



Animal Protection Index (API) 2020

Republic of South Africa: ranking E

Executive summary

The main animal welfare legislations in South Africa are the Animal Protection Act No. 71 of 1962, which prohibits animal cruelty on all domestic and wild animals in captivity or under the control of humans; and the Performing Animals Act 1935, amended in 2016, which requires establishments training animals for exhibitions or performance, or training guard dogs, to be licensed. Furthermore, the South African Bureau of Standards (SABS), in cooperation with the National Council of SPCAs (NSPCA), have enacted a series of animal welfare Standards, which provide further details in relation to certain species of animals.

However, there is room for improvement in many areas related to animal welfare. Notably, the Standards produced by the SABS are not readily available to the public, because they must be purchased. This lack of accessibility is a serious obstacle to maintaining and improving adequate animal welfare in the country. Other industry bodies, such as the Livestock Welfare Coordinating Committee, have developed their own Codes of Welfare, however, these are voluntary and non-binding. The self-regulation of industries using animals in South Africa is also an obstacle to progress animal welfare. The confinement of farm animals, including farrowing crates for sows and cages for broiler chickens and egg-laying hens, is allowed in the country. Furthermore, game farming is legal in South Africa. In May 2019, 33 wild species were added to the list of species which can be farmed, including lions, cheetahs, giraffes, rhinos and zebras. Canned hunting is also widely practiced, although the Government has expressed its disapproval of the practice. Cruel practices such as fur farming, and the use of animals for entertainment, are still allowed. Furthermore, there is a lack of legislation protecting stray animals. With regards to wild animals, South Africa lifted the 2009 moratorium on the rhinoceros horn trade within the country's borders in April 2017, which poses the risk of fuelling international demand for rhino horn. Smuggling of rhino horns outside South Africa may also increase following the legalisation of the domestic trade.

Responsibility for enforcing the Animal Protection Act No.71 of 1962 and the Performing Animals Protection Act 1935, amended in 2016, is given to the Department of Agriculture, Forestry and Fisheries (DAFF) since 1997, which has been renamed the Department of Agriculture, Rural Development and Land Reform in 2019. The Department of Environment, Forestry and Fisheries – previously, the Department for Environmental Affairs and Tourism – is in charge of implementing the National Environmental Management: Biodiversity Act 2004. In its current Strategic Plan 2015/16 to 2019/20, the Department of Agriculture, Forestry and Fisheries mentions the Animal Welfare Bill; however, no detail is given as to what new provisions this Bill will contain. DAFF explicitly states that one of its aims is to 'develop a single Animal Welfare Act in line with relevant section of the Constitution, as well as international animal welfare standards'. Since the API was first published in 2014, this Animal Welfare and Protection Bill does not seem to have progressed.

The Government of South Africa is urged to ban the worst forms of confinement for animals reared in



farming and to mandate humane slaughter for all livestock animal species. In addition, the Government of South Africa is strongly encouraged to fully ban fur farming, which is inherently cruel and causes pain, distress and suffering to animals. Captive breeding of wild animals should only be allowed in registered zoological facilities, only when it serves conservation purposes and abides by strict welfare conditions. Efforts should be made to release animals into their natural habitat. As such, the Government of South Africa is urged to ban all forms of trophy hunting, including canned hunting. The Government of South Africa is urged to outlaw the culling of stray animal populations, and to implement spay-and-neuter campaigns as a tool to control stray animal populations. The Government of South Africa is strongly encouraged to ban the use of all animals for entertainment which causes animal suffering. Overall, the Government of South Africa is strongly encouraged to align its current legislation with OIE standards. Responsibility for animal welfare should be allocated to a Ministry, and a specific government body should enact and assess the implementation of animal protection legislation. Such a government body should include representatives from animal welfare organisations. Further legal and policy recommendations are associated with each Animal Protection Index (API) indicator and contained in the relevant sections of this report.



Animal Protection Index Indicators

Goal 1: Recognition of animal sentience and prohibition of animal suffering

1. Animal sentience is formally recognised in legislation

| Analysis of the legislation | |
|--|---|
| Ranking | C |
| <p>There is no formal recognition of animal sentience in legislation or policy. However, the main animal welfare legislation in South Africa, the Animal Protection Act No. 71 of 1962,¹ prohibits animal cruelty (Section 2(1)). 'Animal' is defined in the law as 'any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird or any wild animal, wild bird or reptile which is in captivity or under the control of man'. Thus, this Act covers domestic animals and birds, as well as wild animals, birds and reptiles who are in captivity or under the control of humans.</p> <p>The definition of animal cruelty lists various scenarios under which animals would suffer physical pain. Furthermore, Section 2(1)(a) states that any person who 'infuriates' or 'terrifies' an animal is also committing an offence.</p> <p>The Strategic Plan of the Department of Agriculture, Forestry and Fisheries (DAFF) for 2013/14 to 2017/18 mentions updating the animal protection legislation with a new Animal Welfare and Protection Bill.² However, the plan does not include detail on the proposed scope of changes to animal protection legislation. In its current Strategic Plan 2015/16 to 2019/20, the Department of Agriculture, Forestry and Fisheries mentions the Animal Welfare Bill, however, no detail is given as to whether this Bill would recognise animal sentience.³ The DAFF explicitly states that one of its aims is to 'develop a single animal welfare Act in line with relevant sections of the Constitution, as well as international animal welfare standards'. Since the API was first published in 2014, this Animal Welfare and Protection Bill does not seem to have progressed. In 2019, DAFF was renamed the Department of Agriculture, Rural Development and Land Reform.</p> <p>Analysis</p> <p><i>The Animal Protection Act 1962 recognises some aspects of animal sentience, since it acknowledges that animals can experience physical pain. Furthermore, the prohibitions on infuriating and terrifying animals allude to the psychological suffering of animals.</i></p> <p><i>However, animals are not explicitly defined as sentient in the law. Therefore, the Act is limited in its scope of application, as it does not extend to fish, and does not cover wild animals in their natural state.</i></p> | |

¹ <https://www.daff.gov.za/doaDev/sideMenu/acts/11%20Animal%20Protection%20No71%20{1962}.pdf>

² <http://www.daff.gov.za/doaDev/topMenu/DAFF%20Strategic%20Plan%202013.pdf>

³ https://www.daff.gov.za/doaDev/topMenu/DAFF_SP_%20complete.pdf



It is positive that the Department of Agriculture, Forestry and Fisheries is considering a new Animal Welfare Bill, however, at the time of writing, this Bill has not been put forth to Parliament.

Enforcement mechanisms

Breach of the prohibition against causing animal suffering, in Section 2 of the Animal Protection Act 1962, is punishable with fines, imprisonment, confiscation, and banning animal ownership.

The Minister of Justice has overall responsibility under the Act, and enforcement activity is undertaken by the officers of the Societies for the Prevention of Cruelty to Animals and the police. Section 10 of the Animal Protection Act 1962 provides that the Minister may make regulations relating to: methods of confinement and accommodation for any animal, whether travelling or stationary; any other reasonable requirements which may be necessary to prevent cruelty to or suffering of any animal; confiscation of animals, destruction and recovery of expenses; other implementation purposes. However, there is no formal body, board or group of government officials responsible for implementing the Act and its secondary regulations, or for promoting measures on animal welfare in policy or legislation in the country.

It is not clear whether the Government provides finance to the SPCAs to fund the enforcement work of the officers in relation to the Animal Protection Act 1962, or whether any specific training is given to these officers to effectively carry out their role. Section 4 of the Animals Matter Amendment Act No. 42 of 1993⁴ mentions that the Minister of Justice may from time to time, with the concurrence of the Minister of State Expenditure, give appropriate funds to a society for costs incurred relating to the removal, custody, disposal or destruction of an animal, but it is not clear whether this forms a regular contribution. The wording of this part of the Act suggests that this is not a formal financial agreement and that money is not budgeted to fund the activities of the SPCAs.

Key recommendations

• **Given the extensive body of scientific evidence proving that animals are sentient, the Government of South Africa is urged to recognise that all animals for whom there is scientific evidence – at a minimum, all vertebrates, cephalopods and decapods crustaceans – are sentient beings and to enshrine this principle into legislation. Recognising animals as sentient will underpin further animal welfare considerations. As such, the Government of South Africa is strongly encouraged to explicitly recognise animals as sentient in the Animal Protection Act 1962, or in the new Animal Protection Bill mentioned in DAFF’s Strategic Plan. The scope of application of the Act should also be expanded to include all vertebrates, cephalopods and decapod crustaceans.**

⁴ https://cisp.cachefly.net/assets/articles/attachments/01978_animalmattersaa42.pdf



2. There are animal protection laws that prohibit causing animal suffering either by a deliberate act of cruelty or by a failure to act

| Analysis of the legislation | |
|--|---|
| Ranking | C |
| <p>Section 2(1) of the Animal Protection Act 1962 lays out acts of cruelty that are prohibited. This is a detailed list that includes deliberate acts such as overloading, causing unnecessary suffering by confining, chaining or tethering, abandonment, as well as acts of negligence such as unnecessarily denying food or water, deliberately or negligently keeping an animal in a dirty or parasitic condition or failing to procure veterinary assistance. There is a general provision which prohibits wantonly, unreasonably or negligently doing, or omitting to do, any act or causing or procuring the commission or omission of any act that causes unnecessary suffering (Section 2(1)(r)). Section 2(2) further provides that an owner of any animal shall be deemed to have permitted or procured the commission or omission of any act in relation to that animal, if by the exercise of reasonable care and supervision in respect of that animal, the owner could have prevented the commission or omission of these acts. However, this Act does not extend to wild animals when they are not in captivity, or to fish.</p> <p>The Animals Matter Amendment Act No.42 of 1993 stipulates that animal owners are responsible for injuries caused by the animal they are responsible for.</p> <p>The Societies for the Prevention of Cruelty to Animals Act 169 of 1993⁵ governs the management of SPCAs. Section 9 outlines the functions, powers and duties of the SPCAs and grants SPCAs the power to institute legal proceedings against any person inflicting cruelty to animals.</p> <p>Furthermore, the South African Bureau of Standards (SABS) is a legislative body that has produced a series of South African National Standards (SANS) on the welfare of various species of animals.^{6,7} These Standards or Codes, produced by the SABS, with the involvement of the National Council of SPCAs (NSPCA)⁸, are the following:</p> <ul style="list-style-type: none">- Code for Dairy Cattle- Code for Feedlots- Code for Handling and Livestock- Code for Livestock and Sale yards- Code for Pig Welfare- Code for Ostrich- Code for Poultry <p>The Livestock Welfare Coordinating Committee (LWCC) has also approved several Codes of</p> | |

⁵https://www.ru.ac.za/media/rhodesuniversity/content/ethics/documents/southafricanlegislation2/Societies_for_the_Prevention_of_Cruelty_to_Animals_Act169_of_1993.pdf

⁶<https://www.sabs.co.za/AboutSABS/index.asp>

⁷https://www.thedti.gov.za/business_regulation/acts/standards_act.pdf

⁸<https://nspca.co.za/animal-welfare/farm-animals/welfare-standards/>



Conduct for various farm animal species.⁹ Furthermore, the LWCC website states that other Codes are under development at the time of writing: the Code for evaluating farm livestock welfare and the milking goat welfare.¹⁰ However, these Codes, which are industry standards, do not have regulatory status: they are voluntary and non-binding. In 2011, the OIE reported that codes, guidelines and manuals are already in existence or in the process of being developed on a number of areas such as kennels, working dogs, draught animals, working animals, breeding to address issues such as puppy farming and circus animal welfare.¹¹ However, since the API was published in 2014, no progress seems to have been made on the development of such Codes.

The Strategic Plan of the Department of Agriculture, Forestry and Fisheries (DAFF) for 2013/14 to 2017/18 mentions updating the animal protection legislation with a new Animal Welfare and Protection Bill.¹² However, the plan does not include detail on the proposed scope of changes to animal protection legislation. In its current Strategic Plan 2015/16 to 2019/20, the Department of Agriculture, Forestry and Fisheries mentions the Animal Welfare Bill, however, no detail is given as to whether this Bill would recognise animal sentience.¹³ The DAFF explicitly states that one of its aims is to 'develop a single animal welfare Act in line with the relevant section of the Constitution, as well as international animal welfare standards'. Since the API was first published in 2014, this Animal Welfare and Protection Bill does not seem to have progressed. In 2019, DAFF was renamed the Department of Agriculture, Rural Development and Land Reform.

Analysis

It is positive that animal cruelty is prohibited in the Animal Protection Act 1962. This Act provides a detailed definition of animal cruelty, which encompasses cruel treatments of animals, impacting both on their physical and psychological welfare, as well as a failure to act in case of animal cruelty. However, it is regrettable that the scope of application of the Act is limited, as it does not apply to fish or wild animals.

It is positive that there are various Codes of Conduct with species-specific provisions, mandating the humane treatment of various animals. However, the Standards produced by the SABS need to be purchased and are therefore not readily available to members of the public. This lack of accessibility is a serious obstacle to maintaining and improving adequate animal welfare standards. Furthermore, the Codes developed by the LWCC are merely industry standards, which are voluntary and non-binding. The self-regulation of industries using animals in South Africa is also an obstacle to progress in terms of animal welfare.

There are also challenges with respect to cultural attitudes to animals and the continuation of practices that involve considerable animal suffering, such as bull killing rituals.¹⁴ Proposals for new legislation

⁹ <http://lwcc.org.za/>

¹⁰ <http://lwcc.org.za/codes-under-development/>

¹¹ OIE Sub-regional Representation for Southern Africa (2011). Animal welfare in OIE member countries & territories in the SADC region. Summaries of baseline country assessments. Gaborone, Botswana.
<http://www.oie.int/doc/ged/d11112.pdf>

¹² <http://www.daff.gov.za/daaDev/topMenu/DAFF%20Strategic%20Plan%202013.pdf>

¹³ https://www.daff.gov.za/daaDev/topMenu/DAFF_SP_%20complete.pdf

¹⁴ <http://www.thenational.ae/news/world/africa/culture-clash-over-bull-killing-ritual>



on animal welfare and animal protection, as mentioned in the Department of Agriculture, Forestry and Fisheries' current strategic plan, may present opportunities for improvement in this area.

Enforcement mechanisms

Anyone found guilty of acts which cause an animal to suffer under Section 2 of the Animal Protection Act 1962 is liable to a fine and/or imprisonment for up to a year. Organising animal fighting is punishable by a fine or imprisonment for up to two years. The court also has powers to order the destruction of an animal if it would be cruel to keep the animal alive, confiscation, and prohibition on animal ownership for a specified period. The court may also award damages if a convicted person's actions have led to expenses being incurred by another person in caring for an animal, up to R5,000.

Section 2(9) of the Animal Protection Act 1962 provides that any person who wilfully obstructs, hinders or resists an officer from the Societies for the Prevention of Cruelty to Animals, conceals any animal, or on demand fails to give his name and address to such officer, shall be guilty of an offence and liable of conviction to the penalties.

The Minister of Justice has overall responsibility under the Animal Protection Act, and enforcement activity is undertaken by the officers of the Societies for Prevention of Cruelty to Animals and the police. Section 10 of the Animal Protection Act 1962 provides that the Minister may make regulations relating to: methods of confinement and accommodation for any animal, whether travelling or stationary; any other reasonable requirements which may be necessary to prevent cruelty to or suffering of any animal; confiscation of animals, destruction and recovery of expenses; other implementation purposes. However, there is no formal body, board or group of government officials responsible for implementing the Act and its secondary regulations, or for promoting measures on animal welfare in policy or legislation in the country.

It is not clear whether the Government provides finance to the SPCAs to fund the enforcement work of the officers in relation to the Animal Protection Act 1962, or whether any specific training is given to these officers to effectively carry out their role. Section 4 of the Animals Matter Amendment Act No. 42 of 1993¹⁵ mentions that the Minister of Justice may from time to time, with the concurrence of the Minister of State Expenditure, give appropriate funds to a society for costs incurred relating to the removal, custody, disposal or destruction of an animal, but it is not clear whether this forms a regular contribution. The wording of this part of the Act suggests that this is not a formal financial agreement and that money is not budgeted to fund the activities of the SPCAs.

Although there is legislation to prevent animal cruelty, it is not clear whether there are human and financial resources set aside for this purpose. It has also been reported that enforcement by public authorities is ineffective or non-existent, and that in general, capacity is limited for several reasons ranging from a lack of resources, training, attitudes and inadequate penalties.¹⁶

¹⁵ https://cisp.cachefly.net/assets/articles/attachments/01978_animalmattersaa42.pdf

¹⁶ OIE Sub-regional Representation for Southern Africa (2011). Animal welfare in OIE member countries & territories in the SADC region. Summaries of baseline country assessments. Gaborone, Botswana. <http://www.oie.int/doc/ged/d11112.pdf>



Furthermore, the industry standards produced by the LWCC are only voluntary and non-binding. It is unclear from the Standards produced by the SABS (the SANS) whether these are legally-binding; this lack of clarity is mostly due to the fact that the SANS need to be purchased to be read in their entirety.

Key recommendations

- The Government of South Africa is urged to expand the scope of application of the Animal Protection Act 1962 to all vertebrates, cephalopods and decapod crustaceans, so that all these animals benefit from the anti-cruelty prohibition contained in the Act. All these animals should also be explicitly defined as sentient in the law.
- The Government of South Africa is strongly encouraged to provide regular funding to the SPCAs, so that these Societies can correctly enforce the Animal Protection Act 1962 and perform their role as inspectors of animal welfare standards.
- The Government of South Africa is urged to publish the full-length animal welfare Standards developed by the South African Bureau of Standards (SABS). At present, these various Standards need to be purchased and are therefore not readily available to members of the public; it is also unclear whether these Standards are legally binding.

Goal 2: Presence of animal welfare legislation

3. There are laws that apply to animals used in farming including rearing, transport and slaughter

| Analysis of legislation | |
|---|---|
| Ranking | E |
| <p><u>Rearing</u></p> <p>The anti-cruelty provisions of Section 2(1) of the Animal Protection Act 1962 apply to farm animals. Particularly relevant examples of prohibited conducts are confinement that causes suffering, unnecessarily denying food or water, and deliberately or negligently keeping an animal in a dirty or parasitic condition.</p> <p>The Animal Health Act 2002¹⁷ focuses on sanitary and health provisions, as well as exports of animal products, and does not contain any welfare provisions.</p> <p>Several of the Standards developed by the South African Bureau of Standards (SABS) are applicable to farm animals. Notably, the SABS has produced Codes on Dairy Cattle, Feedlots, Handling and</p> | |

¹⁷ <http://extwprlegs1.fao.org/docs/pdf/saf37562.pdf>



Livestock, Livestock and Sale yards, Pig Welfare, Ostrich and Poultry.¹⁸ However, these Standards are not publicly available for free and need to be purchased.

In addition, the Livestock Welfare Coordinating Committee (LWCC) has produced industry standards with regards to animal production. The LWCC is managed by the South African Meat Industry Company. Codes drafted by the Committee can be adopted and reviewed under the current legislation.¹⁹ The LWCC Codes are available for free, though these industry standards are not legally binding.

Rearing – pigs

Since the API was first published in 2014, the South African National Standard on Pig Welfare (SANS 1478:2016)²⁰ was published in April 2016 by the SABS. Article 1 of the Standard refers to the Five Freedoms. The full Standard is not readily available and needs to be purchased; hence it could not be assessed for the Animal Protection Index.

An industry code of welfare has also been published by the LWCC.²¹ This industry Code covers requirements for humane husbandry practice for the keeping of pigs, and the Introduction of the Code lists the Five Freedoms. Section 2 focuses on crates: dry sow and farrowing crates 'must be designed and built to allow the sow to stand or lie comfortably with her legs naturally extended' (Article 2.1). Article 2.1 adds that 'it is recommended that sows be given the opportunity to spend time out of crates or tethers, in alternative accommodation', which should allow the pig to 'perform its natural body function'. Further provisions mandate hygienic conditions, adequate ventilation and temperature, as well as shelter from direct sunlight, winds and inclement weather. The Code also forbids tether systems to be installed from the date of publication (Article 1.1). Furthermore, all tether systems need to be phased out by 31 December 1999.

Rearing – broiler chickens

It is reported that the SABS has produced a Standard on Poultry; however, since the Standard is not readily available and needs to be purchased, it could not be assessed for the Animal Protection Index.

The South African Poultry Association published a Code of Practice for Broiler Production in 2012,²² which was updated in 2018.²³ In floor systems, the density of broiler chickens rearing is 'not to exceed 40 kg/m²', under condition of good ventilation. The Code specifies that 'chickens raised in floor pens shall have enough freedom of movement to be able to stand normally, turn around and stretch their wings without difficulty'. Section 1 lays out the Five Freedoms should be respected with free range broiler production system. Section 3.1.2 addresses the rearing of broiler chickens in cage systems.

¹⁸ <https://nspca.co.za/animal-welfare/far-animals/welfare-standards/>

¹⁹ <http://lwcc.org.za/approved-codes/slaughter/>

²⁰ <https://store.sabs.co.za/pdfpreview.php?hash=3ba63a53b29fe06e445c5a1cbc73d4a17b1b1d92&preview=yes>

²¹ <http://lwcc.org.za/wp-content/uploads/2017/04/Code-Pig-Welfare.pdf>

²² <https://web.archive.org/web/20161213121716/http://www.sapoultry.co.za/pdf-docs/code-practice-broilers.pdf>

²³ <http://www.sapoultry.co.za/pdf-docs/code-of-practice-sapa.pdf>



Rearing - egg-laying hens

It is reported that the SABS has produced a Standard on Poultry; however, since the Standard is not readily available and needs to be purchased, it could not be assessed for the Animal Protection Index.

The South African Poultry Association adopted a Code of Practice for Commercial Layers. This Code of Practice lays out that for egg-laying hens housed in cage systems, each bird should have 450 cm². Housing hens in a free-range or a barn system would enable the birds to express their Five Freedoms. The Code contains further provisions regarding temperature, access to food and water, and health records.

Beak trimming is authorised and presented as 'a humane alternative to the appalling effects of cannibalism'. As soon as other means of preventing cannibalism have been identified, this practice will be phased out. Beak trimming must be done by a 'trained operator'.

Rearing - dairy cattle and calves

Since the API was first published in 2014, the South African National Standard on the Welfare of Dairy Cattle (SANS: 1694:2018)²⁴ was published in May 2018. The full Standard is not readily available and needs to be purchased; hence, it could not be assessed for the Animal Protection Index.

Transport

The South African National Standard on Humane Transportation of livestock by road (SANS: 1488:2014)²⁵ was published in May 2014. Provisions with regards to the onloading and offloading of animals refer to the Five Freedoms and state that it should be done without force. Several types of behaviours should be avoided, such as throwing cattle on the floor. The full Standard is not readily available and needs to be purchased; hence it could not be assessed for the Animal Protection Index.

Slaughter

The Meat Safety Act 2000²⁶ contains a section on Essential National Standards, with Article 11 subsections (h) to (l) applicable to farm animal welfare, providing for humane handling and requiring that only healthy animals are slaughtered for human consumption. The Act provides for routine inspections by national executive officer (Article 15), who must be a Department officer and a veterinarian, designated by the Minister (Article 2). Article 7 prohibits the slaughter of animals at places other than abattoirs, though this provision does not apply to slaughter for someone's own consumption or for cultural or religious purposes.

Analysis

The anti-cruelty provisions of the Animal Protection Act 1962 are wide-reaching and give examples of prohibited conduct in Section 2(1), some of which apply to farm animals. However, although these

²⁴ <https://store.sabs.co.za/pdfpreview.php?hash=93c121fe9af872b749dcf77b7994624c3f5da20b&preview=yes>

²⁵ <https://store.sabs.co.za/pdfpreview.php?hash=f12cf4a1c96e0dbdc4a70a67a32b29e306341d11&preview=yes>

²⁶ <http://www.nda.agric.za/daaDev/sideMenu/APIs/doc/MEATSAFETY.pdf>



give some protection, they are not sufficiently detailed in prescribing good standards of welfare for farm animals in issues such as housing, transport and slaughter.

A major impediment to farm animal welfare in South Africa is that the animal welfare Standards developed by the South African Bureau of Standards (SABS) need to be purchased, these are therefore not readily available to members of the public, which greatly limits their enforceability. Furthermore, it is unclear whether these Standards are legally binding. As such, there is a major lack of detailed, legally binding legislation regulating the conditions of rearing, transport and slaughter of farm animals at the national level.

It has been reported that provincial animal welfare regulations are not well harmonised, such as those concerned with hygiene and disease risk and regional codes of conduct on transportation.²⁷ Producer societies together with animal protection NGOs have drawn up voluntary codes of practice for transport and for specific species of farmed animals, which include stunning and slaughter provisions. These are based on the Five Freedoms and have detailed provisions on issues such as space allowance. Manuals and guidelines relating to some species appear on the website of the Department of Agriculture, Fisheries and Forestry.²⁸

It is noted that the use of close confinement systems of animal production is widespread in the country, for example, the battery cage and the dry sow stall, and there are calls for legislation to be updated so as to be more relevant to the welfare of farm animals.²⁹ With regards to pigs, it is positive that tether systems have been phased out by 1999. However, the confinement of pigs in farrowing crates is still authorised. The fact that legislation only 'recommends' to house pigs in alternative accommodation, which would allow pigs to perform their natural behaviours, is a weak legislative mandate.

With regards to broiler chickens, it is a progressive step that the stocking density of broilers should be reduced to 40 kg/m², according to the poultry producer association. However, the fact that caged system for broilers exist is largely detrimental to their welfare.

With regards to egg-laying hens, it is regrettable that the housing of hens in cages of a similar size as battery cages is authorised. Furthermore, beak trimming is wrongly presented as a 'humane' practice, though the use of anaesthesia and analgesics are not required in legislation. Such mutilation cannot therefore be considered humane.

With regards to slaughter, the requirement to handle an animal humanely during killing does not explicitly mandate that animals must be stunned before being slaughtered. Furthermore, the slaughter of animals for one's own consumption and for religious purposes is allowed to take place outside a registered slaughterhouse. This makes the monitoring of slaughter difficult, with no certainty that animals

²⁷ OIE Sub-regional Representation for Southern Africa (2011). Animal welfare in OIE member countries & territories in the SADC region. Summaries of baseline country assessments. Gaborone, Botswana.

<http://www.oie.int/doc/ged/d11112.pdf>

²⁸ <http://www.daff.gov.za/daffweb3/Branches/Agricultural-Production-Health-Food-Safety/Animal-Production/Services/Infopacks>

²⁹ <http://www.engineeringnews.co.za/article/stronger-regulation-of-livestock-treatment-needed-2013-03-08>



are handled humanely. It has also been reported that the Government may not be fulfilling its responsibilities with regards to oversight of small-scale farming and informal slaughter.³⁰

The existence of voluntary detailed codes based on the Five Freedoms is positive and suggests that legislative change may be possible. However, different national standards, voluntary codes, guidelines and manuals might be confusing to producers and may therefore present a barrier to progress in improving welfare. It would be useful for the government to work with a range of stakeholders to update legislation and develop legally binding detailed provisions addressing current welfare concerns.

Proposals for new legislation on animal welfare and animal protection, as mentioned in the Department of Agriculture, Forestry and Fisheries' current Strategic Plan, may present opportunities for improvement in this area.

Enforcement mechanisms

Breach of the anti-cruelty provisions of Section 2 of the Animal Protection Act 1962 is punishable with fines, imprisonment, confiscation, and banning animal ownership. The Meat Safety Act 2000 outlines offences and penalties for contravening the Act, such as fines and imprisonment, and makes provision for the inspection of abattoirs.

The various Codes of Practice are voluntary and do not have legislative enforcement mechanisms.

Key recommendations

- At present, the various animal welfare Standards developed by the SABS need to be purchased and are therefore not readily available to members of the public; it is also unclear whether these Standards are legally binding. The Government of South Africa is urged to enact legislation detailing specific welfare requirements for the rearing of farm animals during the phases of rearing, transport and slaughter. Such requirements should be legally binding and species-specific. Regular inspections onto farms and slaughter establishments should be carried out with a special focus on animal welfare.
- The Government of South Africa is urged to ban the worst forms of confinement for farm animals. In particular, the use of farrowing crates, sow stalls, and cages should be banned. The stocking density of broiler chickens should also be reduced to a maximum of 30 kg/m² or lower. Surgical operations, such as piglet mutilations and beak trimming for egg-laying hens, should not be performed except under anaesthesia and with analgesics.
- The Government of South Africa is urged to mandate the humane slaughter of all farm animals. Animals should be instantaneously rendered unconscious and insensible to pain and distress prior to slaughter. Today, there is growing consensus amongst religious authorities

³⁰ <http://www.oie.int/doc/ged/D2302.PDF>



worldwide that pre-slaughter stunning is compatible with religious principles.³¹ Humane halal slaughter allows for the animal to be temporarily rendered unconscious via stunning prior to slaughter, as long as the animal's skull remains intact and the animal would regain consciousness in time should slaughter not occur. Therefore, animals should be unconscious before being bled, and no further processing should occur until irreversible loss of consciousness is confirmed. No animal should be forced to witness other animals being slaughtered as this is inherently distressing.

- Due to the significant animal welfare concerns associated with long distance transport, the Government of South Africa is strongly urged to ban the export of live animals for long distances (i.e. over eight hours) and replace it with a meat only trade. Long distance transport is inherently cruel as it involves chronic stress for all animals and for some species and modes of transport it may involve overpopulation, exhaustion, excess heat or cold, inadequate ventilation and/or access to food and water, leading to disease, pain, injury or death.

4. There are laws that apply to animals in captivity

| Analysis of the legislation | |
|--|---|
| Ranking | F |
| <p><u>Zoos</u></p> <p>The anticruelty provisions of Section 2(1) of the Animal Protection Act 1962 apply to wild animals who are kept in captivity. Particularly relevant examples of prohibited conduct are ill-treating, goading or terrifying an animal, as well as confining an animal in a way that causes suffering.</p> <p>Animals who are kept captive to be used for exhibition are protected by the Performing Animals Protection Act 1935³² (amended in 2016³³), which regulates the exhibition and training of performing animals, as well as the use of guard dogs. However, public zoos are specifically excluded from the scope of application of this Act, since Section 9 states 'Nothing in this Act shall apply to the confinement or training of animals for military, police or sporting purposes or the purposes of an agricultural show, horse show, dog show, caged bird show or any public zoological gardens, or to the exhibition of animals at a military or police tournament or at a gymkhana, or at any show or in any such gardens or to the use of a dog for safeguarding by the South African Defence Force, the South African Police or the Prisons Service'.</p> <p>The requirements of the Performing Animals Protection Act 1935 apply to private zoos. Anyone</p> | |

³¹ [http://www.fao.org/3/x6909e/x6909e09.htm#b5-Religious%20or%20ritual%20slaughter%20\(Halal%20and%20Kosher\)](http://www.fao.org/3/x6909e/x6909e09.htm#b5-Religious%20or%20ritual%20slaughter%20(Halal%20and%20Kosher))

³² <http://www.fao.org/faolex/results/details/en/c/LEXFAOC122856>

³³ https://www.gov.za/sites/default/files/gcis_document/201701/a4of2016performinganimalsprotectionamendact.pdf



wishing to keep an animal for exhibition must register the animal with the local magistrate once a year and obtain a licence, which mentions the type of training and number of animals the person owns. Under Section 2(a) of the Performing Animals Protection Act 1935, this license may be granted if 'the magistrate is satisfied that such a person is a fit and proper person'.

Since the API was first published, the Performing Animals Protection Act was amended in 2016. This new version of the Act provides for the appointment of a National Licensing Officer able to grant, refuse, amend, suspend or withdraw a licence if the licence-holder does not comply with requirements of the Act. The National Licensing Officer must be either an animal scientist or a veterinarian. Anyone wishing to exhibit an animal or to train an animal for exhibition, must apply to the National Licensing Officer in the district in which the person resides, and must pay the prescribed fees (Section 3F). The National Licensing Officer may visit the premise to assess its suitability to the activity explained in the licence application, with the consent of the applicant. The 2016 version of the Act also extends the power of police officers to enter and inspect premises where animals, including dogs, are kept or trained.

Secondary regulations, the Performing Animals Protection Act Regulations 1993, strengthen the Act by adding additional licensing requirements such as a report from the district commissioner of the police district in which the applicant resides regarding fitness to be a licensee, and also involving local animal welfare organisations in the assessment of whether the applicant is suitable to be a licensee and whether the animals in question are suitable to be exhibited.

There does not appear to be separate binding legislation specifically dealing with the welfare of animals kept in captive settings such as zoos.

The National Council of SPCAs (NSPCA) has developed South African National Standards on Zoo and Aquarium Practice (SANS 10379:2005)³⁴ that include animal welfare requirements in 2005. These are voluntary standards. Section 8 of this Standard focuses on husbandry practices and the welfare of captive animals. Article 8.1.2 recommends that institutions provide suitable environments to the captive animals, taking into consideration 'an animal's motivations to perform functions and behaviours important to itself' and 'the cognitive aptitudes and requirements of some animals'. Article 8.1.3 mandates that a 'balance should be achieved' between 'the provision of enclosures that fulfil the needs of the animal and the aesthetically appealing institution enclosures'. The Standard does not mention any requirement for a zoo to be registered.

The South African National Standard on Crocodiles in Captivity (SANS 631:2009)³⁵ lays down requirements for the humane treatment of crocodiles for the purposes of breeding, rearing, transportation, translocation, slaughtering and exhibition by crocodile keepers or any other party keeping crocodiles. It also covers environmental conditions for the breeding, rearing, transportation, slaughtering and exhibition of crocodiles in captivity, risks associated with crocodile farming, activities related to exhibition, and the health and safety of employees. This is a voluntary code of practice without enforcement mechanisms.

³⁴ <https://www.zoosafrika.com/userDownloads/DOC1332863285.pdf>

³⁵ <http://www.wtass.org/research/sans%20standards/files/SANS-631-2009.pdf>

Private keeping of wild animals

There is no legislation in South Africa prohibiting the private ownership of wild animals.

On 17 May 2019, the Government adopted a short amendment to the Animal Improvement Act 1998 (Act 62 of 1998),³⁶ which added 33 species of wild animals to the list of species which can be farmed. Among these species feature Cape buffalos, lions, giraffes, cheetahs, rhinos and zebras.³⁷ The amendment was proposed at the request of the game farming industry in 2017.³⁸ The updated Animal Improvement Act now authorises the 'the breeding, identification, and utilisation of genetically superior animals in order to improve the production and performance of animals' (Introduction). On 22 July 2019, the Department of Environment, Forestry and Fisheries clarified that though these species are now listed under the Animal Improvement Act 1998, this Act does not replace or supersede the provisions of conservation legislation.³⁹ As such, the species listed are still the subject of the National Environmental Management: Biodiversity Act 2004 (Act No. 10 of 2004).

Fur farming

No legislation has been found specifically relating to fur farming.

Analysis

The anti-cruelty provisions are wide-reaching and give examples of prohibited conducts in Section 2(1) of the Animal Protection Act 1962, some of which apply to animals kept in captivity. However, although these give some protection, they are not sufficiently detailed in prescribing good standards of welfare for animals kept in captivity, in issues such as housing and the ability to show natural behaviours.

It is regrettable that the licensing, welfare and inspections requirements laid out in the Performing Animals Protection Act 2016 do not apply to public zoos. These requirements apply to private zoos, however, conditions to obtain such a licence do not include to abide by animal welfare standards.

Furthermore, the private keeping of wild animals for game farming is legal in South Africa. Wild animals are often farmed for meat and 'canned hunting' has become popular. Canned hunting is a specific form of trophy hunting, whereby captive-bred, often hand-reared animals such as lions are confined in enclosed spaces on private game reserve and then hunted.⁴⁰ The Parliamentary portfolio committee for Environmental Affairs hosted a two-day workshop in August 2018 entitled 'Captive Lion Breeding for Hunting in South Africa: Harming or Promoting the Conservation Image of the Country'.⁴¹ Following this colloquium, the Portfolio Committee on Environmental Affairs published a draft report

³⁶ [https://www.nda.agric.za/daaDev/sideMenu/animalAndAquacultureProduction/docs/Animal%20improvement%20act\(2\).pdf](https://www.nda.agric.za/daaDev/sideMenu/animalAndAquacultureProduction/docs/Animal%20improvement%20act(2).pdf)

³⁷ https://www.gov.za/sites/default/files/gcis_document/201905/42464gon664.pdf

³⁸ <https://www.dailymaverick.co.za/article/2019-10-16-sa-reclassifies-33-wild-species-as-farm-animals/>

³⁹ <https://www.environment.gov.za/mediarelease/environmentforestry-fisheries-clarifies-legalstatus-of-gamespecies%20>

⁴⁰ <https://www.nationalgeographic.com/news/2016/03/140311-trophy-hunting-blood-lions-south-africa-conservation-captive-breeding/>

⁴¹ <https://conservationaction.co.za/resources/reports/captive-lion-breeding-for-hunting-in-south-africa-harming-or-promoting-the-conservation-image-of-the-country/>



on 8 November 2018,⁴² and a final report on 13 November 2018.⁴³ This report highlights that canned hunting 'unfairly prevents the target animal from escaping the hunter, thereby eliminating 'fair chase' and guaranteeing the hunter a trophy for which he will have paid up to R495,000' (approximately US\$34,000). While there are about 3,000 lions in the 'wild' in South Africa, there are 8,000 lions bred in captivity, and it is 'utterly false' to believe that such captive-breeding operations contribute to the conservation of the species. Scientists have also argued that captive predator breeding has no conservation value.⁴⁴

Game farming refers to an agricultural system in which wild animal species are maintained in order to harvest by-products such as meat or skins, in a domesticated or semi-domesticated manner, by being enclosed in relatively small areas and provided with regular supplementary feeding and water. Game ranching takes place on large privately owned or communal areas, either fenced or unfenced, that are extensively managed in order to utilise wildlife products through hunting, sales, tourism and other "indirect" use.⁴⁵

The recent addition of 33 wild animal species to the list of species which can be farmed poses the risk of seeing these wild species genetically modified.⁴⁶ Furthermore, the legal regime surrounding these species appears unclear, since they are both subject to the breeding regulations and the conservation provisions.

Enforcement mechanisms

Breach of the anti-cruelty provisions of Section 2 of the Animal Protection Act 1962 is punishable with fines, imprisonment, confiscation, and banning animal ownership.

The South African National Standards are voluntary and do not have legislative enforcement mechanisms.

Furthermore, since no legislation has been found on animals used in fur farming, there are no enforcement mechanisms associated with this category of animals.

Key recommendations

- **The Performing Animal Act 1935, amended in 2016, covers the basic animal welfare needs of animals kept in captivity, however, the legislation could be improved by addressing the species-specific welfare needs of animals kept in captive settings, such as zoos. As a result, the Government of South Africa is urged to produce detailed legislation specifying the conditions under which wild animals may be kept in captivity. Such regulations should include requirements with regards to housing, feeding, handling and husbandry and should promote the Five**

⁴² <https://conservationaction.co.za/resources/reports/11384-2/>

⁴³ <https://cer.org.za/wp-content/uploads/2018/11/FinalPCEA-Captive-Lion-Breeding-Colloquium-Report-13112018.pdf>

⁴⁴ <https://theconversation.com/south-africa-kicks-the-can-down-the-road-on-captive-predator-breeding-113853>

⁴⁵ <https://web.archive.org/web/20130608164614/http://www.sawma.co.za/images/Carruthers.pdf>

⁴⁶ <https://www.plantbasednews.org/culture/south-africa-reclassifies-33-wild-species-as-farm-animals>



Freedoms of all individual animals. In particular, the Freedom to express normal behaviours should be respected.

- The Government of South Africa is strongly encouraged to allocate human and financial resources to create an inspection unit in charge of verifying that welfare standards are effectively implemented for animals living in captive settings. Facilities where animals are kept captive should be regularly inspected, and the results of such inspections should be made public.
- The Government of South Africa is urged to ban all commercial captive breeding of wildlife, which includes wildlife farming and subsequent canned hunting. The Government of South Africa is strongly encouraged to remove the recently added 33 wild animal species from the list of species which can be farmed. Captive breeding of wild animals should only be allowed in registered zoological facilities, only when it serves conservation purposes and abides by strict welfare conditions. Efforts should be made to release animals into their natural habitat.
- The Government of South Africa is urged to fully ban fur farming. Fur farming is inherently cruel and causes pain, distress and suffering to animals.
- The Government of South Africa is encouraged to develop a Positive List of species, specifying which animals can be kept as companion animals, based on clear criteria including animal welfare and other relevant concerns.

5. There are laws that apply to companion animals

| Analysis of the legislation | |
|--|---|
| Ranking | E |
| <p><u>Care of companion animals</u></p> <p>The anti-cruelty provisions of Section 2(1) of the Animal Protection Act 1962 apply to companion animals. Particularly relevant examples of prohibited conducts are ill-treating, neglecting, cruelly beating, goading or terrifying an animal, confining an animal in a way that causes suffering, deliberately or negligently keeping an animal in a dirty or parasitic condition, and abandoning an animal deliberately or without reasonable cause (whether permanently or not) in circumstances likely to cause unnecessary suffering. Section 2A of the Act prohibits activities involved with dog fighting.</p> <p>Dogs used for safeguarding are protected by the Performing Animals Protection Act 1935.⁴⁷ Anyone wishing to keep an animal for performing or a dog for safeguarding must register it with the local magistrate once a year and obtain a license. Under Section 2(a) of the Performing Animals Protection Act 1935, this license may be granted if 'the magistrate is satisfied that such a person is a fit and</p> | |

⁴⁷ [https://www.daff.gov.za/doaDev/sideMenu/acts/11%20Animal%20Protection%20No71%20\(1962\).pdf](https://www.daff.gov.za/doaDev/sideMenu/acts/11%20Animal%20Protection%20No71%20(1962).pdf)



proper person’.

Since the API was first published, the Performing Animals Protection Act was amended in 2016.⁴⁸ This amended Act provides that anyone wishing to use an animal for safeguarding must apply to the National Licensing Officer in the district in which the person resides, and must pay the prescribed fees (Section 3F). The National Licensing Officer may visit the premise to assess its suitability to the activity explained in the licence application, with the consent of the applicant. The 2016 version of the Act also extends the power of police officer to enter and inspect premises where animals, including dogs, are kept or trained.

Secondary regulations, the Performing Animals Protection Act Regulations 1993,⁴⁹ strengthen the Act by adding additional licensing requirements such as a report from the district commissioner of the police district in which the applicant resides regarding fitness to be a licensee and also involving local animal welfare organisations in the assessment of whether the applicant is suitable to be a licensee.

The Animal Improvement Act 1998 (Act 62 of 1998) provides that every animal breeder must be registered (Article 8). Article 7 outlines the necessary requirements for registration to be approved. Namely, the breeder must have successfully completed an instruction course, and a veterinarian must confirm that the breeder has ‘sufficient practical and theoretical knowledge’ to operate.

Stray animals

There is no national legislation relating to the treatment of stray animals. In 2010, a National Animal Pounds Bill was proposed to address the issue of regulating the pound industry (where stray animals are taken) but did not progress.⁵⁰ Section 5 of the Animal Protection Act 1962 allows police officers to destroy animals who are ‘so diseased or severely injured, or in such a physical condition that it ought to be destroyed’. Such a destruction may happen even if the owner is absent or refuses such a procedure – in which case, police officers may summon a veterinarian or ‘two adult persons whom he considers to be reliable and of sound judgement’ to examine the animal and determine whether the animal is indeed diseased. Such a destruction should occur in such a manner ‘as to inflict as little suffering as practicable’ (Section 5).

Analysis

The anti-cruelty provisions give examples of prohibited conduct in Section 2(1) of the Animal Protection Act 1962, most of which are highly relevant to companion animals. It is positive that owners are prohibited from abandoning their animals. However, it is regrettable that the Animal Protection Act 1962 focuses on prohibiting animal cruelty, rather than promoting the wellbeing of animals through their Five Freedoms. The Performing Animals Protection Act 1935, together with secondary regulations, sets out provisions for licencing for keeping guard dogs. However, the Five Freedoms principles are also not contained in this legislation.

⁴⁸https://www.gov.za/sites/default/files/gcis_document/201701/a4of2016performinganimalsprotectionamendact.pdf

⁴⁹<http://www.fao.org/faolex/results/details/en/c/LEXFAOC122857>

⁵⁰<http://hulp.landbou.com/wp-content/uploads/2014/05/b095d6dd-6626-4810-b04d-659c103586bb.pdf>



If it is a first step that animal breeders must be registered through the Animal Improvement Act 1998, the conditions to obtain such registration do not include any animal welfare criteria.

Furthermore, there is a lack of legislation promoting the humane treatment of stray animals. The Animal Protection Act 1962 prohibits abandoning animals, which would contribute to reducing the numbers of stray animals, however, there is no legislation addressing the specific needs of animals who are already living on the streets. Furthermore, Section 5 of the Animal Protection Act 1962 allows for police officers to cull animals who are considered diseased, even without a veterinarian examination if no veterinarian is present 'within a reasonable distance'. This constitutes a loophole in legislation that could be used to cull stray animals. This loophole is especially dangerous seeing the number of stray animals; it has been reported that there are over 200,000 stray dogs in Cape Town alone.⁵¹

Enforcement mechanisms

Breach of the anti-cruelty provisions of section 2 of the Animal Protection Act 1962 is punishable with fines, imprisonment, confiscation, and banning animal ownership.

Part 4 of the Performing Animals Protection Act 1935 gives powers of entry and inspection to the police, with fines of up to 4000 rand or imprisonment for up to a year for obstruction of these duties. Contravention of the requirements of the Act is also punishable with a fine of up to 4000 rand or imprisonment for up to a year, and a repeat offender may also have their license suspended for up to a year.

Section 25 of the Animal Improvement Act 1998 contains enforcement mechanisms. Any animal breeder not complying with the registration requirement shall be guilty of an offence under the Act and is liable to conviction with a fine or imprisonment for up to two years. Any animal owned by someone guilty of an offence under the Act may be forfeited to the State.

However, since no legislation has been found on stray animals, there are no enforcement mechanisms associated with this category of animals.

Key recommendations

- **The Government of South Africa is strongly encouraged to amend the Animal Protection Act 1962 to include a duty of care onto animal owners, who should guarantee the Five Freedoms of their animals.**
- **In the current legislation, animal breeders are simply required to register to engage in the commercial breeding and trade of companion animals. The Government of South Africa is thus strongly encouraged to set out clear animal welfare criteria, which animal breeders must fulfil prior to being granted the authorisation to commercially breed and trade companion animals.**
- **The Government of South Africa is strongly encouraged to promote humane dog population management, which relies on promoting responsible ownership, mass dog vaccinations and**

⁵¹ <https://www.iol.co.za/news/south-africa/western-cape/cape-towns-230-000-stray-dogs-1093892>

reproduction control programmes. Culling is unnecessary, cruel and has been scientifically proven to be ineffective.

- The Government of South Africa is encouraged to engage with the International Companion Animal Management (ICAM) coalition to learn about and implement their dog population management methodology. This methodology consists of a full cycle of action, addressing the root causes of conflict between roaming dog and communities. The document is helpful to governments to manage dogs humanely as well as to help communities to live in harmony with dogs.
- The Government of South Africa should promote responsible pet ownership, including the adoption of companion animals over the purchase of commercially bred animals.

6. There are laws that apply to animals used for draught or recreational purposes

| Analysis of the legislation | |
|---|---|
| Ranking | E |
| <p><u>Animals used for entertainment</u></p> <p>The anti-cruelty provisions of Section 2(1) of the Animal Protection Act 1962 apply to animals used for recreational purposes. Particularly relevant examples of prohibited conduct in Section 2(1) are overloading, overdriving, ill-treating, neglecting, cruelly beating, goading or terrifying an animal, tethering an animal in a way that causes suffering, deliberately or negligently keeping an animal in a dirty or parasitic condition, or using equipment which causes or will cause injury. Section 2A of the Act prohibits activities involved with animal fighting, including training, keeping, trading or breeding animals for fighting, organising fights for financial gain or for amusement, and being present at a fight as a spectator.</p> <p>Animals who are kept captive to be used in entertainment and dogs used for safeguarding are protected by the Performing Animals Protection Act 1935, which regulates the exhibition and training of performing animals, as well as the use of guard dogs. Anyone wishing to keep an animal for performing or a dog for safeguarding must register the animal with the local magistrate once a year and obtain a licence, which mentions the type of training and number of animals the person owns. Under Section 2(a) of the Performing Animals Protection Act 1935, this license may be granted if 'the magistrate is satisfied that such a person is a fit and proper person'.</p> <p>Since the API was first published, the Performing Animals Protection Act was amended in 2016.⁵² This</p> | |

⁵²https://www.gov.za/sites/default/files/gcis_document/201701/a4of2016performinganimalsprotectionamendact.pdf



new version of the Act provides for the appointment of a National Licensing Officer able to grant, refuse, amend, suspend or withdraw a licence if the licence-holder does not comply with requirements of the Act. The National Licensing Officer must be either an animal scientist or a veterinarian. Anyone wishing to exhibit an animal, to train an animal for exhibition, or to use an animal for safeguarding must apply to the National Licensing Officer in the district in which the person resides and must pay the prescribed fees (Section 3F). The National Licensing Officer may visit the premise to assess its suitability to the activity explained in the licence application, with the consent of the applicant. The 2016 version of the Act also extends the power of police officer to enter and inspect premises where animals, including dogs, are kept or trained.

Secondary regulations, the Performing Animals Protection Act Regulations 1993, strengthen the Act by adding additional licensing requirements such as a report from the district commissioner of the police district in which the applicant resides regarding fitness to be a licensee, and also involving local animal welfare organisations in the assessment of whether the applicant is suitable to be a licensee and whether the animals in question are suitable for performing.

Animal performances at zoos are regulated by Section 14 of the South African National Standard on Zoo and Aquarium Practice (SANS 10379:2005). Animal performances are allowed under four scenarios, three of them relating to the welfare of the animal (e.g. for their behavioural enrichment, their routine husbandry or to improve their wellbeing during veterinary procedures). Lastly, animal performances are allowed 'to participate in measurable and reputable educational talks and demonstrations' (Article 14.1.d).

Draught animals

The anti-cruelty provisions of Section 2(1) of the Animal Protection Act 1962 apply to animals used for recreational purposes. Particularly relevant examples of prohibited conduct in Section 2(1) are overloading, overdriving, ill-treating, neglecting, cruelly beating, goading or terrifying an animal, tethering an animal in a way that causes suffering, deliberately or negligently keeping an animal in a dirty or parasitic condition, or using equipment which causes or will cause injury.

The Directorate of Animal and Aquaculture Production has produced guidelines on animal traction, which recommends breeds that are suitable for draught work, how to care for them, which equipment to use and how to fit this equipment properly to avoid injury.⁵³ It also encourages humane training methods and discourages beating and losing one's temper with an animal.

Analysis

The anti-cruelty provisions give examples of prohibited conduct in Section 2(1), some of which apply specifically to animals used for draught or recreational purposes. It is positive that there is specific legislation for animals used for entertainment, through the Performing Animals Protection Act 1935, amended in 2016, and its secondary legislation. However, the Performing Animals Protection Act 2016 explicitly excludes reptiles from their scope of application.

The secondary legislation and licencing procedure under the Performing Animals Protection Act 1935

⁵³ https://www.nda.agric.za/docs/AAPS/Guidelines_AnimalTraction.pdf



provides more detailed protection to animals used for performance purposes. Although it is positive that this is regulated, there are significant welfare issues connected with the use of wild animals for performances and it would therefore be preferable to see a general ban on the use of animals for entertainment purposes. For instance, circuses in South Africa continue to use wild animals such as lions.⁵⁴ Moreover, South Africa allows the keeping of marine mammals in captivity, such as in the uShaka Park in Durban.⁵⁵

Overall, the current legislation on performing animals may serve to legitimise some use of animals in this industry, with resulting welfare problems. However, proposals for new legislation on animal welfare and animal protection, as mentioned in the Department of Agriculture, Forestry and Fisheries' current Strategic Plan, may present opportunities for improvement in this area.

With regards to animals used for draught, the guidelines from the Directorate of Animal and Aquaculture Production are a positive step towards improving draught animal welfare, although these guidelines are non-binding and some details appear to legitimise the use of certain species or breeds under poor welfare conditions. For example, mules are recommended as they can 'work on poor quality feed, under hard conditions up to an age of 35 years.' Therefore, the regulatory regime for draught animals would benefit from legally binding provisions.

Enforcement mechanisms

Breach of the anti-cruelty provisions of Section 2 of the Animal Protection Act 1962 is punishable with fines, imprisonment, confiscation, and banning animal ownership.

Part 4 of the Performing Animals Protection Act 1935 gives powers of entry and inspection to the police, with fines of up to 4000 rand or imprisonment for up to a year for obstruction of these duties. Contravention of the requirements of the Act is also punishable with a fine of up to 4000 rand or imprisonment for up to a year, and a repeat offender may also have their license suspended for up to a year.

The guidelines produced on the use of draught animals are non-binding and do not have a legislative enforcement mechanism.

Key recommendations

- **The Government of South Africa is urged to forbid the organisation of and attendance to entertainment events causing animal suffering. Such a prohibition should cover circuses, rodeos, animal fights, animal races, rides on wild animals and all other forms of entertainment. Notably, the Government is strongly encouraged to ban the use of all animals in circuses. Phasing out of animals for entertainment purposes could start with a ban on the use of wild animals for such performances.**

⁵⁴ <https://citizen.co.za/news/south-africa/protests/2191025/residents-once-again-urged-not-to-support-mclaren-circus/>

⁵⁵ <https://ushakamarineworld.co.za/>



- Given that the physiological and behavioural needs of marine mammals cannot be met in captivity, the Government of South Africa is strongly encouraged to ban the breeding, keeping and training of all marine mammals in captivity, so that these animals constitute the last generation in captivity in the country. These animals should be retired to large seaside sanctuaries, which allow for an increased range of natural behaviours.
- The Government of South Africa is strongly encouraged to adopt specific legislation to address the welfare of working animals, including working equids, following the requirements of the OIE’s animal welfare standards. Working animals must be treated with consideration and must be given adequate shelter, exercise, care, food and water appropriate to their physiological and behavioural needs. Any condition that may impair their welfare must be treated promptly and, affected animals must not be worked again until they are fit. They must not be overworked or overloaded, nor must they be forced to work through ill-treatment.

7. There are laws that apply to animals used for scientific research

| Analysis of the legislation | |
|---|---|
| Ranking | D |
| <p>The anti-cruelty provisions of Section 2(1) of the Animal Protection Act 1962 apply to animals used in scientific research, although none of the examples of prohibited conduct are specific to this category of animals.</p> <p>The National Health Act of 2004⁵⁶ states that all animal research that could impact on human health, requires the ethical approval from a research ethics committee in South Africa that is registered with the National Health Research Ethics Council.</p> <p>The South African Medical Research Council first published guidelines on ethical considerations for the use of animals in research in 1979, with most recent revision in 2004.⁵⁷ These aim to sensitise biomedical scientists, research institutions, Animal Ethics Committees (AECs) and animal care staff, to the interests and welfare of research animals. These are also guidelines without binding legal status. Every experiment that uses sentient animals for research, testing or educational purposes is to be subjected to a formal process of ethical review by an ethics committee appointed by the Board of the Medical Research Council. The guidelines specify that every institution using animals must have a research ethics committee, as well as specified particular protocols for all the various species used. The membership of each Ethical Committee for Research on Animals is comprised of people with varying backgrounds and includes a person from an animal welfare organisation (with the Societies for the Prevention of Cruelty to Animals represented on 33 research ethics committees countrywide) a vet and an independent person with no background in animal experimentation, as well as a person</p> | |

⁵⁶ https://www.gov.za/sites/default/files/gcis_document/201409/a61-03.pdf

⁵⁷ <http://www.mrc.ac.za/research/ethics/guideline-documents>

from the facility and some with experience of using animals in experiments.

Furthermore, the SABS has produced the South African National Standard for the Care and Use of Animals for Scientific Purposes (SANS 10386:2008),⁵⁸ as a non-binding standard. This standard encompasses all aspects of the care and use of animals for medicine, biology, agriculture, veterinary and other animal science as well as industry and teaching and includes all sentient vertebrate animals, eggs, foetuses and embryos and higher invertebrates such as cephalopods and decapods. The purpose of this standard is for scientific experiments using animals to abide by the Three Rs principles of Replacement, Reduction, Refinement (Section 4.1). Before being carried out, all proposals of experiments using animals must be submitted to an Animal Ethics Committee (AEC) and obtain its written approval (Section 4.2.5). Scientific studies and other activities using animals may only be performed when appropriate non-animal alternative methods are not available (Section 4.2.3). The standard mentions that animals may be taken from the wild for the purpose of the scientific experiment only if animals bred in captivity are not available or are unsuitable for the specific scientific purpose (Section 8.2.3).

The use of animal testing for cosmetic products does not appear to be restricted in legislation.

Analysis

There appears to be no specific legislation addressing the welfare needs of animals used for scientific research, making the current legislation insufficient for the protection of this category of animals. The National Health Act provides some protection, but only for research that could impact on human health. It is positive that the National Standard SANS 10386:2008 promotes the Three Rs principles, however, this standard is not legally binding.

The South African standard for the care and use of animals for scientific purposes aims to establish uniform minimum national standards for animal care and use, based on international standards and is intended to be attached to the Animal Protection Act 1962 as a point of reference and to form the basis of any future legislation. It is regrettable that this standard is only voluntary and cannot be legally enforced.

The Animal Ethics Committee is a positive step towards making the welfare of these animals a concern amongst the scientific community, however, it has no power to prevent animal experiments and there is no enforcement of its recommendations. If applications do not comply with ethical considerations for humane animal experimentation, the committee can propose amendments, but these are not legally binding and adherence to the recommendations is voluntary. Committees are decentralised, and each institution's committee operates according to its own policies.

The lack of a national approach to the use of animals for scientific research makes improving animal welfare for this category of animals challenging. No formal reporting requirements exist for collecting data on national statistics for animal experiments in South Africa,⁵⁹ making it difficult for the government

⁵⁸ <https://www.sun.ac.za/english/research-innovation/Research-Development/Documents/Animal%20Ethics/ENGLISH/SANS10386.pdf>

⁵⁹ Mohr, B. (2013) The Current Status of Laboratory Animal Ethics in South Africa. ATLA 41, P48-P51. <https://www.ncbi.nlm.nih.gov/pubmed/24168140>



to measure progress with respect to the important concept of the Three Rs in accordance with international standards. There is currently no legal requirement to have ethical approval for research or teaching that involves animals in South Africa unless this could impact on human health.

Enforcement mechanisms

Anyone found guilty of acts which cause an animal to suffer under Section 2 of the Animal Protection Act 1962 is liable to a fine and/or imprisonment for up to a year. However, there is no legally binding provision specifically addressing the welfare of animals used for scientific research. In particular, the National Standards SANS 10386:2008 is non-binding and does not have a legislative enforcement mechanism.

Key recommendations

- **The Government of South Africa is urged to enact legislation which would protect all animals used in scientific research from unnecessary pain and suffering. The Three Rs principles – Replacement, Reduction, Refinement – should be enshrined in legally binding legislation.**
- **The Government of South Africa is encouraged to strengthen the role of Animal Ethics Committees (AEC), in charge of scrutinising applications for animal research. Such ethics committees should be able to suspend the activities or revoke the registration of establishments which do not respect animal welfare criteria. Animals used for research should be provided with shelter, care, food and water in a manner appropriate to their physiological and behavioural needs. A nominated member of the laboratory staff, preferably a veterinarian, must have full responsibility for animal welfare at all times.**
- **Furthermore, the Government of South Africa is urged to ban the testing of cosmetic products and their ingredients on animals.**

8. There are laws that apply to wild animals

| Analysis of the legislation | |
|---|---|
| Ranking | E |
| <p>The Animal Protection Act 1962 excludes wild animals from its scope of application, since only wild animals ‘in captivity or under the control of any person’ are included within the legislation.</p> <p>Section 24 of the South African Constitution (Act 108 of 1996)⁶⁰ notes the human right to have the environment protected in ways that ensure conservation and sustainable use (Section 24).</p> | |

⁶⁰ https://www.gov.za/sites/default/files/gcis_document/201409/act108of1996s.pdf

Wildlife trade

South Africa is a party to the Convention on International Trade in Endangered Species (CITES).⁶¹ Regulations under the National Environmental Management: Biodiversity Act 2004⁶² implement CITES requirements regarding endangered and threatened species.⁶³ Article 57 of the Biodiversity Act 2004 states that restricted activities as defined by the Minister (of Environmental Affairs) may not be carried out on a threatened or protected species, except with the adequate permit (Article 87). Following the latest Convention of the Parties of CITES, South Africa was authorised to sell more shooting permits for trophy hunts of black rhinos.⁶⁴

Since the API was first published in 2014, the Minister of Environmental Affairs has enacted a Biodiversity Management Plan for the African Lion (No. 1 190 of 2015)⁶⁵ and for the white rhinoceros (No. 1191 of 2015).⁶⁶

Since the API was first published in 2014, South Africa also allowed the rhinoceros horn trade within South African borders. In 2009, the Department of Environmental Affairs (DEA) had set a moratorium on the domestic trade of rhino horn, following a rise in poaching.⁶⁷ On 26 November 2015, the Pretoria High Court lifted the ban on the domestic trade in rhino horn, following the lawsuit filed by two breeders John Hume and Johan Kruger, who argued it was their constitutional right to sell rhino horn, that they describe as a renewable resource.⁶⁸ On the same day, the Minister of Environmental Affairs announced it would appeal this judgement, and that the moratorium will not be lifted until this appeal has taken place.⁶⁹ On 5 April 2017, the Constitutional Court of South Africa dismissed the Government's application for appeal, thus effectively allowing for the moratorium to be lifted.⁷⁰ The Constitutional Court did not rule on the merits of the moratorium itself, but rather denied the Government the right to appeal for procedural reasons, arguing that the DEA did not follow correct procedures for implementing the moratorium in the first place.

Hunting

Hunting is regulated at the province level with each of the nine provinces having its own hunting regulations. At the time of writing, the most recent proclamations date back from 2019 for the Eastern

⁶¹ https://www.environment.gov.za/legislation/international_agreements/sapartytocites

⁶² <https://www.sanbi.org/wp-content/uploads/2018/04/biodiversityact2004pdf.pdf>

⁶³ https://www.environment.gov.za/legislation/international_agreements/sapartytocites

⁶⁴ <https://www.independent.co.uk/news/world/africa/black-rhinos-hunting-south-africa-trophy-endangered-a9071611.html>

⁶⁵ <http://extwprlegs1.fao.org/docs/pdf/saf150526.pdf>

⁶⁶ <http://extwprlegs1.fao.org/docs/pdf/saf150525.pdf>

⁶⁷ <https://www.theguardian.com/environment/2009/oct/07/rhino-horn-poaching-south-africa>

⁶⁸ <https://www.savetherhino.org/poaching-crisis/south-african-judge-lifts-domestic-ban-on-rhino-horn-trade/>

⁶⁹ https://www.environment.gov.za/mediarelease/molewa_studyingrhinohorn_judgment

⁷⁰ <https://www.documentcloud.org/documents/3536404-Rhino-horn-moratorium-Constitutional-Court.html>

Cape,⁷¹ Northern Cape,⁷² Western Cape,⁷³ North West⁷⁴ and Mpumalanga⁷⁵; and from 2018 for the Free State,⁷⁶ Gauteng,⁷⁷ KwaZulu-Natal⁷⁸ and Limpopo.⁷⁹ Hunters must be in possession of a permit at all times in all provinces while they hunt and transport game meat. In some cases, and provinces, hunters must also have a hunting licence. Some provinces have different licences for different categories of animal.⁸⁰ Some restrictions exist regarding certain species and methods of hunting, but it appears possible to obtain permits exempting the holder from these restrictions.⁸¹

Hunting and fishing in areas, which were formerly part of the Transvaal province, was controlled by the Division of Nature Conservation of the Transvaal Provincial Administration, through the Nature Conservation Ordinance, Ordinance 12 of 1983.⁸² As part of the transitional arrangements, individual provinces enacted laws in which the continued validity of this Ordinance within the boundaries of the new province was preserved. This Ordinance classifies wild animals in two distinct groups, 'wild animals' and 'game'. The further subdivision of these two groups dictates the level of protection provided to them.

Analysis

Wild animals are not within the scope of the Animal Protection Act 1962, which illustrates that wild animal welfare is not a priority. The focus of legislation is put on conserving species as a whole. For instance, whilst it is positive that South Africa has developed national Biodiversity Plans for lions and white rhinoceroses, these plans focus on conserving the populations rather than preserving the welfare of individual animals. It is highlighted that wild animal regulation in South Africa 'follows the traditional - but outdated - distinction between animal welfare and biodiversity conservation'.⁸³

⁷¹<https://www.sahunters.co.za/images/attach/hunting/proclamations/Eastern%20Cape%20Provincial%20Hunting%20Proclamation%202019.pdf>

⁷²<https://www.sahunters.co.za/images/attach/hunting/proclamations/Northern%20Cape%20Hunting%20Proclamation%202013%20as%20valid%20for%202019.pdf>

⁷³<https://www.sahunters.co.za/images/attach/hunting/proclamations/Western%20Cape%20Hunting%20Proclamation%20incl%20Bowhunting%20for%202019.pdf>

⁷⁴<https://www.sahunters.co.za/images/attach/hunting/proclamations/North%20West%20Hunting%20Regulations%202019.pdf>

⁷⁵<https://www.sahunters.co.za/images/attach/hunting/proclamations/Mpumalanga%20Hunting%20Proclamation%202019.pdf>

⁷⁶<https://www.sahunters.co.za/images/attach/hunting/proclamations/FreeState%20Hunting%20Regulations%202014%20as%20valid%20for%202018.pdf>

⁷⁷<https://www.sahunters.co.za/images/attach/hunting/proclamations/Gauteng%20Hunting%20Regulations%202018.pdf>

⁷⁸<https://www.sahunters.co.za/images/attach/hunting/proclamations/KZN%20Hunting%20Proclamations%202015%20as%20valid%20for%202018.pdf>

⁷⁹<https://www.sahunters.co.za/images/attach/hunting/proclamations/Limpopo%20Hunting%20Proclamation%202018.pdf>

⁸⁰ <https://www.africahunting.com/hunting/south-africa/hunting-licences-info.pdf>

⁸¹ http://www.shingelani.co.za/downloads/SA_Government_TOPS_Regulations_Revised_July_10.pdf

⁸² https://www.unodc.org/res/cld/document/nature-conservation-ordinance-12-of-1983-north-west-province_html/NW_Nature_Conservation_Ordinan.pdf

⁸³ <https://cer.org.za/wp-content/uploads/2018/06/CER-EWT-Regulation-of-Wildlife-Welfare-Report-25-June-2018.pdf>



Hunting legislation permits a wide range of methods including methods that raise serious animal welfare concerns, for example, bow hunting and hunting of leopards with hounds. Hunting legislation is not consistent across provinces, with various licence and permit systems. It is also legal to hunt endangered species with an appropriate permit. Wild animals are viewed as resources for sustainable use. Hunting in the country is regarded as a valuable economic activity and the Government has expressed its commitment to building close ties with the hunting industry.⁸⁴ The Government also regards hunting as a financially valuable tourist activity in South Africa.⁸⁵

Furthermore, trophy hunters from around the world visit South Africa, an issue that has led to international concern as some governments act to ban trophy imports as part of efforts to combat the illegal wildlife trade and to protect endangered species.⁸⁶

The Government advises that the country has a large contingent of law enforcement officers, special units for threatened species and Environmental Management Inspectors to work on nature conservation.⁸⁷ These agencies work in close collaboration with the South African Police Service. Additionally, the South African customs authorities (Department of Finance) and the Department of Agriculture assist in work against the illegal wildlife trade.⁸⁸

The recent legalisation of the domestic rhino horn trade in South Africa is worrying. In fact, South Africa being home to 70% of the worldwide rhino population,⁸⁹ it appears that the legal domestic trade in rhino horn may exacerbate poaching: traceability is low, which makes it hard to distinguish a legally obtained horn from a horn obtained illegally. On 23 August 2017 the first-ever legal online auction of rhino horn took place; even though only the domestic trade has been legalised, the auction's website was translated in Mandarin and Vietnamese, which clearly shows that international customers were targeted.⁹⁰ Furthermore, economic incentives exist for rhino breeders to legalise the trade, rather than genuine conservation efforts. In fact, seeing that rhino horn is sold up to US\$75,000 per kg, the largest breeder of rhinos, John Hume, could make huge profits from his current 1,405 rhinos and five tons of horn collected over time.^{91,92,93}

Enforcement mechanisms

Contravention of the Nature Conservation Ordinance is punishable with fines and imprisonment.

⁸⁴ https://www.environment.gov.za/speech/molewa_firsthuntingindaba_opening

⁸⁵ https://www.environment.gov.za/speech/molewa_firsthuntingindaba_opening

⁸⁶ <http://www.thetimes.co.uk/tto/news/world/australian-newzealand/article4136886.ece>

⁸⁷ https://www.environment.gov.za/legislation/international_agreements/sapartytocites

⁸⁸ https://www.environment.gov.za/legislation/international_agreements/sapartytocites

⁸⁹ <https://www.nationalgeographic.com/news/2017/04/wildlife-watch-rhino-horn-ban-overtuned-south-africa/>

⁹⁰ <https://www.awf.org/blog/south-africas-newly-legalized-rhino-horn-trade-could-fuel-chinese-demand>

⁹¹ <https://www.tandfonline.com/doi/abs/10.1080/13880292.2013.764776>

⁹² <https://theconversation.com/dehorning-rhinos-why-there-may-be-a-case-for-doing-it-64902>

⁹³ <https://www.telegraph.co.uk/news/worldnews/africaandindianocean/southafrica/12173750/Why-the-worlds-largest-rhino-farmer-is-cutting-off-their-horns.html>



Enforcement measures under the National Environmental Management: Biodiversity Act 2004 include fines and imprisonment of up to ten years.

Key recommendations

- The Government of South Africa is urged to reinstate the moratorium on the domestic rhinoceros horn trade, recognising that a legal rhinoceros horn trade within South Africa’s borders can fuel the international demand (international trade in rhinoceros horn is forbidden through CITES) and illegal trade in rhinoceros horn.
- The Government of South Africa is encouraged to ban any form of hunting that does not directly support subsistence i.e. for feeding oneself and one’s family and not for commercial gain. Subsistence hunting operations must employ the least cruel methods of hunting and slaughter, and that all possible efforts should be made to reduce the amount of time it takes for animals to die in these hunts. At a minimum, the Government is strongly encouraged to forbid the use of the cruellest hunting methods.

Goal 3: Establishment of supportive government bodies

9. The Government has assigned responsibility and accountability for improving animal protection at a high government level and has provided resources

Analysis of the legislation

| Ranking | D |
|---------|---|
|---------|---|

The welfare of animals in South Africa is primarily regulated by two Acts, the Animals Protection Act 1962, and the Performing Animals Protection Act 1935, amended in 2016, with responsibility for implementation of the two Acts originally vested in the Ministry of Justice. In 1997, responsibility for these two Acts was transferred to the Department of Agriculture, Forestry and Fisheries (DAFF), initially under the Directorate of Animal and Aquaculture Production. Responsibility for both Acts was eventually transferred to Veterinary Services in 2009. In 2019, DAFF was renamed the Department of Agriculture, Rural Development and Land Reform.

The National Environmental Management: Biodiversity Act 2004 mandates that the Department for Environmental Affairs and Tourism is the responsible authority for the implementation of the Act. This Department has been renamed in 2019 the Department of Environment, Forestry and Fisheries.

The Strategic Plan of the Department of Agriculture, Forestry and Fisheries (DAFF) for 2013/14 to 2017/18 mentions updating the animal protection legislation with a new Animal Welfare and



Protection Bill.⁹⁴ However, the plan does not include detail on the proposed scope of changes to animal protection legislation. In its current Strategic Plan 2015/16 to 2019/20, the Department of Agriculture, Forestry and Fisheries mentions the Animal Welfare Bill, however, no detail is given as to what new provisions will this Bill contain.⁹⁵ The DAFF explicitly states that one of its aims is to 'develop a single animal welfare Act in line with relevant section of the Constitution, as well as international animal welfare standards'. Since the API was first published in 2014, this Animal Welfare and Protection Bill does not seem to have progressed.

Analysis

The Department of Agriculture, Forestry and Fisheries is responsible for implementing the current Animal Protection Act and is able to make regulations under the Act. However, the enforcement of the Animal Protection Act, the Performing Animal Protection Acts and other legislation related to the keeping, transporting, selling and use of animals, is devolved to the Societies for the Prevention of Cruelty to Animals (SPCA) and police forces in the provinces. Relying on animal welfare charities such as SPCAs for enforcing animal protection legislation often results in a lack of human and financial resources to carry out animal welfare inspections. There is no commitment from the Government in legislation to assign financial resources to the functioning of the SPCAs.

It is very encouraging that the Department of Agriculture, Forestry and Fisheries has included updating of animal protection legislation within its strategic plan. The process presents an opportunity to introduce legislation to improve the welfare of many categories of animal within the country. However, it may be that the Government's commitments to the hunting industry may prevent progress on wild animal welfare issues.

Enforcement mechanisms

The Department of Agriculture, Forestry and Fisheries is responsible under the legislation for implementation of the relevant legal provisions; however, this is mostly in the form of powers given to make secondary regulations rather than mandates to carry out specific tasks. Enforcement powers are given to SPCAs and police forces.

Key recommendations

- **The Government of South Africa is strongly encouraged to proceed with development of the new Animal Welfare and Protection Bill.**
- **The Government of South Africa is encouraged to create a national multi-stakeholder committee in order to effectively engage all actors involved in maintaining animals' well-being to find solutions for welfare concerns. This committee would guide the country's policies and**

⁹⁴ <http://www.daff.gov.za/doaDev/topMenu/DAFF%20Strategic%20Plan%202013.pdf> (see page 31)

The current main legislation for animal protection, the Animal Protection Act 1962 and the Performing Animals Protection Act 1935, do not include the OIE's guiding principles and animal welfare standards⁹⁵

https://www.daff.gov.za/doaDev/topMenu/DAFF_SP_%20complete.pdf



strategies on animal welfare, in line with international standards. This committee should include representatives of animal welfare organisations.

- The Government of South Africa is urged to allocate adequate human and financial resources to effectively implement animal welfare legislation and to carry out regular animal welfare inspections.

Goal 4: Support for international animal welfare standards

10. The Government has incorporated the OIE’s guiding principles for animal welfare and its animal welfare standards into policy and legislation

| Analysis of the legislation | |
|--|---|
| Ranking | D |
| <p>The OIE Animal Welfare Standards focus on transport, slaughter, production systems (beef cattle, broiler chickens, dairy cattle, pigs), stray dog population control, the use of animals in research and education, and working equids.⁹⁶</p> <p>Where legislation exists to address a particular issue, it does cover most of the OIE’s guiding principles and standards on animal welfare, albeit without specific reference to the OIE. However, not all topics covered by OIE standards on animal welfare have been addressed in South African legislation. For instance, Chapter 7.7 of the OIE standards concerns stray dog population control. Evidence of legislation regulating the treatment of stray dogs has not been found in South African legislation.</p> <p>Since the API was first published in 2014, the South African Veterinary Foundation has adopted its new Strategy for 2016-2026.⁹⁷ The Strategy builds on the international conventions and guidelines from the OIE.</p> <p>The Strategic Plan of the Department of Agriculture, Forestry and Fisheries (DAFF) for 2013/14 to 2017/18 mentions updating the animal protection legislation with a new Animal Welfare and Protection Bill.⁹⁸ However, the plan does not include detail on the proposed scope of changes to animal protection legislation. In its current Strategic Plan 2015/16 to 2019/20, the Department of Agriculture, Forestry and Fisheries mentions the Animal Welfare Bill, however, no detail is given as to whether this Bill would recognise animal sentience.⁹⁹ The DAFF explicitly states that one of its aims is to ‘develop a single animal welfare Act in line with relevant section of the Constitution, as well as international animal welfare standards’. Since the API was first published in 2014, this Animal Welfare</p> | |

⁹⁶ <http://www.oie.int/infographic/StandardsAW/index.html>

⁹⁷ [https://www.daff.gov.za/vetweb/Animal%20Identification/Veterinary%20Strategy%20%202016-09-08_%20\[Final\].pdf](https://www.daff.gov.za/vetweb/Animal%20Identification/Veterinary%20Strategy%20%202016-09-08_%20[Final].pdf)

⁹⁸ <http://www.daff.gov.za/doaDev/topMenu/DAFF%20Strategic%20Plan%202013.pdf> (see page 31)

⁹⁹ https://www.daff.gov.za/doaDev/topMenu/DAFF_SP_%20complete.pdf



and Protection Bill does not seem to have progressed. In 2019, DAFF was renamed the Department of Agriculture, Rural Development and Land Reform.

Analysis

The OIE's standards on animal welfare not only represent a consensual position achieved internationally by countries represented in the organisation, but also provide the necessary scientific background to produce sound policy and legislation on animal welfare. There are no formal boards to implement current animal welfare policy in the Department of Agriculture, Forestry and Fisheries and transposition of all the OIE's standards or principles has not yet taken place. However, the Department of Agriculture, Forestry and Fisheries' current strategic plan mentions the country's World Trade Organisation and sanitary/phytosanitary commitments, as well as the Government's intention to update animal protection legislation presents an opportunity to meet the country's commitments to the OIE on issues of animal welfare. South Africa has an OIE Animal Welfare Focal Point; however, the country would benefit from having its animal welfare structures strengthened, modern legislation enacted, and enforcement mechanisms established to implement the OIE animal welfare standards.

Enforcement mechanisms

For most of the issues covered by the OIE's standards, the legislation has enforcement mechanisms.

Key recommendations

- **The Government of South Africa is strongly encouraged to implement the OIE's animal welfare standards and principles within policy and legislation.**

11. The Government has pledged in principle support for the Universal Declaration on Animal Welfare (UDAW)

Analysis of the legislation

The Government of South Africa has not pledged in principle support for the Universal Declaration on Animal Welfare (UDAW).

Note: The UDAW is a proposed formal international acknowledgement of a set of principles giving animal welfare due recognition among governments and the international community. An expression of support for the UDAW demonstrates a government's commitment to working with the international community to improve animal welfare.

Analysis

Support for the UDAW would be a first step into integrating animal protection considerations into different discussion tables, becoming a source of inspiration for decision makers interested in improving animal protection in the country.



Enforcement mechanisms

There are no enforcement mechanisms relevant to this indicator.

Key recommendations

- **The Government of South Africa is encouraged to pledge in principle support for the UDAW. Support for the UDAW will likely underpin further animal protection measures.**

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