

Module 5

Improving Animal Welfare through Legislation and Incentives



This lecture was revised by **World Animal Protection** scientific advisors in 2012 using updates provided by Dr Caroline Hewson.

Free online resources

To get free updates and additional materials, please go to www.animalmosaic.org/education/tertiary-education/

This module will teach you

What legislation is

- ▣ **Some reasons why it varies between countries**

Why animal welfare legislation may not be effective

The characteristics of an ideal law to protect animals

What to do if you are involved in a court case about animal welfare

How World Trade Organization (WTO) rules can reduce animal welfare

How incentives and voluntary measures can help improve animal welfare

What is legislation?

“A law or set of laws suggested by a government and made official by a parliament”

“The question is not, Can they reason? Nor, can they talk? But, can they suffer? Why should the law refuse its protection to any sensitive being?” – Jeremy Bentham

Reflects ethical concerns and usually based on science

Protect animals from cruelty or from treatment detrimental to their welfare

✦ Why? Sentience / rights / positive human behaviour

Ethics and the law

**Protecting animals to benefit people
vs. protecting animals for the sake
of their mental and physical needs**

**Differing opinions and interpretations
of science and ethics can lead to
different laws around the world**

For example, the use of gestation
crates in farming

Legal definitions

A law: a rule established in the community by authority or custom; a body of such rules

Legislation: the rule or group of rules relevant to a particular topic

Statute: a specific law passed by a legislative body

Offence: an act contrary to the law

Defendant: a person accused of an offence in a court of law

Plaintiff: a person or body bringing an action in a court of law



Credit: Scott Denny/flickr.com

Different legal statuses

State and federal laws

By-laws

Primary legislation

Secondary legislation

Usually enacted by a government department with authority from primary legislation

Regulations

Guidance documents and codes of practice

**Supranational agreements,
eg**

European Union treaties

World Trade Organization rules

Types of animal law

Differences in purpose

- ✦ **Protecting species / the environment**
- ✦ **Banning activities**
- ✦ **Prohibiting cruelty**
- ✦ **Controlling methods of production**
- ✦ **Improving animal welfare**
- ✦ **Improving public health**
- ✦ **Improving animal health**

Which animals are included?

In order to determine the scope of a piece of legislation, it is essential to determine to which set of animals it applies

- ❖ **Animals specifically listed?**
- ❖ **Domestic, wild or captive animals?**
- ❖ **Vertebrate and invertebrate animals?**
- ❖ **All sentient animals?**

Which animals are included?



Pet rabbit



Laboratory rabbit

Why legislation may not be effective 1

Legal status of animals as property

- Sentience may not be recognised

Strict liability offence or intent needed

Exemptions: religion and culture

Accepted practice

Why legislation may not be effective **2**

Wording

- ⌘ Compromises in wording altering the original meaning and intention
- ⌘ Reinterpretation by industry bodies
- ⌘ Subjective interpretation of courts or juries
- ⌘ Poorly worded texts

Why legislation may not be effective 3

Lack of enforcement

- ❖ Responsibility for enforcement spread between different government departments
- ❖ Limited resources
- ❖ Conflicting priorities of the enforcement body
- ❖ Limited powers of the enforcement bodies
- ❖ Commercial confidentiality

Conflicting regulations: international agreements

International agreements on trade

For example, the World Trade Organization (WTO) rules

- ✦ Legally binding agreement to encourage free trade
- ✦ Goods must be treated equally whether imported or locally produced (eg no subsidies allowed)
- ✦ Goods cannot be discriminated against on the grounds of production methods
- ✦ Higher-welfare products are usually more expensive to produce, so lower-welfare imported food might be cheaper in a country where there is good legislation protecting farmed animals

Conflicting regulations: domestic legislation

Inspection of an animal when there is suspected cruelty or lack of welfare provision

- ✦ Access to premises for inspection vs. privacy

Common farming practices

- ✦ Food safety vs. fasting stock prior to transport to slaughter plant

Animal experimentation requirements

- ✦ Requirement to test products on animals vs. welfare of animals

Other influences: the OIE

World Organisation for Animal Health (OIE)

- ❖ Veterinary legislation is the foundation of any efficient animal health policy, including the protection of animal welfare (Vallat, 2009)
- ❖ Many member states do not have adequate legal protection of animals (Stafford & Mellor, 2009)
- ❖ Discussion of welfare vs. actual standards (Keeling et al., 2012)

Other influences: domestic and economic pressures

- ❖ **Insufficient availability of enforcement personnel**
- ❖ **Legal expenses**
- ❖ **Veterinary bills**
- ❖ **Boarding fees**
- ❖ **Insufficient value of stock**



A model welfare law

- ❖ **Applies to all sentient animals**
- ❖ **Clearly written**
- ❖ **Offences include failing to meet an animal's needs**
- ❖ **Easy to amend in line with new scientific knowledge, ethics, etc.**
- ❖ **High legal status, allowing for prosecutions**
- ❖ **Enforcement responsibility is clear and enforcement body has sufficient power and funds**
- ❖ **Includes education of public and industry**

Adequate consequences of a model law

There should be sufficient penalties in place in line with other similar offences in the country

The law should also have provision for

- ❖ **Power of seizure of the affected animals (and those dependant on them) to prevent defendants retaining ownership of the animal(s) during proceedings**
- ❖ **Prohibition of ownership of animals, to ensure the convicted party is banned from owning animals**
- ❖ **Prohibition of care or control over animals, to prevent ownership being transferred but the convicted party still taking care of animals**

Vets and animal protection law

Is the vet's responsibility to the client or the animal?

Vet as an expert witness

Guidelines in Welfare Toolbox

Summary so far

What legislation is

- ▣ Some reasons why it varies between countries

Why animal welfare legislation may not be effective

A 'model law' to protect animals

- ▣ What to do if you are involved in a court case about animal welfare

How incentives and voluntary measures can help improve animal welfare

Incentives to improve animal welfare 1

Consumers are demanding more high-welfare products

Growing international pressure

Financial incentives

- State pays farmers who exceed the minimum standard voluntarily
- To help them adapt to new laws
- World Bank funding criteria

Incentives to improve animal welfare 2

Financial incentives

Labelling ➤ access to higher-priced market niche (quality assurance schemes): if they do not meet the standards, they lose access to that market (Whay & Main, 2010)

- Internationally: bilateral agreements/quotas between countries, eg
- EU countries with Namibia (beef), Thailand and Argentina (organic chicken) (Bowles et al., 2005) and New Zealand (Matheny & Leahy, 2007)
- Labels not always useful if legislation is already very effective (Veissier et al., 2008)

Other ways to improve animal welfare 1

(Kneirim et al., 2011)

Public education

Government-funded research - informs policy



Other ways to improve animal welfare 2

(Kneirim et al., 2011)

“Soft law” (Sharpless, 2009)

Universal Declaration of Animal Welfare: four principles (WSPA, 2007)

- ⌘ Animal welfare a common objective
- ⌘ The standards attained by each [state] shall be promoted, recognized and observed by improved measures, nationally and internationally

States to do all possible to prevent cruelty and reduce suffering

- ⌘ Appropriate standards further developed and elaborated

UN’s Animal Welfare Portal (FAO, 2011)

Lobbying / political connections

- ⌘ Lobby groups
- ⌘ Veterinary groups

Summary

What is legislation?

- ▣ **Some reasons why it varies between countries**

Why animal welfare legislation may not be effective

What is an ideal law to protect animals?

How Article III of GATT can reduce animal welfare

- ▣ **Exemptions do not help**

Article XX of GATT

How incentives and voluntary measures can help improve animal welfare

Feedback:

Please let us know what you think

- ❖ How have you used this module?
- ❖ What did you like about it?
- ❖ What did you not like?
- ❖ Do you have any tips to share?

Please take part in our 10 minute survey here:

<https://www.surveymonkey.com/s/BKP3D6H>

Your feedback will help other teachers like you

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