Устав Републике Србије“ (2006). Београд: Канц. за сарад. с мед. Владе Републике Србије, 4. Trans. Ž. Kaluđerović.

⁶ On ethics as thinking on practical thinking, i.e. as a philosophical discipline on morality see author's paper: Kaluđerović, Ž. (2016). Pretpostavke nastanka morala. *Bošnjačka pismohrana* (Zbornik radova Simpozija "Gdje je nestao - moral"). 15, 42-43: 135-147.

⁷ The definition of "animal" can not be easily or unambiguously determined. According to "European Convention for the Protection of Vertebrate Animals used for Experimental and Other Scientific Purposes", "animal" means any live non-human vertebrate, including free-living and/or reproducing larval forms, but excluding other foetal or embryonic forms. In the Preamble of this convention it is stated that animals have capacity not only for suffering but also for memory, so therefore man has a moral obligation to respect all animals. "European Convention for the Protection of Vertebrate Animals used for Experimental and Other Scientific Purposes". Internet address: <http://conventions.coe.int/treaty/en/treaties/html/123.htm>. In Article 5, point 13 of the „Закон о добробити животиња Републике Србије“ (Law on Animal Welfare of the Republic of Serbia), "animal", for example, is

“rights” of animals were never mentioned.

The anthropocentricity⁸ of this and such *Weltanschauung* is an important reason why our dominant technical civilization did not develop in harmony with nature, but much more often in opposition to it. No human act in the past was able to substantially affect the spontaneity of the existence of our planet. As much as man was changing the natural environment in which he lived, this did not leave a greater trace on Earth itself.

The rapid development of technics and technology in this as well as in the last century placed man into a new moral situation. The new situation is reflected in the fact that modern man needs to accept the responsibility⁹ for the effects which are not the result of action of any individual, but represent a collective act, an act, in Husserlian terms, “of anonymous functioning subjectivity”.¹⁰ The effects of modern technique suggest a completely new situation for traditional social and humanistic sciences, since the postulate of an anthropocentric image of the world is essentially derogated in the sense that people as species are unquestionable in their existence on the Earth. Ensuring the survival of the human species in the foreseeable future is a task to whose achievement new knowledge in some of them should contribute, especially in ethics¹¹ or bioethics.¹² In order for this fact to be confirmed, they need to re-examine the power of technique, whose deeds thus acquire a philosophical sign, given the importance they have in the lives of the human species.¹³

defined reductively but unambiguously as any vertebrate which has a capacity to feel pain, suffering, fear and stress. „Закон о добробити животиња Републике Србије”. Internet address: http://www.paragraf.rs/propisi/zakon_o_dobrobiti_zivotinja.html.

⁸ Aristotle's paragraph from the *Politics* (1256b15-22) is emphasized as a paradigm of the leading western tradition and its unquestionable anthropocentrism. Consult: Singer, P. (1998). *Oslobođenje životinja*. Zagreb: Ibis grafika, 158; See also: Калуђеровић, Ж., Миљевић, А. (2019). Стагиранин, Ерешанин и не-људска жива бића. *ARHE*. XVI, 31: 105-131. Internet address: <http://arhe.ff.uns.ac.rs/index.php/arhe>.

⁹ For more details on the concept of responsibility consult: Čović, A. (2009). Biotička zajednica kao temelj odgovornosti za ne-ljudska živa bića. In A. Čović, N. Gosić, L. Tomašević. (eds.). *Od nove medicinska etike do integrativne bioetike*. Zagreb: PERGAMENA / Hrvatsko bioetičko društvo, 33-46.

¹⁰ See: Husserl, E. (1970). *The Crisis of European Sciences and Transcendental Phenomenology*. Evanston: Northwestern University Press, 111-114.

¹¹ It would be possible therefore, on the trail of Hans Jonas, to establish a new imperative: “We should not compromise the conditions for an indefinite continuation of humanity on earth”. Jonas, H. (1990). *Princip odgovornosti*. Sarajevo: Veselin Masleša, 28. Consult also: Jurić, H. (2010). *Etika odgovornosti Hansa Jonasa*. Zagreb: PERGAMENA, 153-165.

¹² Fritz Jahr coined the original term Bioethics and formulated a Bioethics Imperative: ‘Respect every living being on principle as an end in itself and treat it, if possible, as such!’. Jahr, F. (2012). Reviewing the ethical relations of humans towards animals and plants. In A. Muzur, H.-M. Sass. (eds.). *Fritz Jahr and the Foundations of Global Bioethics. The Future of Integrative Bioethics*. Berlin – Münster – Wien – Zürich – London: Lit Verlag, 4. See: Zagorac, I. (2018). *Bioetički senzibilitet*. Zagreb: PERGAMENA, Znan. cent. izv. za int. Bioetiku, 155-167.

¹³ In the meantime, nature has begun to vigorously “protest” against excessive human activity by changing the climate on Earth (“global warming”), but also by increasing the number of diseases

The dominant anthropocentric image of the world,¹⁴ and the ensuing consequentialist relation of man to nature and animals, has been questioned over the last decades by non-anthropocentric expansion of ethics, and by ever louder posing of (bio)ethical demands for a fundamental and new settlement of relations between humans and animals. If one attempts to summarize the basic views of the leading authors Peter Singer,¹⁵ Tom Regan¹⁶ and Klaus Michael Meyer-Abich,¹⁷ which are representative of present discussions of the new regulation of human-animal relationships, then the main views are as follows:

1. Animals are beings that are capable of suffering¹⁸, with their own interests and needs that are similar to the basic needs of people.
2. If there is such similarity, the principle of equality requires that the interests of animals are respected as well as the similar interests of humans.
3. Animals have their own value, which for some (Singer and Regan) stems from their consciousness, while others (Meyer-Abich) attribute additional importance to the affinity of animals and humans.

Singer talks about animals - “personalities”, and Regan about “subjects of life”. Both of them derive from that the “rights” of animals¹⁹ on the basis of their type of treatment and protection of their lives, which is why it is forbidden to kill them for the purpose of eating.²⁰ Meyer-Abich speaks of the “dignity” of animals, and

and plagues in humans and animals. Burning stakes during the crisis of so-called “Mad Cow”, “Bird Flu”, “Swine Flu” diseases, or the latest “African Swine Fever”, to name some, are just a warning to people and a hint of much more serious problems they may face. As an imperative, a new order in life is introduced, where one will become aware that the Earth can no longer tolerate man’s often ruthless acts, but requires the cooperation of man with the world surrounding him. Parts of comments have been taken and paraphrased from: Kaluđerović, Ž. (2018). Bioethics and Hereditary Genetic Modifications. *Conatus - Journal of Philosophy* 3, 1: 31-44. Internet address: <https://ejournals.epublishing.ekt.gr/index.php/Conatus/article/view/18452>.

¹⁴ About the roots of anthropocentrism consult: Krznar, T. (2016). *U blizini straha*. Karlovac: Veleučilište u Karlovcu, 63-76.

¹⁵ Singer, P. (2011). *Practical Ethics*. New York: Cambridge University Press; Singer, P. (2001). *Writings on an Ethical Life*. New York: HarperCollins Publishers Inc.

¹⁶ Regan, T. (2004). *The Case for Animal Rights*. Berkeley: University of California Press; Regan, T. (1982). *All That Dwell Therein*. Berkeley: University of California Press.

¹⁷ Meyer-Abich, K. M. (1997). *Praktische Naturphilosophie*. München: C. H. Beck; Meyer-Abich, K. M. (1984). *Wege zum Frieden mit der Natur*. München und Wien: Hanser.

¹⁸ At the end of the well-known passage about the non-human part of animal creatures, which, as is often stated, is a departure from the mainstream of Western philosophy, Jeremy Bentham says: “*The question is not Can they reason?, or Can they talk? but Can they suffer?*”. See: Bentham, J. *An Introduction to The Principles of Morals and Legislation*, 144. Internet address: <http://www.earlymoderntexts.com/assets/pdfs/bentham1780.pdf>.

¹⁹ Consult: Sirilnik, B., Fontene, E de., Singer, P. (2018). *I životinje imaju prava*. Novi Sad: Akademska knjiga, 15-97.

²⁰ Joseph R. Des Jardins states critical views on Singer’s and Regan’s views. Žarden, Dž. R. de. (2006). *Ekološka etika*. Beograd: Službeni glasnik, 193-200. See also: McMahan, J. (2002). *The Ethics of Killing*. Oxford: Oxford University Press, 194-203.

from that derives the “rights” of animals, which prohibit the keeping of animals in massive farming,²¹ but not the killing of animals after a life that was suitable for an animal, for the purpose of feeding people. It is noted that these basic thoughts are partially overlapping, but also that the results diverge at the central point of killing of animals.

Is it enough if Meyer-Abich, in order to explain his opinion, indicates that the condition of our existence to live from the rest of our lives, and that, in the end, vegetarians also eat life by eating plant foods?²² Is it advisable when Regan, in order to explain his contrary opinion, indicates that all mammals have an “inherent value”²³ that makes them “subjects of life” because of their consciousness, thereby providing them with “rights” in which man should not interfere, with the exception of severe cases of conflict like the necessary defence?

In order to ensure that the demands for higher or lower own “rights” of animals, would not remain only calls without any prospect of success, it should be clarified to what extent they are compatible with the usual thinking about (bio)ethics, and to what extent they can be realized in practical and political frameworks. In other words, what is lost and whether anything is lost, if the “dignity” of animals and the corresponding animal “rights” are also recognized in addition to human dignity and human rights.

From the philosophical aspect, at the first glance understandably tense situation greatly diminishes, since most western philosophers have believed and/or believes that, as already mentioned, only human beings have moral dignity, given that the required legal equality of men and animals does not mean that life is equal to life in any case. Regan explains this with his famous example of a packed lifeboat in which there are several people and one big dog.²⁴ It is assumed that the boat could be kept afloat only if one of the passengers would be thrown from the deck into the river or the sea. To the regret of all animal lovers and to the joy of all anthropocentrists, Regan “throws” the dog from the deck - surely with a heavy heart, but with the justification that the damage that death brings with it for one individual consists in the loss of its opportunities for life, and that these are greater for a man than for a dog. If a collision occurs, the value of the lives of different individuals must be measured, and individuals with more modest possibilities of experience should be sacrificed to the individuals with a wider life horizon and a higher value of life that goes with it. A common hierarchy of values that stems from the primacy of man remains unchanged if a disputable case arises.²⁵

²¹ On industrial livestock production consult: Krznar, T. (2011). *Znanje i destrukcija*. Zagreb: PERGAMENA, 158-162.

²² Meyer-Abich, K. M. (1997). *Praktische Naturphilosophie*. München: C. H. Beck, 426.

²³ Regan, T. (2004). *The Case for Animal Rights*. Berkeley: University of California Press, 243.

²⁴ Regan, T. The Dog in the Lifeboat: An Exchange. Internet address: <http://www.nybooks.com/articles/1985/04/25/the-dog-in-the-lifeboat-an-exchange/>.

²⁵ This does not mean that the notion of conflict can easily stretch to cases where a person wants to

Neither the circumstance that animals cannot take responsibility and cannot make autonomous decisions, from the point of view of non-anthropocentrists, does not have to be an obstacle to the approval of the appropriate “rights” to them. However, according to the anthropocentric concept of rights, a legal subject may only be a being that at the same time may be the subject of duty, which can therefore be conscious of its duties and which can fulfil them.

The German philosopher Leonard Nelson in regards to the symmetry of the law and duty that reflects upon Kant, already at the beginning of the last century warned that for a certain legal subject is less constitutional to have the interests that could be injured than for some subject of duty. Following this, Nelson develops a maxim that speaks of Kant’s categorical imperative, in the sense that one never acts so that he cannot approve of his method of action, and even if the interests affected by his actions are his own.²⁶ This philosopher, by broadening Kant’s concept of law, does not proceed towards the mind-governed person as the sole proprietor of rights, but introduces also all individuals that are governed solely by interests. All holders of interest are, according to Nelson, at the same time personalities. Then, he states that each person, as such, has dignity that is equal to the dignity of any other person. From this, the person’s subjective right is exercised to respect its interests. According to this fundamental approach to personal dignity, any being who has interests, that is, every person, has the right to respect their interests. This right is the right of personality. Every person is a subject of law, because it is by its notion one subject of interest, it could be said on Nelson’s trail.²⁷

Such clauses of the opening of an order on the equal treatment of human and animal interests make it acceptable and possible to recognize the “dignity” of animals and to install the “rights” of animals, without violating human dignity and human rights.²⁸ Nevertheless, the acceptance of animals into the circle of right-

kill an animal to eat it, although he could be fed in another way. In other words, according to this interpretation, the basic right of the animal to life should have priority over the mere interest of man to eat with the greatest possible pleasure. A similar assessment can also be found in Singer, who condemns the killing of animals for the purpose of eating, unless it is necessary for the survival of man.

²⁶ Nelson, L. (1972). *Kritik der praktischen Vernunft*, 2. Aufl. In L. Nelson, *Gesammelte Schriften in neun Bänden*. (hrsg. von P. Bernays, W. Eichler, A. Gysin, G. Heckmann, G. Henry-Hermann, F. von Hippel, S. Körner, W. Kroebel und G. Weisser). Band 4. Hamburg: Felix Meiner Verlag, 133.

²⁷ Nelson explicitly states that there is no general, philosophically grounded order that, because of the interests of animals, one should ignore one’s own interests. Thus, it may very well be permissible to hurt the interests of an animal if it would be harmed by some prevailing interest of people. This, consequently, also applies in the case when it is not possible otherwise to preserve an interest in one’s own life, or to maintain one’s own spiritual and physical strength, but by destroying the life of an animal. Nelson, L. (1970). *System der philosophischen Ethik und Pädagogik*. 3. Aufl. In: L. Nelson, *Gesammelte Schriften in neun Bänden*. (hrsg. von P. Bernays, W. Eichler, A. Gysin, G. Heckmann, G. Henry-Hermann, F. von Hippel, S. Körner, W. Kroebel und G. Weisser. Band 5, aus dem Nachlass hrsg. von G. Hermann und M. Specht). Hamburg: Felix Meiner Verlag, 174.

²⁸ When Aristotle in *Rhetoric* (1373b6-17) talks about the special and general laws, the general laws he simply called natural laws. The explanation of natural laws is linked with general understandings

holders leads to possible restrictions on the freedom of man, by a certain legal subject who, within the philosophical hierarchy of values, is placed below men.

For this reason, certain experts in legal science (Johannes Caspar) discuss the issue of moral acceptability of animal “rights” in a culture that so far has not considered animals as “moral subjects of comparison”.²⁹ In other words, it should be seen on the basis of which legal - (bio)ethical reasons, a man allows to himself to be bound to the living beings that he has left behind in the history of the development of life.

In this context, Caspar speaks of the modern concept of human dignity, which includes responsibility and empathy for creatures. A man who is capable of acting has brought animals into dependence to himself, and is therefore obliged to take care of their interests and the rights that arise from them. Man’s autonomy has a mutual relationship with responsibility for his conduct. Without this responsibility there is no human dignity either. The greater the dependence of animals from the powerful-acting capable for self-determination man, the more actual becomes his responsibility.

Another element of human dignity, which, according to Caspar, recommends the denial of freedom in favour of the animal “rights”, exists in the quantum of compassion towards the weak, without pursuing own motives. They establish the conditions and contents of personal responsibility and lead the inner motive to overcome the egoism of individual needs and instincts, through the limitations of belonging to the group and beyond the boundaries of one’s own species. Thus, they are the driving power of a type of ethics of solidarity, love for the neighbour, mercy, and that form of humanity that does not ask much for the price, but works.

As an intermediary result of the digression on the consent of the new so called “animal ethics”³⁰ with the usual anthropocentrism, it is possible to postulate this:

- a. Animal “rights” at the expense of humans do not represent any contradiction to the symmetry of rights and duties in the usual (bio)ethics. Nelson’s concept that any personal holder of interest can be a right holder whose

of the just and unjust in harmony with nature, which, according to him, has been recognized by all nations. The Stagiritic believes that with Empedocles it is just that very kind of law, i.e. that the philosopher from Agrigento referred to that right when he was forbidding to kill living beings, since it is impossible for ones to do that justly and the others to do that unjustly. Empedocles (and Pythagoras) claims (DK31B135) that for all living beings applies only one legal norm, and that those who had hurt a living creature shall receive punishments that cannot be redeemed. For more details see: Kaluđerović, Ž. *Ancient Assumptions of Contemporary Considerations of Nature, Life and Non-Human Living Beings*. *Forthcoming*.

²⁹ Caspar, J. (1999). *Tierschutz im Recht der modernen Industriegesellschaft*. Baden-Baden: Nomos Verlagsgesellschaft, 154.

³⁰ About the concept of so called “Animal ethics” consult: Callicott, J. B., Frodeman, R. (eds.). (2009). *Encyclopedia of Environmental Ethics and Philosophy*. Farmington Hills, MI: Macmillan Reference USA, 42-53. See also: Jamieson, D. (2008). *Ethics and Environment*. Cambridge: Cambridge University Press, 112-120.

interests should be treated the same as own interests, is a single systematic bridge between Singer's and Regan's views.

- b. There are (bio)ethical reasons to give animals the "right" to a treatment that is appropriate to them, some would add to this the basic "right" to life, whereas in disputable cases man's right to survive is more valuable.
- c. Restrictions on the action of man for the benefit of animals can rather be (bio)ethically justified as a fulfilment of responsibility and compassion for the weak.³¹

The question may be raised as to how this, by non-anthropocentrists increasingly (bio)ethically required "dignity" of animals, and the resulting animal "rights" are regulated, and whether they are aligned with the consideration of the "moral status" of animals.

According to the "Law on Animal Welfare of the Republic of Serbia",³² Article 4, the basic principles of the protection of animal welfare³³ are based on the mentioned pathocentric concept, since it focuses on the "universality of pain", and Article 2 states that the welfare of animals, that is regulated by this law,³⁴ refers to the "*animals that can sense pain, suffering, fear and stress*".³⁵ When the second point of Article 4 of the Law stipulates that the principle of caring for animals "*implies a moral obligation and the duty of man to respect the animals and*

³¹ These examples and parts of comments have been taken and paraphrased from: Zajler, K. (2006). Dostojanstvo životinja i zakoni ljudi. In Udruženje za zaštitu i prava životinja *Sloboda za životinje*, br. 1. Beograd, 9-15.

³² The Law was posted on the website of the Ministry of Agriculture, Water Management and Forestry of the Republic of Serbia on 19 January 2009 and became effective on 10 June 2009. „Zakon o dobrobiti životinja Republike Srbije”. Internet address: http://www.paragraf.rs/propisi/zakon_o_dobrobiti_zivotinja.html. However, the idea of a human relationship to animals and their protection was regulated in Serbia in 1850 i.e. 1860. For more details consult: Kaluđerović, Ž. Animal Protection and Welfare - Contemporary Examinations. *Forthcoming*.

³³ Animal welfare is usually, however estimated based on internationally accepted concept of the so-called "Five Freedoms". 1. Freedom from hunger and thirst: by ready access to fresh water and a diet to maintain full health and vigor. 2. Freedom from discomfort: by providing an appropriate environment including shelter and a comfortable resting area. 3. Freedom from pain, injury or disease: by prevention through rapid diagnosis and treatment. 4. Freedom to express normal behaviour: by providing sufficient space, proper facilities and company of the animal's own kind, and 5. *Freedom from fear and distress*: by ensuring conditions and treatment which avoid mental suffering. Internet address: http://www.aspcapro.org/sites/pro/files/aspcasv_five_freedoms_final_0_0.pdf. Similar views are stated in the point 4 of Article 5 of the "Law on Animal Welfare of the Republic of Serbia". „Zakon o dobrobiti životinja Republike Srbije”. Internet address: http://www.paragraf.rs/propisi/zakon_o_dobrobiti_zivotinja.html. In London, for example, already in 1824 the first society for the prevention of cruelty to animals was established, whereas a regulation pertaining to animal welfare in the UK was adopted in 1911, and, including numerous amendments, it is still in force today.

³⁴ On the relationship of the "rights" of animals and "welfare" of animals see: Post, S. T. (ed.). (2004). *Encyclopedia of Bioethics I*. New York: Macmillan Reference USA, 183-215.

³⁵ „Zakon o dobrobiti životinja Republike Srbije”. Internet address: http://www.paragraf.rs/propisi/zakon_o_dobrobiti_zivotinja.html. Trans. Ž. Kaluđerović.

take care of the life and welfare of animals”,³⁶ it only shows that it is the obligation of man to protect animals, and it does not entitle the animals the “right” to that protection. This, therefore, refers to the moral duty of man, and not to the “right” of the animals.³⁷ The rights holder can only be a man, because he alone has the dignity of personality, which is an attitude that is in accordance with the usual anthropocentric theses, and it does not differ much from the majority of similar norms in other European countries.³⁸

Article 7, paragraph 1, of the “Law on Animal Welfare of the Republic of Serbia” states that it is forbidden “to abuse animals”, while in paragraph 3 of the same Article it is prohibited to “deprive an animal of life, except in cases and in the manner prescribed by this Law”.³⁹ Such argumentation is substantially getting closer to the recognition of the “dignity” of animals. Of course, the trouble with such regulations is an animal is not a legal subject pursuant to the laws of the state, and therefore it cannot even sue anyone, despite the law on their welfare being adopted in the Parliament. Lawsuits cannot be filed on behalf of injured parties that are cows, pigs or hens, since they are animals, and animals cannot participate in any court proceedings.

Article 6, paragraph 1 of the Law states that the owner or holder of the animal is obliged to “treat the animal with the care of a prudent owner and to provide conditions for keeping and care of animals that correspond to the species, breed, sex, age, as well as physical, biological and production specifics and characteristics of the behaviour and health of the animal; ... The owner or keeper of the animal is responsible for the life, health and welfare of the animal and must take all necessary measures to ensure that no unnecessary pain, suffering, fear and stress or injury is inflicted on the animals”.⁴⁰

Despite this very well-conceived and harmonized with the highest European standards text,⁴¹ the life of animals in the stays or their position during transport

³⁶ „Zakon o dobrobiti životinja Republike Srbije”. Internet address: http://www.paragraf.rs/propisi/zakon_o_dobrobiti_zivotinja.html. Trans. Ž. Kaluđerović.

³⁷ Consult: Protopapadakis, E. D. (2012). Animal Rights, or Just Human Wrongs?. In E. D. Protopapadakis. (ed.). *Animal Ethics Past and Present Perspectives*. Berlin: Logos Verlag Berlin GmbH, 279-291.

³⁸ For example, “Zakon o zaštiti životinja Republike Hrvatske” (“Law on Animal Protection of the Republic of Croatia”) (Internet address: https://narodne-novine.nn.hr/clanci/sluzbeni/2017_10_102_2342.html), “Zakon o zaštiti i dobrobiti životinja Bosne i Hercegovine” (“Law on Animal Protection and Welfare of Bosnia and Herzegovina”) (Internet address: http://vfs.unsa.ba/web/images/dokumenti/Zako_o_zastiti_i_dobrobiti_zivotinja.pdf), or “Zakon o zaštiti dobrobiti životinja Crne Gore” (“Law on Animal Protection and Welfare of Montenegro”) (Internet address: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7B92A63CC4-3155-49BD-BB32-EC9624638EB3%7D>).

³⁹ „Zakon o dobrobiti životinja Republike Srbije”. Internet address: http://www.paragraf.rs/propisi/zakon_o_dobrobiti_zivotinja.html. Trans. Ž. Kaluđerović.

⁴⁰ „Zakon o dobrobiti životinja Republike Srbije”. Internet address: http://www.paragraf.rs/propisi/zakon_o_dobrobiti_zivotinja.html. Trans. Ž. Kaluđerović.

⁴¹ The last around fifty years on the European continent were marked by dramatic changes in the area of ethical-moral and legal-political regulation of the protection and welfare of animals. They are the result of legislative activities of individual states as well as of the transposition into the national

is still quite poor. The answer to why this is so partly lies in the fact that there is no concretization of general legal norms of such laws in the legislation, and partly because the adopted regulations limit the minimum standards that are not consistent with the high goals that are postulated by such laws. And the rest happens simply because the state control is weak and/or because of the logic of capital, namely these things happen because it is necessary to produce as much meat as possible with as little cost as possible.

Regardless of the fact that the Law is “a matter of general interest”, in itself it does not prohibit any injury or damage to animal health, but only prohibits “stunning, or depriving the animal of life contrary to the provisions of this Law”.⁴² After all, Article 15 of the Law sets out the nine bases on which an animal may be deprived of life “in a human manner”. These include points 3 and 4, according to which an animal can be slaughtered if it is to be used for food, and if it is used for scientific and biomedical purposes. In the collision of rights, traders of cattle and scientific institutions are favoured, since they can rely on their basic rights to freely exercise their own profession, as well as to the freedom of scientific research,⁴³ namely to the rights guaranteed to them by the highest legal act of the state, the Constitution,⁴⁴ while the “Law on Animal Welfare” is an act of a lower ontological rank, that is, a derived act.

If a (bio)ethical right should be legally perceived as well, it must be possible for it to be sought by court, i.e. the owner of the right must either personally, or if he cannot do so, through a guardian or other legal representative, file a lawsuit before the court for violation of his rights, and possibly procure an exemption. For animals, this is not currently foreseen,⁴⁵ although, for example, Article 1 of the “Law on Animal Welfare of the Republic of Serbia” states: “*This law regulates the welfare of animals, rights, obligations and responsibilities of legal and physical persons,*

legislation of a large number of relevant documents adopted under the auspices of the European Council and the various decisions of the bodies of European Union, and of the standardizing of the legislations of European countries. For more detailed consultations on the perspectives and achievements of bioethical institutionalization in the European Union see: Rinčić, I. (2011). *Europska bioetika: ideje i institucije*. Zagreb: PERGAMENA.

⁴² „Zakon o dobrobiti životinja Republike Srbije”. Internet address: http://www.paragraf.rs/propisi/zakon_o_dobrobiti_zivotinja.html. Trans. Ž. Kaluđerović.

⁴³ The society truly has a complex task to balance between the scientific freedom of research and the responsibility of preserving social norms and social values. “*Scientific freedom ... is an acquired right, generally approved by society as necessary for the advancement of knowledge from which society may benefit*”. But “*scientific freedom and responsibility are basically inseparable*”. Consult: AAAS Committee on Scientific Freedom and Responsibility, *Scientific Freedom and Responsibility*. (1975). Washington DC: American Association for the Advancement of Science, 5. Internet address: <https://www.aaas.org/sites/default/files/SRHRL/PDF/1975-ScientificFreedomResponsibility.pdf>.

⁴⁴ See: „Устав Републике Србије”. (2006). Београд: Канц. за сарад. с мед. Владе Републике Србије, 19, 22, 26.

⁴⁵ Consult: https://www.washingtonpost.com/archive/politics/1988/08/07/european-seal-herd-perishing/232cffdb-9d38-4fee-b710-bf371965ad06/?noredirect=on&utm_term=.9408f6d6c3f6; <https://www.cbsnews.com/news/chronology-of-mad-cow-crisis/>.

*i.e. entrepreneurs, for the welfare of animals, treatment of animals and protection of animals against abuse ...*⁴⁶

If there is an intention to really take care of the protection of animals, it is certainly not enough to devote to them one state goal that protects them so to say indirectly; instead, according to non-anthropocentrists, they should be given the “rights” that are similar to basic rights, to which a lawyer could refer to on their behalf when filing a lawsuit, and which can directly compete with the basic rights of scientists, meat producers and those who carry out the transport of animals. How could these basic “rights” of animals look like?

Firstly, they should be granted the “right” of respect for their animal “dignity”,⁴⁷ “the right” that will protect them from abuse in experiments.⁴⁸ The conflict between monkeys, dogs and cats harassed in experimental laboratories,⁴⁹ on the one hand, and the interests of medicine, pharmaceutical industry, and researchers on the other hand, could induce people to finally seriously assess whether animal suffering⁵⁰ is in a proper relationship to the benefit for man that comes out of it.⁵¹ In this assessment, it will be also significant whether the dignity of man justifies to deprive other living beings of their “dignity” in order to carry out sometimes suspicious experiments on them,⁵² whose results can often not

⁴⁶ „Zakon o dobrobiti životinja Republike Srbije”. Internet address: http://www.paragraf.rs/propisi/zakon_o_dobrobiti_zivotinja.html. Trans. Ž. Kaluđerović.

⁴⁷ Justified care of the protection of non-human living beings does not mean that the author of this paper considers that some kind of “moral status” should be recognized for animals, that would be in conformity to the human moral phenomena. Taking care of all current and future “rights” of animals, in the end, is essentially a human task.

⁴⁸ Except in the “Law on Animal Welfare of the Republic of Serbia”, experiments with experimental animals are also regulated in the various rulebooks, such as the „Pravilnik za rad sa eksperimentalnim životinjama Univerziteta u Novom Sadu” (“Rulebook for working with experimental animals at the University of Novi Sad”). This “Rulebook” defines: “*Protected animal species, experimental procedures (ethical and non-ethical), principles of ethics of experimental work on animals, competence of researchers for such work, composition and manner of establishment of the Ethics Committee for the protection of the welfare of experimental animals at the University of Novi Sad as well as the scope of work, tasks and rules of work of the committee (hereinafter: the Ethics Committee), the procedure for obtaining an opinion on experimental work on animals by the Ethics Committee, as well as the procedure in case of non-compliance with the rules of operation of the Ethics Committee and decisions made pursuant to the Rulebook*”. „Pravilnik za rad sa eksperimentalnim životinjama Univerziteta u Novom Sadu”. Internet address: <https://www.uns.ac.rs/index.php/rs/univerzitet/dokumenti/send/7-pravilnici/24-pravilnik-za-rad-sa-eksperimentalnim-zivotinjama>. Trans. Ž. Kaluđerović.

⁴⁹ On scientific experiments on animals see: Aramini, M. (2009). *Uvod u bioetiku*. Zagreb: Kršćanska sadašnjost, 403-405; Frey, R. G. (2005). Animals and Their Medical Use. In Cohen, A. I., Wellman, C. H. *Contemporary Debates in Applied Ethics*. Oxford: Blackwell Publishing, 91-103.

⁵⁰ Consult: <https://www.worldanimalprotection.org/>.

⁵¹ Article 6 of the “Universal Declaration of Animal Rights” states: “*Experiments on animals entailing physical or psychological suffering violate the rights of animals. 2°-Replacement methods must be developed and systematically implemented*”. “Universal Declaration of Animal Rights”. Internet address: <http://www.esdaw.eu/unesco.html>.

⁵² Clement of Alexandria, Maimonides, Tomas Aquinas, Kant and some contemporary authors as an argument why animals should not be experimented with, stated the subsequent potential

even be applied to man.

Animals should, furthermore, be guaranteed the basic “right” to life appropriate to their species,⁵³ the view that is based on the parts of the fourth and fifth articles of the “Universal Declaration of Animal Rights”: *“Wild animals have the right to live and reproduce in freedom their own natural environment ... Any animal which is dependent on man has the right to proper sustenance and care”*.⁵⁴

This also applies to the fundamental “right” of animals to life. As long as modern societies are meat-eating societies, it will be possible only to gradually implement this basic “right” of animals and therefore anchor it only in the vicinity of closer legal regulations. This basic “right” would primarily prohibit the excessive production of animals for slaughter, which then also leads to their destruction. Then, in order to gradually achieve the protection of life for the benefit of animals, a different programming of eating habits of new generations of people would have to occur.

In guaranteeing the basic “rights” to animals, which, in addition to determining the state’s goal, should also enter into the Constitution,⁵⁵ all of this could be taken into consideration together with the statement that any vertebrate has the right to have its dignity respected, and to a life that is suitable to its species. According to this interpretation, man would be permitted to intervene only for reasons of public interest, certainly within the framework of the law.⁵⁶

The first of these two sentences, in which in the form of a basic “right” animals are granted the “right” to “dignity” and life appropriate to the species, would probably mean that the keeping of animals in massive farming, which is being practiced today, due to the Constitution would have to, at some point be abolished and replaced by keeping animals in the manner appropriate to their species. The second sentence, according to which man is permitted to interfere in the life of animals for reasons of public interest, would be a regulation between

dehumanization of man himself. Similarly writes already mentioned “father” of European bioethics F. Jahr: *“... Senseless cruelty towards animals is an indication of an unrefined character becoming dangerous towards the human environment as well”*. Jahr, F. (2012). *Animal Protection and Ethics*. In A. Muzur, H.-M. Sass. (eds.). *Fritz Jahr and the Foundations of Global Bioethics. The Future of Integrative Bioethics*. Berlin – Münster – Wien – Zürich – London: Lit Verlag, 10.

⁵³ Article 1 of the “Universal Declaration of Animal Rights” states: *“All animals have equal rights to exist within the context of biological equilibrium. This equality of rights does not overshadow the diversity of species and of individuals”*. “Universal Declaration of Animal Rights”. Internet address: <http://www.esdaw.eu/unesco.html>.

⁵⁴ “Universal Declaration of Animal Rights”. Internet address: <http://www.esdaw.eu/unesco.html>.

⁵⁵ On the basis of the 1992 plebiscite, in Switzerland, the “Constitution” guarantees the inherent value of animals, i.e. it already speaks of “dignity of Creature” (“die Würde der Kreatur”). Consult also the latest version of the “Federal Constitution of the Swiss Confederation”, Article 120, paragraph 2 (“Non-human gene technology”). Internet address: <https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a120>.

⁵⁶ In order to make this proposal be legally and dogmatically viable and practical for implementation, it would be necessary to implement a specific and serious research.

the absolute protection of the life of animals and the relative readiness of a society which to some degree tortures animals, to take care of this protection of life. Movement of the society in that direction should represent an intention of the state which is to protect the animals, which is connected with the continuous flow of smaller and larger steps of the legislator, who will take care of that state's goal by promoting the appropriate way of life.

All this can seem pretty utopian, but time will show if people are mature for such a step in evolution. The present ecological, and not only ecological, crisis urges mankind to, among other things, determine in a new way its attitude towards animals. *Homo sapiens* is the first species that has ever been able to freely decide whether they will give up eating other living beings. The first step has been made - people have ceased to eat each other for a long time, and cannibalism is barely present in the so-called "primitive" nations. Whether man will soon make a second step by stopping to eat animals, to respect the fundamental "right" animal to life? It is unlikely that this will happen in the foreseeable future, but this does not mean that we should not continue to work on strengthening the protection and welfare of non-human living beings.

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