

# Legislative and regulatory options for animal welfare



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by  
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## PREFACE

In countries around the world, the demand for animal protein inexorably rises as the level of development increases. Animal welfare concerns also garner more attention as consumers recognize the links between animal health and animal welfare, and animal welfare and human well-being. The challenge is to increase food animal production while simultaneously ensuring good animal welfare and protecting food security.

Animal welfare is not a new subject for regulation in most developed countries, owing to a sophisticated consumer base and greater exposure to animal welfare issues. Growing international trade is generating more interest in animal welfare elsewhere in the world, in particular in countries seeking to increase trade with Europe. To date, countries wishing to update their existing veterinary legislative frameworks have had little comprehensive guidance on the options for regulating animal welfare.

In this text, Jessica Vapnek and Megan Chapman (formerly Legal Officer and Volunteer, respectively, in the Development Law Service), review the ways in which countries can choose to legislate on animal welfare. They outline the philosophy behind animal welfare, as well as the main trends in animal welfare science. Against the backdrop of international developments, they review national options for the regulation of animal welfare, summarizing the main elements of animal welfare legislation and the regulatory choices available to law-makers. It is hoped that this text will prove useful to researchers, government policy-makers and animal welfare advocates in search of a window onto animal welfare legislation.

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Blaise Kuemlangan,  
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# I

## INTRODUCTION

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## 1.1 Overview

In addition to the various religious, ethical and philosophical bases for animal welfare, there is increasing recognition of the ties between animal welfare indicators and animal health.<sup>1</sup> Disregard for animal welfare often leads to poor animal health – increased susceptibility of animal populations to disease and injury and poor quality or contaminated animal-based food products – with resulting economic losses (Broom, 2001). Animal welfare is thus intrinsically related to other government concerns such as public health, food safety and long-term economic development.

Consumers increasingly link animal welfare indicators with food safety and quality (Harper and Henson, 2001), in addition to ethical or socially responsible preferences. These consumer preferences create economic incentives for producers to meet animal welfare standards, as established by legislation or voluntary certification programmes. In addition, mobilized citizens and animal welfare advocates may exert pressure on governments to set and enforce animal welfare standards.

Because food animals are important to human welfare – as a source of nutrition and income – concern for animal welfare is inextricable from concern for human needs. This is particularly the case in countries with developing economies, where current and expected population increases are putting pressure on food security and economic growth (FAO, 2002). Increased food animal production is often a necessary part of attaining both goals. In newly industrialized countries, a growing middle class means increasing domestic demand for meat and animal by-products (Delgado, 2003), even where these may cost more due to compliance with animal welfare standards. The key challenge is to find ways to increase food animal production while simultaneously improving or ensuring good animal welfare and protecting food security.

In Europe, animal welfare has been the subject of national legislation and regional agreements for more than a generation, largely due to more exposure to and discomfort with the treatment of animals in industrialized farms and slaughterhouses. In light of increased international trade,

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<sup>1</sup> For example, the World Organisation for Animal Health (OIE) recognized the "essential link between animal health and welfare" (Resolution No. XIV, 29 May 2002).



globalization of animal health concerns and pressure for harmonization of food safety standards, many other countries are also choosing to regulate animal welfare (Mitchell, 2000). To improve their legislative frameworks, some countries use or adapt pre-existing legislation on the prevention of cruelty to animals, while others draft new animal welfare laws, blending national and local concerns with international animal welfare principles.

Because the earliest animal welfare legislation was developed in countries where industrialized production is the norm, these legislative instruments tend to focus on farm animals housed, transported and slaughtered in high-technology environments designed to intensify production. However, animal welfare legislation need not be limited to industrialized production. Well-drafted legislation can and should apply to other types of production such as subsistence farming and small-scale commercial production. Different scales of production raise different concerns (FAO, 2009), but the basic animal welfare principles are common to all.

This text aims to provide practical information to legislators and policy-makers wishing to revise, update or draft animal welfare legislation. This chapter begins by reviewing the philosophical bases for animal welfare (Section 1.2), and then the basic principles (Section 1.3) and developing science (Section 1.4) of animal welfare. It then surveys the international and regional context for the regulation of animal welfare, discussing the types of international and regional standards and agreements developed over time and currently in force (Chapter II). Next, the text outlines the main tools with which countries can regulate animal welfare (Chapter III). Finally, it outlines the subjects covered in most animal welfare legislation – institutions, transport, slaughter, housing and management – offering a summary of key animal welfare issues and choices facing regulators (Chapter IV). The text then provides a brief conclusion (Chapter V). Throughout the publication, but especially in Chapter IV, the issues and options for national policy- and law-makers are outlined against the context of international standards and animal welfare science, and examples are provided from a range of national legislation.

## **1.2 Philosophical bases of animal welfare**

What people understand by "animal welfare" depends in part on values that differ between cultures and individuals. These differences lead people to emphasize different elements of animal welfare that can be summarized under three broad headings (Fraser, 2008). The first is an emphasis on the physical health and biological functioning of animals. There is almost universal agreement that such elements are important for animal welfare, hence disease, injury and malnutrition are more or less universally regarded as animal welfare problems. The second is concern about the "affective states" of animals, especially negative states such as pain, distress and hunger. These are common concerns in many cultures, but in some cases they are de-emphasized by certain people – often animal producers and veterinarians – who may, for example, regard the short-term pain of castration as not important enough to warrant pain management interventions. The third is a belief that the welfare of animals depends on their ability to live in a reasonably "natural" manner, either by being free to perform important elements of their natural behaviour or by having natural elements (daylight, fresh air) in their environment. This last belief arises especially in industrialized countries and is common in critiques of industrialized forms of animal production. It generally has less currency in cultures that have not undergone industrialization of their economies or animal production systems.

These different elements of animal welfare help explain why animal welfare objectives are pursued although they are sometimes favourable and sometimes unfavourable for the cost of production and other economic concerns. In general, improvements in animal welfare that are achieved by improving basic health and biological functioning – for example by reducing disease, injury, malnutrition and death – will improve the efficiency of animal production and help reduce production costs. In contrast, measures to allow natural behaviour and natural environments generally require that animals in confinement systems be given more space and other amenities; they may also require animals to be kept partly outdoors, potentially compromising control over pathogens and harsh weather effects. In such cases, conforming to animal welfare standards may increase production costs. Measures to mitigate pain and distress may either reduce production costs by reducing stress-related losses in animal growth or health, or else may increase costs when the expense of pain-reduction measures is greater than any related production increase (Fraser, 2006). Depending on the balance of these cost

factors and the philosophical bases for animal welfare most prevalent in a given society, different aspects of animal welfare will be accorded greater or lesser priority.

### **1.3 Evolution of basic animal welfare principles**

In 1965, the British Government commissioned an investigation into the welfare of farmed animals and thereafter proposed that all animals should have freedom to stand up, lie down, turn around, groom themselves and stretch their limbs. These became known as the "Five Freedoms"<sup>2</sup> (Farm Animal Welfare Council, 2009). In 1993, the United Kingdom Farm Animal Welfare Council (FAWC) decided that the original definitions concentrated too much on space requirements and on the comfort-seeking aspects of behaviour, to the exclusion of other relevant elements of animal welfare such as good food, good health and safety. The expanded Five Freedoms now established by the FAWC are:

1. freedom from hunger and thirst – by ready access to fresh water and a diet designed to maintain full health and vigour;
2. freedom from discomfort – by the provision of an appropriate environment including shelter and a comfortable resting area;
3. freedom from pain, injury or disease – by prevention or through rapid diagnosis and treatment;
4. freedom to express normal behaviour – by the provision of sufficient space, proper facilities and company of the animal's own kind; and
5. freedom from fear and distress – by the assurance of conditions that avoid mental suffering.

The Five Freedoms have been widely accepted as a statement of fundamental principles of animal welfare. Although they do not provide detailed guidance on the treatment and care of animals, they serve as a useful framework for the assessment of whether animals' basic welfare needs are being met on farms, in markets, during transport, in lairages (holding pens for animals awaiting slaughter) and during slaughter. They have been included or referred to in national legislation, for example in New Zealand's

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<sup>2</sup> These are also known as Brambell's Five Freedoms, a reference to the author of the commissioned investigation report (Professor Roger Brambell).

Animal Welfare Act (1999) where they were used as part of the definition of animals' "physical, health and behavioural needs" (sec. 4), and Costa Rica's Animal Welfare Act (1994) where they are considered the "basic conditions" for animal welfare (art. 3). The Five Freedoms have also been adapted and incorporated into regional agreements such as the European Convention for the Protection of Animals Kept for Farming Purposes (1976), although there they were expanded to include far broader animal welfare provisions.

As a complement to the Five Freedoms, 12 criteria for the assessment of animal welfare have been identified by the Welfare Quality Project (WQP), a research partnership of scientists from Europe and Latin America funded by the European Commission. The WQP aims to develop a standardized system for assessing animal welfare – a system that would be implemented in Europe – and more generally to develop practical strategies and measures to improve animal welfare (Welfare Quality, 2009).

The WQP criteria for the assessment of animal welfare are:

1. Animals should not suffer from prolonged hunger, i.e. they should have a sufficient and appropriate diet.
2. Animals should not suffer from prolonged thirst, i.e. they should have a sufficient and accessible water supply.
3. Animals should have comfort around resting.
4. Animals should have thermal comfort, i.e. they should neither be too hot nor too cold.
5. Animals should have enough space to be able to move around freely.
6. Animals should be free from physical injuries.
7. Animals should be free from disease, i.e. farmers should maintain high standards of hygiene and care.
8. Animals should not suffer pain induced by inappropriate management, handling, slaughter or surgical procedures (e.g. castration, dehorning).
9. Animals should be able to express normal, non-harmful social behaviours (e.g. grooming).
10. Animals should be able to express other normal behaviours, i.e. they should be able to express species-specific natural behaviours such as foraging.
11. Animals should be handled well in all situations, i.e. handlers should promote good human-animal relationships.

12. Negative emotions such as fear, distress, frustration or apathy should be avoided, whereas positive emotions such as security or contentment should be promoted.

The WQP emphasizes that these 12 criteria are animal-centred, aimed at assessing an animal's experience of its own situation. Although resource-based and management-based criteria are also relevant to assessing the entire animal welfare situation, according to the WQP such criteria are secondary to those assessing the animal's experience. Since they reflect a wide consensus, the WQP criteria provide a powerful framework for the development of legislation in line with international animal welfare principles. Moreover, relative to the Five Freedoms, the WQP criteria are more concrete and specific and may therefore be more easily measured in practice. Finally, because these criteria may eventually underpin an integrated and standardized animal welfare labelling system for European consumers, they should be increasingly important to producers in countries exporting animal products to Europe.

#### **1.4 Animal welfare science**

In the development of legislation on animal welfare, many national governments and international organizations rely on multi-disciplinary animal welfare science in addition to broad animal welfare principles such as those just reviewed. Animal welfare science combines disciplines such as the study of animal behaviour, stress physiology, nutrition, genetics and veterinary medicine to determine, for instance, how various farming practices affect animal welfare. This scientific foundation helps to move animal welfare legislation away from reliance on "common sense" or the tendency to equate "traditional" or "natural" husbandry practices with animal welfare (Fraser, 2005). It also reinforces the connection between animal welfare and animal health.

The World Organisation for Animal Health (OIE) (discussed further in Chapter II) is the primary international standard-setting organization for veterinary matters and takes a strong science-based approach, beginning with its definition of animal welfare:

"Animal welfare" means how an animal is coping with the conditions in which it lives. An animal is in a good state of welfare if (*as indicated by scientific evidence*) it is healthy,

comfortable, well nourished, safe, able to express innate behaviour, and if it is not suffering from unpleasant states such as pain, fear, and distress . . . . (OIE, 2008) (emphasis added).

Chapter 7.1 of the OIE Terrestrial Animal Health Code (the principal source of international standards on animal health and recommendations on animal welfare for farm animals), states that its recommendations have a scientific basis (art. 7.1.3). In addition, all nine members and two observers of the OIE Working Group on Animal Welfare have a background in veterinary medicine or another relevant science (OIE, 2009).

Many national governments take an active role in both funding the development of animal welfare science and implementing the results in legislation. For example, in the United Kingdom (UK), the Department for Environment, Food and Rural Affairs (DEFRA) has an animal welfare research and development programme with a large annual budget. One of its stated objectives is to "provide the evidence base to support regulatory policies to improve standards of animal welfare in the UK and across the [European Union]" (DEFRA, 2009). In countries with developing economies, one concern is how to leverage limited resources to adapt the findings of animal welfare science (often focused on industrialized production) to local production conditions, rather than simply "parachuting in" outside expertise (FAO, 2009).

The establishment of a strong and dynamic institutional relationship between animal welfare scientists and regulatory agencies is an important precursor to good animal welfare legislation. An important related factor is the ability to update legislation to keep pace with scientific developments; for that reason, principal national legislation may be kept more basic, with the more detailed requirements set out in implementing regulations and other subsidiary legislation which can more easily be changed.



## II

### INTERNATIONAL AND REGIONAL CONTEXT

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