



## United States of America

Animal Protection Index 2014 ranking: D

### Animal Protection Index Indicators

#### Goal 1: Recognition of animal sentience and the importance of animal protection as a societal value

##### 1. Animal sentience is formally recognised in legislation and/or policy

Ranking: D

<b>Part 1: Verification</b>
<p>There is legislation with partial application</p> <p>There is federal legislation recognising some aspects of animal sentience in some animals. In particular, the preamble to the Humane Methods of Slaughter Act of 1958 explains that the use of humane methods in the slaughter of livestock prevents needless suffering (7 U.S.C. §1901), and the Animal Welfare Act requires the avoidance or minimisation of pain and distress during experimental procedures (7 U.S.C. §2143). The Animal Welfare Act also requires dealers, exhibitors, and research facilities to ensure that environments provided for non-human primates promote the “psychological well-being” of the animals (7 U.S.C. §2143). However the categories of animals covered by the scope of these pieces of legislation is narrow. The Humane Methods of Slaughter Act covers only livestock (not including poultry) and the Animal Welfare Act covers only certain mammals and excluding birds, rats of the genus <i>Rattus</i> and mice of the genus <i>Mus</i> bred for use in research, horses not used for research purposes, farm animals such as but not limited to livestock or poultry, and all cold-blooded animals including fish, amphibians and reptiles (7 U.S.C. §2132). State legislation on this area is also limited in scope and is not consistent between states.</p>
<b>Part 2: Assessment</b>
<p>Are policy and legal provisions effective in acknowledging animal welfare as a mainstream</p>

<p>concern?</p> <p>The United States Department of Agriculture is responsible for implementation of the Animal Welfare Act (7 U.S.C. §2131-2159). The Department’s website does contain some information on animal welfare but there are no statements that mention animal sentience or the science of sentience, or that draw attention to the feelings and levels of awareness and consciousness in animals or the importance of protecting animals for their own sake as sentient beings.</p> <p>The limited reach of the existing legislation giving a partial recognition of sentience is not fully effective to raise awareness of animal welfare issues in the country.</p>
<p>Are there economic and societal barriers to improving this aspect of animal welfare?</p> <p>Those animal protection measures which exist in the United States have been introduced for the most part at state rather than federal level, owing to the Tenth Amendment to the Constitution that provides for powers not expressly given to the United States to belong to the States and the People. This legislative approach, whereby because animals are not mentioned in the Constitution animal protection has been left for the most part to individual states, presents a barrier to improving animal welfare through the recognition of sentience.</p> <p>Other potential barriers to progress in extending animal protection to all sentient animals include a political tradition of reluctance to interfere with businesses practices causing authorities to regard widespread industry practice as the acceptable norm<sup>1</sup>; a system of dual federalism combined with an adversarial approach to policy and legislation development<sup>2</sup>; the strength of commercial lobbies opposed to animal protection<sup>3</sup>; and measures that inhibit or prevent public exposure of animal suffering in agricultural production.<sup>4 5</sup></p> <p>The exclusion of rats and mice used in research from the partial recognition of sentience in the Animal Welfare Act (7 U.S.C. §2132) represents a considerable barrier to improving animal welfare, particularly as 95% of animals used in research are estimated to be rats and mice.<sup>6</sup> The exclusion of poultry from the recognition of suffering in the Humane Methods of Livestock Slaughter Act (7 U.S.C. §1901-1907) also represents a significant barrier.</p> <p>The government is encouraged to make formal recognition of animal sentience to include all sentient animals and to inform production of relevant legislation.</p>
<p>Are enforcement mechanisms in place in policy and legislation?</p> <p>At federal level there are enforcement mechanisms for legal provisions arising out of the limited recognition of aspects of sentience in the Animal Welfare Act (7 U.S.C. §2131-2159) and the Humane Methods of Livestock Slaughter Act (7 U.S.C. §1901-1907).</p> <p>Enforcement measures for relevant anti-cruelty statutes have been put into place at state level.</p>

<sup>1</sup>[https://www.academia.edu/806319/Writing\\_Animal\\_Welfare\\_into\\_WTO\\_Law\\_Assessing\\_the\\_Merits\\_with\\_Stakeholder\\_Interviews](https://www.academia.edu/806319/Writing_Animal_Welfare_into_WTO_Law_Assessing_the_Merits_with_Stakeholder_Interviews)

<sup>2</sup> Whiting, T.L. Policing Farm Animal Welfare in Federated Nations: The Problem of Dual Federalism in Canada and the USA. *Animals* 2013, 3, 1086-1122

<sup>3</sup> David Favre, "Overview of the U.S. Animal Welfare Act", Animal and Legal Historical Centre, 2002, at <http://www.animallaw.info/articles/ovusawa.htm>

<sup>4</sup> Brief of the American Civil Liberties Union, the Massachusetts American Civil Liberties Union and The Lawyers Guild <http://www.nlg.org/resource/amicus-curiae/nlg-amicus-curiae-blum-et-al-v-holder>

<sup>5</sup> [http://www.humanesociety.org/news/press\\_releases/2014/02/idaho\\_aggag\\_020714.html#.UyrKOf1Byf0](http://www.humanesociety.org/news/press_releases/2014/02/idaho_aggag_020714.html#.UyrKOf1Byf0)

<sup>6</sup> David Favre, "Overview of the U.S. Animal Welfare Act", Animal and Legal Historical Centre, 2002, at <http://www.animallaw.info/articles/ovusawa.htm>

## 2. The government has pledged in principle support for the Universal Declaration on Animal Welfare

**Ranking: E**

<b>Part 1: Verification</b>
<b>There is partial government support</b>
In 2008 the United States Department of Agriculture advised World Animal Protection of its in principle support for the UDAW. The government was an observer at an Intergovernmental Conference on Animal Welfare organised in Manila in 2003 to agree the draft text for a UDAW. <sup>7</sup> Note: The Universal Declaration on Animal Welfare is a proposed formal international acknowledgment 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.
<b>Part 2: Assessment</b>
<b>Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?</b>
The support of the Department of Agriculture for the UDAW does not appear to have been publicised, although it was followed by support being given by the American Veterinary Medical Association. The Department of Agriculture is encouraged to highlight its support for the UDAW and the principles of the UDAW on its website and to encourage the government to give its full support. It is noted that the Department's Foreign Agricultural Service has produced a briefing on the European Union's support for a UDAW but this does not mention the Department's own support in principle for the UDAW. <sup>8</sup>
<b>Are there economic and societal barriers to improving this aspect of animal welfare?</b>
There are not considered to be any barriers to the government giving its support to the UDAW given political will to do so. However, given the lack of apparent visibility given to the issue by the Department of Agriculture, it appears that much would need to be done and that this is not a government priority. Additionally, serious concerns have been raised concerning the likelihood of the government supporting the UDAW given the strength of commercial lobbies that oppose improving, in particular, farm animal welfare
<b>Are enforcement mechanisms in place in policy and legislation?</b>
There are no enforcement mechanisms relevant to this indicator. Full in principle support for the UDAW by the government could assist with the introduction of

<sup>7</sup> Miah Gibson, "The Universal Declaration on Animal Welfare", Deakin Law Review, Volume 16, No 2, 2011

<sup>8</sup>

[http://gain.fas.usda.gov/Recent%20GAIN%20Publications/EC%20engages%20on%20Universal%20Declaration%20on%20Animal%20Welfare\\_Brussels%20USEU\\_EU-27\\_3-24-2009.pdf](http://gain.fas.usda.gov/Recent%20GAIN%20Publications/EC%20engages%20on%20Universal%20Declaration%20on%20Animal%20Welfare_Brussels%20USEU_EU-27_3-24-2009.pdf)

mechanisms to promote the improvement of animal welfare, given political will and widespread support.

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

**Ranking: C**

<b>Part 1: Verification</b>
<b>There is legislation with partial application</b>
<p>The United States was the first country in the world to see laws enacted to protect animals from cruelty and negligence, under Liberties 92 and 93 of the Puritans of Massachusetts Bay Colony Code in 1641.<sup>9</sup></p> <p>Today, at federal level there is legislation providing for the humane treatment of some mammals, in the Animal Welfare Act (7 U.S.C. §2131-2159), which makes provisions for the care of any warm-blooded animals which are used for research or as pets, other than rats, mice and livestock, and in the Horse Protection Act (15 U.S.C. §1821-1831). The Humane Methods of Slaughter Act of 1958 requires cattle, calves, horses, mules, sheep and swine to be handled and slaughtered in a humane way (7 U.S.C. §1901-1907). Poultry are not included in this protection. However none of these statutes contains a general anti-cruelty provision.</p> <p>During the 1800s individual states began to introduce anti-cruelty legislation<sup>10</sup> and by 1921 all 50 states had included anti-cruelty statutes in their laws.<sup>11</sup> In recent years there has been increasing support for cruelty to animals to be regarded as a felony rather than a misdemeanor. On 14 March 2014 South Dakota became the final state to introduce a felony provision for malicious acts of animal cruelty and cockfighting.<sup>12</sup></p> <p>Today, at state level, all 50 states have anti-cruelty legislation, although the extent and scope of the legislation varies between states and there are often wide-reaching exceptions. The Animal Legal Defense Fund publishes a compendium of general animal protection and related statutes for all the states, principal districts and territories of the United States and Canada, which offers an overview of the legislation of each state.<sup>13</sup> Common themes include protecting animals from cruel treatment, abandonment, poisoning and providing food, water and shelter. However, the scope of statute provisions varies significantly from state to state, with application to different categories of animal or</p>

<sup>9</sup> Emily Stewart Leavit and Diane Halverson, The Evolution of Anti-Cruelty Laws in the United States, in: Animals and Their Legal Rights in A Survey of American Laws from 1641 to 1990, Animal Welfare Institute, 1990

<sup>10</sup> David Favre & Vivien Tsang, The Development of the Anti-Cruelty Laws During the 1800's, Detroit College of Law Review, 1993

<sup>11</sup> Judith Ho, Information Resources on Human-Animal Relationships Past and Present, Animal Welfare Information Center (AWIC) Resource Series No. 30, U.S. Department of Agriculture, Agricultural Research Service, National Agricultural Library Animal Welfare Information Center, March 2005

<sup>12</sup> [http://www.humanesociety.org/news/news\\_briefs/2014/03/south-dakota-lawmakers-enact-stronger-animal-cruelty-penalties-031414.html#.UyrGWP1Byf0](http://www.humanesociety.org/news/news_briefs/2014/03/south-dakota-lawmakers-enact-stronger-animal-cruelty-penalties-031414.html#.UyrGWP1Byf0)

<sup>13</sup> <http://aldf.org/resources/advocating-for-animals/animal-protection-laws-of-the-united-states-of-america-and-canada/>

activity and with many exceptions to legal protection. Common exceptions include animals reared for food, hunting, fishing, trapping, common agricultural practices, veterinary practices, pest control, rodeos, zoos, circuses, and killing of someone's own animals on his or her property if done humanely. In some instances there is a duty of care, and the legislation in some states creates a cruelty offence by reference to causing suffering, while others do not refer to suffering. Currently 34 of the 50 States specifically exclude livestock from anti-cruelty provisions<sup>14</sup>, and at federal level the Humane Slaughter Act does not protect poultry from cruel slaughter practices.

For example, in Alabama it is a misdemeanor to subject an animal of which the person has custody to cruel mistreatment or neglect, or to kill or injure an animal belonging to another without good cause. The offence is a felony if the act is done intentionally or knowingly and the act of cruelty or neglect involves the infliction of torture (Ala. Code § 13A-1-1-14). This provision therefore focuses on the conduct of the offender rather than on the suffering effect on the animal.

In Michigan it is an offence to cruelly drive, work or beat an animal, to transport an animal in a cruel and inhumane manner, or negligently to allow an animal to suffer unnecessary neglect, torture or pain. There is also a duty to provide adequate care for an animal of which a person has charge or custody (Mich. Penal Code §750.50). There are exceptions for the lawful killing of livestock or customary animal husbandry of livestock; and for lawful fishing, hunting, trapping, wildlife control, pest or rodent control, and animal research.

In Florida, it is a misdemeanor unnecessarily to overload, overdrive, torment, deprive of necessary sustenance or shelter, or unnecessarily mutilate, or kill any animal, or to transport an animal in a cruel or inhumane manner. The offence is a felony when done intentionally, or when the owner or person with custody or control of the animal fails to act, resulting in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering. This protection extends to "every living dumb creature" (Fla. Stat. §828.12).

In Texas there are separate provisions protecting livestock and non-livestock domesticated or captive wild animals (Tex. Penal Code §42.09). It is prohibited intentionally or knowingly to torture a livestock animal, where "torture" means any act that causes unjustifiable pain or suffering, or to transport or confine an animal in a cruel and unusual manner, where "cruel manner" includes a manner that causes or permits unjustified or unwarranted pain of suffering. It is an exception if the conduct is a generally accepted and otherwise lawful animal husbandry or agricultural practice involving livestock animals. In relation to domesticated or captive wild animals, it is prohibited intentionally, knowingly or recklessly to torture an animal or in a cruel manner to kill or cause serious bodily harm to an animal, or to transport an animal in a cruel manner. There is also a duty of care in relation to both categories of animals.

## Part 2: Assessment

Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?

The websites of federal institutions, the White House, the House of Representatives and the Senate do not contain sections on animal protection, although there is information about the support of individual congressmen and senators for animal protection initiatives.

<sup>14</sup> Humane Society of the United States (HSUS), "State Ranking 2013":  
<http://www.humanesociety.org/about/state/humane-state-ranking-2013.html>

The success of some state ballot initiatives introducing a wide variety of animal protection measures including on cock fighting, bear baiting, horse slaughter, "canned hunting" and intensive farming also demonstrates a certain level of public support for the recognition of animal sentience and protection of animals.

There is a very active, well-supported and funded animal protection movement in the country and over three quarters of all states have significantly improved animal protection laws since 2007, according to the United States Animal Protection Laws 2012 Rankings Report produced by the Animal Legal Defense Fund.<sup>15</sup>

Although this category of the most basic animal protection legislation is not addressed at the federal level, some anti-cruelty provisions are in force across the country. However, the content and scope of state legislation varies significantly, with many exceptions to anti-cruelty statutes.

Over the past two decades all 50 states have passed statutes enabling certain abusive acts against certain animals or animal fighting offences to be prosecuted as felonies rather than as misdemeanors<sup>16</sup>. This trend has been facilitated by the campaigns of animal advocates, who have highlighted, for example, the links between cruelty to animals and other forms of human violence.<sup>17</sup> United States President Barack Obama has commented that "I think how we treat our animals reflects how we treat each other"<sup>18</sup>, and that "violence toward animals is linked with violent behavior in general"<sup>19</sup>. As at April 2014, 135 of 435 congressmen and congresswomen are members of the Congressional Animal Protection Caucus that is active in supporting new animal protection legislation.<sup>20</sup>

The Animal Legal Defense Fund publishes an annual report in which it ranks all states and territories according to the strength of their animal protection laws. Each jurisdiction receives a raw score based on fifteen different categories of animal protection. The categories include general prohibitions, penalties, veterinarian reporting, protective orders, seizures, cross enforcement reporting, sexual assault and fighting. The raw scores of all 56 jurisdictions are then ranked. Other animal protection organisations also invest resources in legislative campaigns at state level, for example, the Humane Society of the United States.<sup>21</sup> In 2013 Illinois, Oregon, and California appeared within the top five on both the Animal Legal Defense Fund and Humane Society rankings, and South Dakota appeared within the bottom five on both rankings.<sup>22</sup>

Whilst the past two decades have shown some support for upgrading the seriousness with which the law treats cruelty to animals, an accompanying trend has been for more categories of animals or activities to be excluded from state anti-cruelty provisions.<sup>23</sup> The Humane Society's state rankings

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<sup>15</sup> <http://aldf.org/press-room/press-releases/2012-u-s-animal-protection-laws-rankings/>

<sup>16</sup> Rebecca F. Wisch, Overview of State Cruelty Laws, 2005, updated 2010 at: <http://www.animallaw.info/topics/tabbed%20topic%20page/spuscruelty.htm>

<sup>17</sup> Andrew N. Rowan and Beth Rosen, Progress in Legislation: Measurement and Assessment in: The State of the Animals III, Deborah J. Salem (Editor), Andrew N. Rowan (Editor), Humane Society Press, 2005

<sup>18</sup> <http://www.examiner.com/article/president-elect-barack-obama-an-animal-rights-supporter-promises-a-new-white-house-pup>

<sup>19</sup> <http://www.seventeen.com/college/advice/spotlight-animal-rights>

<sup>20</sup> <http://animalprotectioncaucus.moran.house.gov/issues.html>

<sup>21</sup> [http://www.humaneociety.org/about/departments/legislation/state\\_legislation.html](http://www.humaneociety.org/about/departments/legislation/state_legislation.html)

<sup>22</sup> <http://aldf.org/wp-content/uploads/2013/12/2013-United-States-Animal-Protection-Laws-Rankings.pdf>

<sup>23</sup> Andrew N. Rowan (Editor), Deborah J. Salem (Editor), The State of the Animals II, Humane Society Press, 2003

report of 2013 shows that 34 of the 50 States specifically exclude farm animals from anti-cruelty legal provisions.<sup>24</sup>

The Association of Prosecuting Attorneys, a national association dedicated to supporting and enhancing the effectiveness of prosecutors, has adopted a statement of principles regarding animal cruelty crimes.<sup>25</sup> This recognises that animals are “sentient beings with the undeniable capacity to suffer pain” and calls upon prosecutors to “give animal cruelty cases priority and make certain they are handled in the same professional manner as other crimes”.

#### Are there economic and societal barriers to improving this aspect of animal welfare?

State law governs issues of liability for harm to animals or harm caused by animals and anti-cruelty laws have been the prerogative of individual states for over 120 years.<sup>26</sup> Federal laws have been introduced on a limited number of topics where there is multi-state involvement, such as transport of animals over state borders, or human health implications.

The exclusion of poultry from federal humane slaughter and transport legislation also represents a barrier to improving animal welfare as this means that nine billion of the ten billion land animals<sup>27</sup> killed each year in the country for food have no federal protection from inhumane treatment on farm, during transport and at the slaughterhouse.

The government’s constitutional remit in relation to legislating on animal welfare issues at a federal level is limited. The state-by-state approach to basic animal protection legislation makes for a long and difficult process to bring legislation into line with current scientific knowledge regarding the needs of animals and/or to introduce more progressive laws, such as ensuring a duty of care for all those with responsibility for animals.

Exempting categories of animals such as farm and wild animals from anti-cruelty provisions also presents a legislative barrier to improving animal welfare. State provisions vary with some including “all living creatures” and others including only some mammals. According to a 2010 analysis, only Minnesota, Mississippi, and Oklahoma did not have any exemptions to their animal cruelty laws.<sup>28</sup> Some concerns have also been expressed about the difficulty of improving state anti-cruelty provisions because of the strength of economic lobbies, for example, agribusiness.<sup>29</sup>

#### Are enforcement mechanisms in place in policy and legislation?

All 50 states have included penalties within their anti-cruelty provisions that include fines and prison sentences of varying severity dependent on the type of misdemeanour or felony committed. States define more serious crimes against animals as “aggravated cruelty” or “cruelty in the first degree” and award higher penalties for such offences. A sizeable minority of states restrict the more serious penalties to people committing acts against animals such as pets.<sup>30</sup>

<sup>24</sup> Humane Society of the United States (HSUS), “State Ranking 2013” at <http://www.humanesociety.org/about/state/humane-state-ranking-2013.html>

<sup>25</sup> <http://www.apainc.org/html/Resolution%20regarding%20Animal%20Cruelty%20Crime%20Prosecution.pdf>

<sup>26</sup> David Favre, “Overview of the U.S. Animal Welfare Act”, Animal and Legal Historical Centre, 2002 at <http://www.animallaw.info/articles/ovusawa.htm>

<sup>27</sup> <http://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/production-and-inspection/key-facts-humane-slaughter/key-facts-humane-slaughter>

<sup>28</sup> Rebecca F. Wisch, Overview of State Cruelty Laws, 2005, updated 2010 at <http://www.animallaw.info/topics/tabbed%20topic%20page/spuscruelty.htm>

<sup>29</sup> Corwin R. Kruse, Adding A Bit More Bite: Suggestions For Improving Animal-Protection Laws In Minnesota, William Mitchell Law Review, 2008

<sup>30</sup> Elizabeth R. Springsteen Animal Cruelty Statutes: A State-By-State Analysis, National Agricultural Law Center

Some states give the judge the ability to order psychiatric counselling for cruelty offenders, to seize abused animals and to prohibit ownership of animals for a number of years.

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

Ranking: D

Part 1: Verification
<p>There is legislation with partial application</p> <p>There is no federal legislation to protect the welfare of farm animals during rearing.<sup>31</sup> The Department of Agriculture has general authority to protect animal health broadly, albeit not animal welfare specifically, under regulations under the Animal Health Protection Act (7 U.S.C. §8301-8322).</p> <p>There is some federal legislation to protect farm animals during transport and slaughter, with the exception of poultry.</p> <p>In relation to transport, the Twenty-Eight Hour Law of 1906 (49 U.S.C. §80502) was amended in 1994 and covers the interstate transport of animals for sale or slaughter. The law requires resting, feeding and watering periods every 28 hours, but does not limit total transport time and does not place requirements on the conditions of transport.</p> <p>The Humane Methods of Slaughter Act of 1958 requires cattle, calves, horses, mules, sheep and swine to be handled and slaughtered in a humane way by rendering the animals "insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut", with exemptions for religious slaughter (7 U.S.C. §1901-1907). Poultry are not included in this protection. The Federal Meat Inspection Act (21 U.S.C. §601-695) provides for inspection of handling and slaughter methods for cattle, calves, horses, mules, sheep, swine and goats to ensure compliance with the Humane Slaughter Act of 1958.</p> <p>Domestic horse slaughterhouses ceased operating in 2007 and a move to resume horse slaughtering was blocked by the Obama Administration in January 2014, although this is an annual budgetary decision and is not permanently banned in legislation.<sup>32</sup> Horses are however transported out of the country (to Mexico and Canada) for slaughter. In 1996 Congress passed the Commercial Transportation of Equines for Slaughter Act (9 C.F.R. 88) instituting some welfare measures, for example, ensuring that vehicles used are "designed, constructed and maintained in a manner to protect the health and well-being" of the animals. The Act has since been amended to prohibit the use of double-deck trailers.</p> <p>11 of the 50 states have passed measures aimed at limiting the use of one or more of the three most</p>

<sup>31</sup> David J. Wolfson, "Beyond the Law: Agribusiness and the Systematic Abuse of Animals Raised for Food or Food Production." *Animal Law* 2, no. 123, 1996.

<sup>32</sup> [http://www.humanesociety.org/news/news\\_briefs/2014/03/white-house-recommends-horse-slaughter-funding-removal-from-budget-030514.html#.UyyBuf1Byf0](http://www.humanesociety.org/news/news_briefs/2014/03/white-house-recommends-horse-slaughter-funding-removal-from-budget-030514.html#.UyyBuf1Byf0)



restrictive confinement systems (crates for veal calves, restrictive battery cages for laying hens and gestation crates for sows), mostly with legislation requiring animals to be able to stand up, lie down and turn around.<sup>33 34 35</sup> The timeline indicates that there is a growing amount of activity at state level. In 2002 Florida passed the first state law to restrict a production practice on animal welfare grounds by passing a law limiting the confinement of gestating sows from 2008 (Fla. Consti. art. X, §21). In 2004 California banned the sale and production of foie gras produced by tube force-feeding geese and ducks from 2012 (Cal. Health & Safety Code §25980-25984). In 2006 Arizona passed a law limiting the confinement of gestating sows and veal calves (Ariz. Rev. Stat. §13-2910.07). In 2007 and 2011 Oregon limited the confinement of gestating sows and laying hens from 2012 (Or. Rev. Stat. §600.150; Or. Rev. Stat. §632.840). In 2008 California limited the confinement of gestating sows, laying hens and veal calves from 2015 (Cal. Health & Safety Code §25990-25994) and Colorado limited the confinement of veal calves from 2012 and of gestating sows from 2018 (Colo. Rev. Stat. §35-50.5)). In 2009 Michigan passed a law limiting the confinement of veal calves from 2012 and for gestating sows and laying hens from 2019 (Mich. Comp. Laws §287.746), and Maine passed a law limiting the confinement of gestating pigs and veal calves from 2011 (Me. Rev. Stat. §739.4020). In 2010 Ohio passed legislation to phase out the use of the most restrictive gestation crates (Ohio Rev. Code §901.12-8-02) and veal crates (Ohio Rev. Code §901.12-5-03), also imposing a moratorium on the construction of new movement-restricting battery-cage egg facilities (Ohio Rev. Code 901.12-9-03). In 2011 Washington passed legislation addressing egg-laying hen housing, with stages of improved standards coming into force in relation to egg trade licence applications made from 2011, 2017 and 2026 (Wash. Rev. Code §69.25.065, 69.25.107). In 2012 Rhode Island passed legislation to limit the confinement of gestating pigs and veal calves and prohibited the tail-docking of cattle (R. I. Gen. Laws §4-1.1). California has banned the sale within the state of shell eggs produced in non-compliant cages, thus effectively prohibiting the import of such eggs from other states (Cal. Health & Safety Code §25995-25997). There is a significant egg market in California and this progressive move caused some controversy.<sup>36</sup> Oregon and Washington have also banned the distribution into or within the state of eggs or egg products produced in non-compliant cages (Or. Admin. Rules §603-018-0010 made under Or. Rev. Stat. §632.840; Wash. Rev. Code §69.25.065). With respect to slaughter at state level, 30 states have humane slaughter legislation in addition to the federal Humane Slaughter Act of 1958.<sup>37</sup>

<sup>33</sup> <http://www.humanesociety.org/about/state/humane-state-ranking-2013.html>

<sup>34</sup> Elizabeth R. Rumley, States' Farm Animal Confinement Statutes, National Agricultural Law Center

<sup>35</sup> <http://news.softpedia.com/news/The-State-of-Kentucky-in-the-US-Bans-Cruel-Veal-Crates-431637.shtml>

<sup>36</sup> [http://www.humanesociety.org/news/press\\_releases/2014/03/ca\\_koster\\_hsus\\_opp\\_032714.html](http://www.humanesociety.org/news/press_releases/2014/03/ca_koster_hsus_opp_032714.html)

<sup>37</sup> Arizona: ARS§3-2016-3-2017; California: Cal. FAC §19501-19503; Connecticut: CGS §22-272a; Florida: FLST §828.22-828.26; Georgia: OCGA §26-2-102, 26-2-110.1; Hawaii: HI Rev Stat §159-21; Illinois: 510 ILCS §75/0.01-75/0.08; Indiana: IC §15-17-5-1; Iowa: Iowa Code §189A.18; Kansas: KS ST §47-1401-47-1405; Louisiana: LA Rev Stat §3:4203; Maine: Me. Rev. Stat. §652A.2521-2527; Maryland: MD Code §4-123.1; Massachusetts: MGL § 94-139C-94-139F; Michigan: MCLA § 287.551-287.556; Minnesota: MN ST §31.59; Mississippi: Miss. Code Ann. §75-35-8; New Hampshire: NH ST §427:33-427:37; North Carolina: NC Gen. Stat. §106-549.17; Ohio: Ohio RC §945.01-945.03; Oklahoma: Okl. St. §26-183, 26-195; Oregon: OR ST §603.065; Pennsylvania: PA CSA §2361-2362; Rhode Island: RI ST § 4-17-1-4-17-7; South Dakota: SD Codified L §39-5-23.1-39-5-23.2; Utah: UT ST §4-32.3-4-32.6; Vermont: VT ST T. §3131-3134; Washington: RCWA §16.50.100-16.50.170; West Virginia: WV ST §19-2E-1-19-2E-7; Wisconsin: WSA §95.80

In relation to transport, as at 2008 approximately three-dozen states had language specific to transport in their anti-cruelty statutes with most prohibiting the transport of animals in an “inhumane manner.”<sup>38</sup>

Although the general anti-cruelty legislation in some state legislation applies to this category of animals, 34 of the 50 states specifically exclude livestock from anti-cruelty provisions<sup>39</sup> and some others have exceptions for practices carried out in accordance with generally accepted husbandry methods.

Five states have enacted some basic farm animal care standards in regulation: Indiana (345 Ind. Admin. Code § 14-2-3), Kentucky (Ky. A.R. § 302.21), New Jersey (N.J. A.C. § 2:8), Ohio (Ohio Admin. Code § 901:12), Louisiana (La. Admin. Code § 7.2103).

## Part 2: Assessment

### Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?

In general, humane slaughter regulations are enforced at federally inspected plants by the Food Safety and Inspection Service and in state inspected plants by either the Food Safety and Inspection Service or state department of agriculture personnel.<sup>40</sup> The government’s report on livestock slaughter in 2013 (which does not cover plants which exclusively slaughter poultry) shows that there were 831 plants under federal inspection and 1950 under other inspection.<sup>41</sup>

Poultry are not covered by the Humane Methods of Livestock Slaughter Act of 1958 (7 U.S.C. § 1901-1907), and according to the United States Department of Agriculture, at January 2012 there were approximately 300 poultry slaughter establishments slaughtering approximately nine billion birds a year,<sup>42</sup> a figure which only considers federally inspected plants. Whilst poultry are not covered by the humane slaughter legislation, the Food Safety and Inspection Service advises that is responsible for ensuring compliance with “poultry good commercial practices” in federally inspected plants under the Poultry Products Inspection Act (21 U.S.C. § 451-472).<sup>43 44</sup>

United States Department of Agriculture inspectors in livestock slaughterhouses have the power to stop the slaughtering line on the spot if they observe inhumane practices (9 C.F.R. § 500). However, as poultry are not covered by humane slaughter legislation, inspectors can only stop poultry slaughter lines because of concerns over product quality or safety (for example, when multiple birds enter a scald tank still conscious) (9 C.F.R. § 381.65(b)).

The United States Department of Agriculture has in the past come under severe criticism for failures to

<sup>38</sup> “Legal Protections for Farm Animals During Transport”, Animal Welfare Institute

<sup>39</sup> Humane Society of the United States (HSUS), “State Ranking 2013” at <http://www.humanesociety.org/about/state/humane-state-ranking-2013.html>

<sup>40</sup> <http://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/production-and-inspection/key-facts-humane-slaughter/key-facts-humane-slaughter>

<sup>41</sup> Livestock Slaughter 2013 Summary, April 2014, United States Department of Agriculture National Agricultural Statistics Service ISSN 0499-0544

<sup>42</sup> <http://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/production-and-inspection/key-facts-humane-slaughter/key-facts-humane-slaughter>

<sup>43</sup> <http://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/production-and-inspection/key-facts-humane-slaughter/key-facts-humane-slaughter>

<sup>44</sup> <http://www.fsis.usda.gov/wps/wcm/connect/da6cb63d-5818-4999-84f1-72e6dabb9501/Comp-Guide-Systematic-Approach-Humane-Handling-Livestock.pdf?MOD=AJPERES>

enforce the Humane Methods of Slaughter Act of 1958, for example, in Congressional Hearings that took place in 2008 following an undercover investigation of a slaughterhouse in California that led to the largest meat recall in United States history.<sup>45</sup>

In 2013 the Food Safety and Inspection Service produced its first Compliance Guide for a Systematic Approach to the Humane Handling of Livestock, containing a sample humane handling plan and assessment tool for slaughterhouses.<sup>46</sup> Earlier that year the Service had been petitioned to do more to decrease the suffering of animals at slaughter by the Animal Welfare Institute<sup>47</sup>, that had published a review of 1,000 violations of humane slaughter legislation in slaughterhouses obtained using the Freedom of Information Act. The review found that since the United States Department of Agriculture's 2004 recommendation that all slaughter establishments take a systematic approach to humane slaughter as the best means of ensuring compliance with legislation, only 35% of federally inspected plants, and very few state-inspected plants, had developed such plans.<sup>48</sup> The Food Safety and Inspection Service's Annual Performance Plan for the 2014 financial year planned for a target of 60% of all livestock slaughter establishments to have incorporated systematic approaches to humane handling.<sup>49</sup>

Also in 2013 an audit by the United States Department of Agriculture's Office of the Inspector General of swine slaughter plants found that: "FSIS [Food Safety and Inspection Service] inspectors did not take appropriate enforcement actions at 8 of the 30 swine slaughter plants we visited for violations of the Humane Method of Slaughter Act. We reviewed 158 humane handling noncompliance records (violations) issued to the 30 plants and found 10 instances of egregious violations where inspectors did not issue suspensions. As a result, the plants did not improve their slaughter practices, and FSIS could not ensure humane handling of swine."<sup>50</sup>

Enforcement reports by the Food Safety and Inspection Service reveal that in 2013 only 2.7% of all federal slaughterhouse inspection procedures were performed for compliance with humane slaughter and handling regulations.<sup>51</sup>

The National Cattlemen's Beef Association has produced guidelines, the Cattle Industry's Guidelines for the Care and Handling of Cattle and Beef Quality Assurance Manual, although these have been criticised by NGO the Animal Welfare Institute as not meeting the minimum standards proposed by the OIE.<sup>52</sup> The National Chicken Council (NCC) has also introduced its own guidelines for humane

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<sup>45</sup> Tadlock Cowan, Humane Treatment of Farm Animals: Overview and Issues, Congressional Research Service, May 9, 2011

<sup>46</sup> <http://www.fsis.usda.gov/wps/wcm/connect/da6cb63d-5818-4999-84f1-72e6dabb9501/Comp-Guide-Systematic-Approach-Humane-Handling-Livestock.pdf?MOD=AJPERES>

<sup>47</sup> <https://awionline.org/sites/default/files/uploads/documents/AWI-FA-HumaneSlaughterPetition-06042013.pdf>

<sup>48</sup> <http://www.prnewswire.com/news-releases/animal-welfare-institute-petitions-usda-to-make-slaughter-more-humane-210073401.html>

<sup>49</sup> <http://www.fsis.usda.gov/wps/wcm/connect/4f55646a-658b-490e-bbb5-b54f02a11999/APP-2014.pdf?MOD=AJPERES>, at page 30

<sup>50</sup> <http://www.usda.gov/oig/webdocs/24601-0001-41.pdf>

<sup>51</sup> Calculated from total 04C02 procedures, <http://www.fsis.usda.gov/wps/wcm/connect/a67f0b27-2666-4251-ae46-8608fd2bb3cc/QR-Q4-FY2013-Tables.pdf?MOD=AJPERES> and total verification procedures, <http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/regulatory-enforcement/humane-handling-quarterly-reports/hh-enforcement-reports/hher-q4fy2013>

<sup>52</sup> <https://awionline.org/sites/default/files/uploads/documents/AWI-FA-Letter-to-NCBA-re-welfare-standards-2014.pdf>; <https://awionline.org/content/animal-welfare-institute-requests-revision-national-cattlemans-beef-association-standards>

treatment of chickens at slaughter, which have been updated recently in 2014, and which have also been criticised by the Animal Welfare Institute for failing to meet some of the minimum standards proposed by the OIE.<sup>53</sup>

In relation to the Twenty-Eight Hour Law on transport (49 U.S.C. §80502), an analysis by the Animal Welfare Institute found no reported federal enforcement of the law between 1960 and 2005, and that a lack of effective mechanism for monitoring truck transport presents a significant issue in this regard.<sup>54</sup> In 2010, the United States Department of Agriculture issued a notice to its slaughterhouse inspectors informing them of the Twenty-Eight Hour Law and advising them to contact the Veterinary Services division of the United States Department of Agriculture if they suspect animals may not have been properly rested during transport.<sup>55</sup> This issue is now included in the Food Safety and Inspection Service's Compliance Guide for a Systematic Approach to the Humane Handling of Livestock. There were suggestions that the 2014 Farm Bill would include federal legislation to improve living conditions for laying hens based on an agreement between the Humane Society of the United States and the United Egg Producers, but the legislation was not included and the cooperation agreement was not renewed.<sup>56</sup> However it is positive that attempts to overturn California's prohibition on the sale of battery cage produced shell eggs, through insertion of a provision in the Farm Bill preventing individual states from imposing production standards on products imported from other states (the "King Amendment"), were ultimately unsuccessful.<sup>57</sup> A recent challenge to the California ban on the sale of tube force-feeding produced foie gras has also been rejected.<sup>58</sup> In light of mounting pressure from consumers and a lack of high quality comprehensive federal legislation, United States businesses and industries in some areas have introduced their own standards on transport and slaughter.<sup>59</sup> An increasing number of companies and industries have also introduced their own private standards on husbandry; for example, McDonald's<sup>60</sup>, United Egg Producers<sup>61</sup> and Smithfield<sup>62</sup>. Independent assurance schemes have also been established, for example, Certified Humane<sup>63</sup>, American Humane Certified<sup>64</sup>, Animal Welfare Approved<sup>65</sup> and the Global Animal Partnership.<sup>66</sup>

In several states farm animal protection legislation was introduced following state ballot initiatives

<sup>53</sup> <https://awionline.org/sites/default/files/uploads/documents/AWI-FA-LettertoNCCfromAWI-02112014.pdf>;  
<https://awionline.org/content/awi-criticizes-chicken-industrys-revised-animal-care-standards>

<sup>54</sup> <https://awionline.org/sites/default/files/uploads/legacy-uploads/documents/FA-LegalProtectionsDuringTransport-081910-1282577406-document-23621.pdf>

<sup>55</sup> U.S. Department of Agriculture, Food Safety and Inspection Service, Humane Handling at all Entrances and the Twenty-Eight Hour Law, FSIS Notice 06-10, January 15, 2010

<sup>56</sup> <http://poultrytimes.net/?p=7939>

<sup>57</sup> <http://www.humaneociety.org/assets/pdfs/legislation/king-amendmentfact-sheet.pdf>

<sup>58</sup> <http://www.bloomberg.com/news/2013-08-30/california-ban-on-sale-of-foie-gras-upheld-by-court.html>

<sup>59</sup> M. Engebretson, Chapter 9: North America, in *Long Distance Transport and Welfare of Farm Animals*, edited by M.C. Appleby et al, WSPA, 2008

<sup>60</sup> Keith Kenny, McDonald's: Progressing Global Standards in Animal Welfare, in *Animals, Ethics and Trade*, Earthscan, 2006

<sup>61</sup> <http://www.uepcertified.com/pdf/2010-uep-animal-welfare-guidelines.pdf>

<sup>62</sup> <http://www.smithfieldcommitments.com/core-reporting-areas/animal-care/>

<sup>63</sup> <http://certifiedhumane.org>

<sup>64</sup> <http://www.humaneheartland.org>

<sup>65</sup> <http://animalwelfareapproved.org>

<sup>66</sup> <http://www.globalanimalpartnership.org>

with public votes, showing that there is some public opinion in some areas in support of stronger legislative measures; for example, California (with 64%), Florida (55%) and Arizona (62%). The government is encouraged to introduce comprehensive federal legislation to protect all farm animals during rearing, transport and slaughter as the most effective means of addressing these issues, and to ensure that poultry are included within the scope of the existing federal transport and slaughter legislation.

#### Are there economic and societal barriers to improving this aspect of animal welfare?

The government's constitutional remit in relation to legislating on animal welfare issues at a federal level is limited, although in relation to human health there is more scope for federal protection of farmed animals than some other uses of animals. The lack of federal legislation on rearing, and inconsistent provisions of state legislation to protect the welfare of all farm animals during rearing, transport and slaughter present barriers to improving animal welfare.

It is noted that the United States Department of Agriculture confirmed in 2006 that the Twenty-Eight Hour Law (49 U.S.C. §80502) was never intended to be applicable to poultry and that it had no intention of changing this.<sup>67</sup> The enforcement of the Twenty-Eight Hour Law has been described as problematic,<sup>68</sup> as there are no mechanisms under the auspices of either the United States Department of Agriculture or the Department of Justice for monitoring truck transport. Enforcement of this law does not feature in the Department of Agriculture's Animal and Plant Health Inspection Service 2010 to 2015 Strategic Plan.<sup>69</sup>

The introduction of farm animal protection during rearing at state-level has led to challenges, both at state and federal level. For example, the Farm Bill, which is the legislative tool used every five years or so by the government to introduce, amend or suspend agricultural and food legislation, has been used to introduce measures to both improve and to reduce animal protection.<sup>70</sup> The recent attempt to amend the Farm Bill to nullify state laws setting standards for imported agricultural production was ultimately defeated,<sup>71</sup> as was a subsequent attempt by the states of Alabama, Iowa, Kentucky, Nebraska, Oklahoma and Missouri to challenge as unconstitutional California's legislation that requires that shell eggs sold in the state cannot come from battery hens (although the latter decision is subject to appeal proceedings as at the date of this report).<sup>72</sup> This demonstrates that the state level nature of regulation in this area presents barriers to improving animal welfare and highlights that a state-by-state approach can lead to disparate standards that are out of synch with the demands of consumers and with international standards on animal welfare, and which may create competitiveness issues for some producers. Although it is positive that attempts to overturn these state level protection measures have been unsuccessful, the need for federal leadership and legislation is apparent in this respect.

A further potential barrier to improving animal welfare is the Animal Enterprise Terrorism Act (18

<sup>67</sup> Cohen, Henry., Brief Summaries of Federal Animal Protection Statutes, Congressional Research Service Library, 2009

<sup>68</sup> M.Engelbreton, Chapter 9: North America, in Long Distance Transport and Welfare of Farm Animals, edited by M.C. Appleby et al, WSPA, 2008

<sup>69</sup> [http://www.aphis.usda.gov/about\\_aphis/downloads/APHIS\\_Strategic\\_Plan\\_2015.pdf](http://www.aphis.usda.gov/about_aphis/downloads/APHIS_Strategic_Plan_2015.pdf)

<sup>70</sup> For example, in 2002, an amendment to the Farm Bill sponsored by the biomedical industry removed rats, mice and birds bred for research from the oversight of the U.S. Department of Agriculture under the Animal Welfare Act

<sup>71</sup> <http://www.humanesociety.org/assets/pdfs/legislation/king-amendment-fact-sheet.pdf>

<sup>72</sup> <http://www.agri-pulse.com/Six-states-join-lawsuit-against-California-egg-law-3-6-2014.asp>;  
<http://www.sfgate.com/food/article/Judge-tosses-suit-by-6-states-over-California-law-5797844.php>

U.S.C. §43) which may restrict activity of animal protection advocates. At state-level so-called “ag-gag” legislation also presents a barrier to improving animal welfare by preventing exposure of animal cruelty involving farm animals. Undercover investigations have played a major role in the United States in highlighting the need for legislation, for example, with respect to the issue of “downed” animals in transport and slaughter.<sup>73</sup> “Ag-gag” legislation has been introduced by some states and prevents undercover investigations and whistle-blowing, for example, by banning filming or photography of factory farms or concentrated animal feeding operations (intensive farming systems).<sup>74</sup> 2012 saw both Iowa and Utah enacting joining Kansas, Montana and North Dakota.<sup>75</sup> Moves to introduce such legislation have also been defeated in some states,<sup>76</sup> and are ongoing as at March 2014 in others.<sup>77</sup>

Audits and congressional hearings have exposed some problems relating to enforcement of the Humane Methods of Livestock Slaughter Act of 1958 (7 U.S.C. §1901-1907) by inspectors.<sup>78</sup>

#### Are enforcement mechanisms in place in policy and legislation?

At federal level, there are enforcement mechanisms related to the Humane Methods of Livestock Slaughter Act of 1958 (7 U.S.C. §1901-1907). Slaughterhouses violating the legislation face one or more penalties, including suspension of operations. The 2002 Farm Bill included a resolution that the Act should be fully enforced and called upon the Secretary of Agriculture to track violations of the Act and to report the results and trends annually to the United States Congress. Currently the United States Department of Agriculture publishes a quarterly humane handling report.<sup>79</sup> Congress, via annual Department of Agriculture appropriations laws, directs millions of dollars each year to the Food Safety and Inspection Service for “full-time equivalent” inspectors to oversee enforcement of the legislation.<sup>80</sup>

There are enforcement mechanisms in those states which have introduced restrictions on the use of extreme confinement rearing systems.

## 4. b. There are laws that apply to animals in captivity

### Ranking: C

<sup>73</sup> 2008 HSUS investigation of a slaughter plant in Chino, California: Tadlock Cowan, Humane Treatment of Farm Animals: Overview and Issues, Congressional Research Service, May 9, 2011

<sup>74</sup> [http://www.nytimes.com/2013/04/07/us/taping-off-farm-cruelty-is-becoming-the-crime.html?pagewanted=all&\\_r=1&](http://www.nytimes.com/2013/04/07/us/taping-off-farm-cruelty-is-becoming-the-crime.html?pagewanted=all&_r=1&)

<sup>75</sup> <http://aldf.org/press-room/press-releases/2012-u-s-animal-protection-laws-rankings/>

<sup>76</sup> <http://www.foodsafetynews.com/2013/07/2013-legislative-season-ends-with-ag-gag-bills-defeated-in-11-states/#.Uy2J5v1Byf0>

<sup>77</sup> [http://www.humanesociety.org/news/press\\_releases/2014/02/idaho\\_aggag\\_020714.html#.UyrKOf1Byf0](http://www.humanesociety.org/news/press_releases/2014/02/idaho_aggag_020714.html#.UyrKOf1Byf0)

<sup>78</sup> Tadlock Cowan, Humane Treatment of Farm Animals: Overview and Issues, Congressional Research Service, May 9, 2011

<sup>79</sup> <http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/regulatory-enforcement/humane-handling-quarterly-reports>

<sup>80</sup> Tadlock Cowan, Humane Treatment of Farm Animals: Overview and Issues, Congressional Research Service, May 9, 2011

**Part 1: Verification****There is legislation with partial application**

The Animal Welfare Act (7 U.S.C. §2131-2159) regulates the keeping of mammals exhibited to the public and covers zoos, aquariums and circuses as well as animal dealers. The Act requires exhibitors and dealers of wild animals to be licensed and to meet minimum standards of care and treatment, including adequate housing, handling, sanitation, nutrition, water, veterinary care, and protection from extreme weather and temperatures. There is reference to animals having sufficient space to perform normal postural movements.

The Act contains specific guidelines for the keeping of some species, for example, for non-human primates and marine mammals. With respect to marine mammals facilities must test the water weekly, provide a minimum tank size dependent on the size and types of animals housed and ensure that animals are kept with a compatible animal of the same or similar species.

The Act does not cover many animals commonly found in zoos, for example, it excludes all cold-blooded animals. The Act also does not cover collections of animals that are not exhibited to the public, for example, private collections of wild animals that are widespread in the country, or privately owned wild animals kept as pets.

Over 30 states have some form of law covering the private possession, or general exhibition of wild animals but the content varies.<sup>81</sup> For example, as at 2013, 32 states prohibited the private keeping of bears, 31 states prohibited the private keeping of big cats, 26 states prohibited the keeping of non-human primates and 23 states prohibited the private keeping of reptiles.<sup>82</sup> The majority of states also have regulations covering roadside zoos and menageries with the majority applying a licensing system.<sup>83</sup> Some states have legislation concerning travelling shows and circuses.<sup>84</sup>

The state of South Carolina has had a ban on keeping cetaceans in captivity since 1992 (S. C. Code Ann. §50-17-05). As at the date of this report, a recent bill has been introduced to ban keeping orcas in captivity in the state of New York (New York Bill S06613A) and a draft bill banning keeping orcas for performance or entertainment purposes is under debate in California (California Bill AB-2140).

The general anti-cruelty legislation at state level applies to this category of animals in some states, but in others animals which are kept in zoos and circuses may be excluded.

**Part 2: Assessment****Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?**

The minimum requirements of the Animal Welfare Act (7 U.S.C. §2131-2159) are insufficient to provide for the physiological and ethological needs of many wild animals kept in captivity and are out of step with modern animal welfare science. The current legislation is not fully effective to make

<sup>81</sup> Nicole Paquette, The Status of Captive Wild Animals in the U.S: An Overview of the Problem and the Laws, Animal Law Institute Conference – Dallas, Texas, at <http://www.bornfreeusa.org/facts.php?p=179&more=1>

<sup>82</sup> Humane Society of the United States (HSUS), "State Ranking 2013" at <http://www.humanesociety.org/about/state/humanes-state-ranking-2013.html>

<sup>83</sup> Nicole Paquette, The Status of Captive Wild Animals in the U.S: An Overview of the Problem and the Laws, Animal Law Institute Conference – Dallas, Texas, at <http://www.bornfreeusa.org/facts.php?p=179&more=1>

<sup>84</sup> Nicole Paquette, The Status of Captive Wild Animals in the U.S: An Overview of the Problem and the Laws, Animal Law Institute Conference – Dallas, Texas, at <http://www.bornfreeusa.org/facts.php?p=179&more=1>

the welfare of this category of animals a mainstream concern of society.

For example, the Animal Welfare Act does not provide for environmental enhancement of housing to promote psychological well-being of animals other than non-human primates. The Act only requires that enclosures for mammals other than dogs, cats, rabbits, hamsters, guinea pigs, non-human primates and marine mammals "shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement," advising that inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress, or abnormal behaviour patterns. Thus in accordance with the Act, a bottlenose dolphin can be legally confined to a space measuring no more than 24 by 24 feet with a depth of 6 feet, whereas in the wild this mammal might swim up to 40 miles a day.

The Act also does not apply to many animals commonly found in zoos, including all cold-blooded animals.

There are also criticisms as to the effectiveness of the Act and its enforcement measures, for example, under the 1985 amendments all facilities were required to provide housing conditions taking into account the psychological well-being of non-human primates but as the federal agency did not establish what these conditions should be the facilities were left to make their own arrangements, leading to legal challenges by those concerned for animal welfare.<sup>85</sup> 14 years later in 1999 the United States Department of Agriculture's Animal and Plant Health Inspection Service produced a proposed policy.<sup>86</sup>

Wild animals in private collections or kept as pets do not have any federal protection to promote their welfare or to prevent cruelty, abuse and neglect. Although some state anti-cruelty provisions provide some protection, these provisions would tend not to provide for fulfilment of behaviour needs to promote psychological well-being.

#### Are there economic and societal barriers to improving this aspect of animal welfare?

The very basic requirements of the Animal Welfare Act (7 U.S.C. §2131-2159) pay no regard to species-specific requirements identified by animal welfare science. The inadequacy of the Act in the face of modern animal welfare science presents a barrier to improving animal welfare.

The government's constitutional remit in relation to legislating on animal welfare issues at a federal level is limited, and the lack of federal legislation covering all animals kept in captivity, including the most basic protection against cruelty, abuse and neglect, is a barrier to improving animal welfare.

Another potential barrier is a lack of enforcement capability. In 2002 there were some 7,596 licensed and registered individuals under the Animal Welfare Act of which 2,293 were exhibitors,<sup>87</sup> representing an inspection challenge.

#### Are enforcement mechanisms in place in policy and legislation?

The United States Department of Agriculture has delegated responsibility for enforcing the Animal Welfare Act (7 U.S.C. §2131-2159) to the Animal and Plant Health Inspection Service. The Service has two divisions, Animal Care and Veterinary Services. Animal Care establishes standards of humane care and treatment and monitors compliance with the Act through inspections, education and cooperative efforts. The Service issues licenses to commercial animal breeders, dealers, brokers, transportation companies and exhibitors once compliance with all standards and

<sup>85</sup> David Favre, "Overview of the U.S. Animal Welfare Act", Animal and Legal Historical Centre, 2002

<sup>86</sup> David Favre, "Overview of the U.S. Animal Welfare Act", Animal and Legal Historical Centre, 2002

<sup>87</sup> David Favre, "Overview of the U.S. Animal Welfare Act", Animal and Legal Historical Centre, 2002



regulations is demonstrated. To ensure continued compliance, inspectors regularly make unannounced inspections. If deficiencies are found they are documented and the facility is instructed to correct the issues within a given timeframe. Legal action is taken if the issues are not resolved. Penalties include cease-and-desist orders, fines, and license suspensions or revocations.<sup>88</sup> For example, in 2011 the owner of the Ringling Bros circus agreed to pay a fine of \$270,000 to settle allegations of violations under the Animal Welfare Act. The Department of Agriculture advised at the time that the penalty was the largest ever assessed against an animal exhibitor under the Act.<sup>89</sup>

#### 4. c. There are laws that apply to companion animals

##### Ranking: C

Part 1: Verification
<p>There is legislation with partial application</p> <p>The Animal Welfare Act (7 U.S.C. §2131-2159) and its regulations apply to some issues concerning the commercial use of companion animals. The provisions of the Act do not extend to private pet owners; there is no federal law relating to the treatment of pets by their owners or others. Breeders, dealers and exhibitors are covered by the Act but this does not extend to small retail breeders and pet shops selling domestic pet animals to the public. In 2013 the scope of the Act was extended to include breeders selling pets online.<sup>90</sup> Dog, cat and rabbit breeders with more than four breeding females selling animals online, by phone or by mail will need to apply for a United States Department of Agriculture permit, pay an annual licensing fee and agree to random inspections.<sup>91</sup> The Animal Welfare Act requires humane care and handling of the dogs, cats and other mammals covered by the legislation. Commercial animal dealers and breeders must be licensed under the Act. The original driver for the creation of the Act in 1966 was to ensure that stolen pets could not be sold to research facilities, and the legislation requires such facilities to purchase dogs and cats from licensed dealers.</p> <p>The Animal Welfare Act requires government bodies, state or municipal pounds or shelters, private shelters, and federal research facilities to hold dogs or cats for not less than five days to enable owners to reclaim their lost pets or to allow shelters an opportunity to adopt out individual animals before selling a dog or cat to a dealer. Dealers are prohibited from selling a dog or cat on within five business days after they acquire it.</p> <p>There is no federal law relating to stray control and no federal programmes to promote responsible pet ownership.</p> <p>The Dog and Cat Protection Act of 2000 (19 U.S.C. §1308) makes it unlawful to import into, or export from, the United States any dog or cat fur product, or to engage in interstate commerce in</p>

<sup>88</sup>[http://www.aphis.usda.gov/publications/animal\\_welfare/2012/animal\\_welfare\\_act\\_english.pdf](http://www.aphis.usda.gov/publications/animal_welfare/2012/animal_welfare_act_english.pdf)

<sup>89</sup> [http://www.huffingtonpost.com/2011/11/29/usda-fines-ringling-bros-270000-animal-mishandling\\_n\\_1118348.html](http://www.huffingtonpost.com/2011/11/29/usda-fines-ringling-bros-270000-animal-mishandling_n_1118348.html)

<sup>90</sup> <https://www.federalregister.gov/articles/2013/09/18/2013-22616/animal-welfare-retail-pet-stores-and-licensing-exemptions>

<sup>91</sup> <http://www.usnews.com/news/articles/2013/09/10/usda-preempts-congress-enacts-online-pet-dealing-rules>

any dog or cat fur product.

In 2006 in the wake of Hurricane Katrina, the Pets Evacuation and Transportation Standards Act (Pub. L. 109308 (2006)) was introduced to authorise federal disaster assistance in the “rescue, care, shelter and essential needs” of “household pets and service animals”. The Act includes authorisation for the Director of the Federal Emergency Management Service to develop plans that take into account the needs of individuals with pets and service animals and to provide funding to States and local authorities for animal emergency preparedness purposes.

State anti-cruelty laws vary as to whether or not they cover retail breeders and pet stores and some states have also enacted legislation regulating the trade in pet animals.

## Part 2: Assessment

### Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?

In 2010, in response to media coverage of failures of large-scale dog breeders or “puppy mills” to provide for humane treatment of animals, the United States Department of Agriculture’s Office of the Inspector General carried out an audit of the responsible authority, the Animal Care unit of the Animal and Plant Health Inspection Service. The resulting report strongly criticised the Service for its failure to enforce the Animal Welfare Act (7 U.S.C. §2131-2159). The audit found that over half of the kennels cited for violations between 2006 and 2008 continued to break the law. Further examples given of ineffective enforcement included a failure to confiscate dogs, arbitrary reduction of punishments and inadequate documentation of inspections that resulted in nearly half of all administrative hearings involving problem breeders being compromised.<sup>92</sup>

The Department of Agriculture estimates that some 8,400 to 15,000 dog breeders market puppies online.<sup>93</sup> A 2013 rule change has brought between 2,600 and 4,640 of these dog breeders with five or more breeding females under the auspices of the Act, as well as around 75 rabbit breeders and 325 cat dealers.<sup>94</sup> Breeders with fewer than five breeding females will continue to be exempt, as will breeders producing dogs for hunting and security purposes and as breeding animals.

Breeders with fewer than five breeding females and who breed non-pet animals may be covered in some states by anti-cruelty provisions or by specific state legislation relating to the issue.

There are an estimated 69 million pet dogs and 74 million pet cats in the United States<sup>95</sup> but there is no federal duty of care for the animals. There are no federal laws relating to stray animal control or to promote responsible pet ownership. However, there is an active animal protection and shelter movement. At the state level, anti-cruelty provisions usually provide for higher penalties for cruelty and neglect of companion animals.

The United States Department of Agriculture and the Federal Emergency Management Agency are actively promoting the importance of disaster planning to protect pet animals and a number of resources are available.<sup>96</sup>

<sup>92</sup> <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf>

<sup>93</sup> <https://www.federalregister.gov/articles/2013/09/18/2013-22616/animal-welfare-retail-pet-stores-and-licensing-exemptions>

<sup>94</sup> <https://www.federalregister.gov/articles/2013/09/18/2013-22616/animal-welfare-retail-pet-stores-and-licensing-exemptions>

<sup>95</sup> <https://www.avma.org/KB/Resources/Statistics/Pages/Market-research-statistics-US-pet-ownership.aspx>

<sup>96</sup> <http://www.fema.gov/media-library/assets/documents/90356>

<p><b>Are there economic and societal barriers to improving this aspect of animal welfare?</b></p> <p>The government’s constitutional remit in relation to legislating on animal welfare issues at a federal level is limited. The narrow scope of the Animal Welfare Act (7 U.S.C. §2131-2159) and its lack of applicability to the majority of those who are responsible for the welfare of companion animals, such as ordinary pet owners, represent a structural barrier to improving animal welfare. There is significant variation between states in the extent of protection of the welfare of companion animals. The Office of Inspector General’s audit of the Animal and Plant Health Inspection Service<sup>97</sup> also reveals that the way in which the Act is enforced is a barrier to improving animal welfare. In 2010 the Deputy Secretary of Agriculture announced that the United States Department of Agriculture’s Animal and Plant Health Inspection Service would be stepping up its Animal Welfare Act enforcement efforts.<sup>98</sup></p>
<p><b>Are enforcement mechanisms in place in policy and legislation?</b></p> <p>There are enforcement mechanisms under the Animal Welfare Act (7 U.S.C. §2131-2159). In addition to civil penalties of up to \$10,000 per infraction, criminal sanctions for breeders can include a jail sentence of up to one year and/or a fine of up to \$2,500.</p>

**4. d. There are laws that apply to animals used for draught or recreational purposes**

**Ranking: C**

<p><b>Part 1: Verification</b></p>
<p><b>There is legislation with partial application</b></p> <p>The Animal Welfare Act prohibits staged dogfights, bear or raccoon baiting, cockfighting, and similar animal fighting ventures (7 U.S.C. §2156). Since 2008 it has been a federal felony punishable by imprisonment for up to five years and a fine of \$250,000 to sponsor, exhibit, buy, sell, deliver, possess, train or transport an animal for participation in an animal fighting venture. The Animal Fighting Spectator Prohibition Act of 2013 (H.R. 366) also introduced provisions into the Farm Bill making it a felony to knowingly bring a child under the age of 16 to an animal fight and a misdemeanor to knowingly attend an animal fight. The offences are punishable by up to three years in prison and a \$250,000 fine, and by up to one year in prison and a \$100,000 fine respectively. In addition all 50 states have introduced penalties for dog fighting and 37 states have introduced penalties for cock fighting.<sup>99</sup> The majority of states have also adopted legislation concerning attendance at animal fights and possession of fighting dogs and birds.<sup>100</sup></p>

<sup>97</sup> <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf>

<sup>98</sup> <http://www.the-aps.org/mm/SciencePolicy/AnimalResearch/CurrentIssues/USDA-Announces-Enhanced-Enforcement.html>

<sup>99</sup> Humane Society of the United States (HSUS), “State Ranking 2013” at <http://www.humanesociety.org/about/state/humane-state-ranking-2013.html>

<sup>100</sup> Humane Society of the United States (HSUS), “State Ranking 2013” at <http://www.humanesociety.org/about/state/humane-state-ranking-2013.html>

In 2010, federal legislation was introduced banning the creation, sale and possession with intent to sell of animal crushing or stomping films.<sup>101</sup> Offences under the Animal Crush Video Prohibition Act (Pub. L. 111-294) can incur penalties of up to seven years in prison.

There is limited federal protection for draught animals, applicable to exhibition horses and horses and mules. The Horse Protection Act (15 U.S.C. §1821-1831) makes it a crime to exhibit or transport for the purpose of exhibition, any "sored" horse, which is a horse whose feet or legs have been injured to alter the horse's gait.

There is varied legislation relating to this category of animals at state level.

The state of South Carolina has had a ban on keeping cetaceans in captivity since 1992 (S.C. Code Ann. §50-17-05). A recent bill has been introduced to ban keeping orcas in captivity in the state of New York (N.Y. Bill S06613A) and a draft bill banning keeping orcas for performance or entertainment purposes is currently under debate in California (Cal. Bill AB-2140).

Some individual cities (for example: Fort Wayne, Indiana and St. Petersburg, Florida) have banned rodeos and several other cities and states have effectively banned or reduced rodeo activity by prohibiting the use of some cruel methods commonly used in rodeos. For example, Pittsburgh, Pennsylvania and Leestown, Virginia have banned the use of electric prods and "bucking straps".

Many individual cities and counties prohibit the use of wild animals in travelling circuses.

## Part 2: Assessment

### Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?

It is positive that animal fighting has been prohibited at federal level by the Animal Welfare Act (7 U.S.C. §2131-2159). The federal government has been active in trying to outlaw animal fighting and is engaging animal protection organisations in its efforts. For example, in 2013 the Humane Society of the United States and the American Society for the Prevention of Cruelty to Animals were requested by the United States Attorney's Office and the Federal Bureau of Investigation to assist in seizing 367 dogs in coordinated raids across Alabama, Mississippi and Georgia.<sup>102</sup>

The Animal Welfare Act exempts a number of establishments and organised events involving animals from its provisions, including the care and treatment of animals in state and county fairs, rodeos, livestock shows, purebred cat and dog shows and fairs or exhibitions intended to advance agricultural sciences or the arts.

For the most part animals used for draught or recreational purposes are reliant on either state anti-cruelty or state specific laws for protection.

Although the Horse Protection Act (15 U.S.C. §1821-1831) was introduced in 1970, a 2010 audit by the United States Department of Agriculture's Inspector General found that 40 years later some trainers in the industry were evading the law rather than adopting the use of humane training methods, particularly as the law allowed the industry to police itself.<sup>103</sup> The Inspector General recommended stricter penalties and an end to self-policing and increased funding for Department of

<sup>101</sup> <http://edition.cnn.com/2010/POLITICS/12/10/animal.cruelty/>

<sup>102</sup> [http://www.humanesociety.org/news/press\\_releases/2013/08/alabama-georgia-mississippi-dogfighting-082613.html](http://www.humanesociety.org/news/press_releases/2013/08/alabama-georgia-mississippi-dogfighting-082613.html)

<sup>103</sup> US Department of Agriculture, Office of Inspector General. (September 2010). Animal and Plant Health Inspection Service Administration of the Horse Protection Program and the Slaughter Horse Transport Program (Audit Report 33601-2-KC). <http://www.usda.gov/oig/webdocs/33601-02-KC.pdf>

Agriculture enforcement of the law.
<b>Are there economic and societal barriers to improving this aspect of animal welfare?</b>
The narrow scope of federal animal protection legislation is a barrier to improving animal welfare. However it is noted that there have been some recent improvements in this area, as demonstrated by the measures on animal fighting and the more recent prohibition on the production of videos showing animals being crushed.
<b>Are enforcement mechanisms in place in policy and legislation?</b>
There are enforcement mechanisms under the Animal Welfare Act (7 U.S.C. §2131-2159), the Horse Protection Act (15 U.S.C. §1821-1831) and the other federal statutes relevant to this category of animals, as well as under state legislation on animal fighting and rodeos.

#### 4. e. There are laws that apply to animals used for scientific research

**Ranking: C**

<b>Part 1: Verification</b>
<b>There is legislation with partial application</b>
<p>Federal legislation applies to the use of animals in scientific research. The two main laws are the Animal Welfare Act (7 U.S.C. §2131-2159) and the Health Research Extension Act of 1985 (Pub. L. 99-158).</p> <p>The Animal Welfare Act covers only warm-blooded vertebrate animals used for research, with the exception of: farm animals used in food and fiber research; birds; and rats of the genus <i>Rattus</i> and mice of the genus <i>Mus</i> that are bred for use in research.</p> <p>The Animal Welfare Act requires all research facilities to register with the United States Department of Agriculture for a license. The Animal and Plant Health Inspection Service is responsible for ensuring facilities comply with the Act. Facilities are required to file an annual report listing the species and numbers of animals used in research, and reporting the number of animals that experience pain and/or distress, and justifying the research methodology. The Act sets minimum standards for housing and transportation and requires each institution to have an attending veterinarian. Although the Act includes provisions for environmental enrichment for non-human primates and exercise requirements for dogs, facilities do not need to provide these if justification relating to the research being conducted is given at the beginning of the research process.</p> <p>The Act requires each institution to establish an Institutional Animal Care and Use Committee to review and approve all uses of animals in research, and requires the investigation of complaints and reports of noncompliance by the Committee. Composition of the Committee must include at a minimum three people: an experienced scientist, a veterinarian, and an individual who is not affiliated with the institution.</p> <p>The Health Research Extension Act applies to all vertebrate animals used in research funded by the National Institutes of Health, which funds more than half of medical research in the country. Unlike the Animal Welfare Act, therefore, the protection of the Health Research Extension Act includes rats and mice. The Act calls for the proper care and treatment of animals and the organisation of animal</p>

care and use committees with minimum of five members including the attending veterinarian, a scientist, a non-scientist, and a member not affiliated with the institution. To receive National Institutes of Health funding, institutions must attest that they comply with the Public Health Service Policy on Humane Care and Use of Laboratory Animals.<sup>104</sup>

The use of animals in research is also guided by policies of various federal agencies involved in research, for example, the Food and Drug Administration.

Recently the government introduced a sanctuary system to provide for the lifetime care of chimpanzees not needed for research that have been used, or were bred or purchased for use, in research conducted or supported by the National Institutes of Health, the Food and Drug Administration, or other agencies of the Federal Government (42 U.S. Code Ann. §283m). This followed a 2011 report by the National Academies Institute of Medicine that found that the use of chimpanzees in biomedical research is largely unnecessary.<sup>105</sup>

The testing of cosmetic products has not been banned in the United States, although as at the date of this report a draft proposal is currently pending consideration on this subject (the Humane Cosmetics Act, H.R. Bill 4148, introduced in March 2014).

## Part 2: Assessment

### Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?

The exemption of rats, mice and birds bred for research from the Animal Welfare Act (7 U.S.C. §2131-2159) are significant as rats and mice are widely used in research.

The requirement under the Animal Welfare Act and the Health Research Extension Act (Pub. L. 99-158) for the establishment of institutional animal use and care committees has the potential to influence animal welfare and to encourage scientists to use reduce, replace and refine the number of animals used in research.

Under the Public Health Service Policy the National Academy of Sciences produces a Guide for the Care and Use of Laboratory Animals that includes advice and the latest scientific research on how to care for various species of animals and offers guidelines for animal care to comply with the Public Health Service Policy.<sup>106</sup> Research facilities applying for National Institutes of Health funding must file an assurance with the Office of Laboratory Animal Welfare of the National Institutes of Health that they will comply with the Guide. Non-compliance may lead to disqualification of the facility from receiving federal research funds, and to withdrawal of funding.

In 2000 the Interagency Coordinating Committee on the Validation of Alternative Methods was formally established in 2000 by the ICCVAM Authorization Act (42 U.S.C. §2851-3): "To establish, wherever feasible, guidelines, recommendations, and regulations that promote the regulatory acceptance of new or revised scientifically valid toxicological tests that protect human and animal health and the environment while reducing, refining, or replacing animal tests and ensuring human safety and product effectiveness." The Coordinating Committee comprises representatives from 15 federal regulatory and research agencies involved with toxicological and safety testing, and collaborates internationally on the development of alternatives to animals as a member of

<sup>104</sup> <http://grants.nih.gov/grants/olaw/references/phspol.htm>

<sup>105</sup> <http://iom.edu/~media/Files/Report%20Files/2011/Chimpanzees/chimpanzeereportbrief.pdf>

<sup>106</sup> <http://grants.nih.gov/grants/olaw/Guide-for-the-care-and-use-of-laboratory-animals.pdf>

International Cooperation on Alternative Test Methods.

The commitment of the federal government to advancing the use of alternatives to animals in research has been demonstrated internationally with representatives promoting alternatives to animal use at key fora. These activities may be attributed to the National Academy of Sciences producing a landmark 2007 report Toxicity Testing in the 21st Century: A Vision and a Strategy.<sup>107</sup> The report established the scientific case for a non-animal approach to safety testing based on a robust understanding of human “biological pathways” which, when interrupted, lead to various types of toxicity and disease. The analysis and recommendations in the report were based not on ethical or policy drivers such as the Three Rs but rather on published literature documenting the limitations of animal-based safety tests.

Following publication of its vision for 21st century toxicity testing, a government-sponsored collaboration group called Tox21 was established between the Environmental Protection Agency, the Food and Drug Administration and the National Institute for Environmental Sciences. Tox21 aims to act as a catalyst for global, coordinated implementation of pathway-based toxicology.<sup>108</sup>

The government is to be congratulated for providing a very large amount of funding for developing alternatives to the use of animals in research including, for example, USD\$70 million from the National Institutes of Health for research into the organ on a chip project<sup>109</sup> and further amounts of \$63 million and \$5.6 million from the Defence Advanced Research Projects Agency and the Food and Drug Administration for the same project.<sup>110</sup> The Environmental Protection Agency also provided some \$15 million in 2009 for the Tox21 collaboration.<sup>111</sup>

However it should be noted that the government has not banned the testing of cosmetics on animals. This is not in line with good international standards in this area.

#### Are there economic and societal barriers to improving this aspect of animal welfare?

The lack of federal protection under the Animal Welfare Act (7 U.S.C. §2131-2159) for rats, mice and birds bred for research presents a barrier to improving animal welfare. A 2000 amendment to the Farm Bill by Senator Jessie Helms has more permanently excluded these animals from oversight by the United States Department of Agriculture.

The self-policing of compliance with the Public Health Service Policy is a potential barrier to the reduction, replacement and refinement of the use of animals in research.

#### Are enforcement mechanisms in place in policy and legislation?

There are enforcement mechanisms under the Animal Welfare Act (7 U.S.C. §2131-2159).

The Office of Laboratory Animal Welfare in the National Institutes of Health has oversight of all National Institutes of Health funded research relating to the Health Research Extension Act (Pub. L. §99-158). The Institutes may conduct unannounced visits to facilities to ensure compliance with its regulations but the system is largely based on self-reporting via the animal care and use committees.

<sup>107</sup> <http://dels.nas.edu/Materials/ReportIn-Brief/4640-Toxicity-Testing>

<sup>108</sup> <http://epa.gov/ncct/Tox21/>

<sup>109</sup> <http://www.ncats.nih.gov/research/reengineering/tissue-chip/funding/funding.html>

<sup>110</sup> DARPA - [http://www.burrillreport.com/article-](http://www.burrillreport.com/article-nih_and_darpa_fund_development_of_organ_on_a_chip_systems.html)

[nih\\_and\\_darpa\\_fund\\_development\\_of\\_organ\\_on\\_a\\_chip\\_systems.html](http://www.burrillreport.com/article-nih_and_darpa_fund_development_of_organ_on_a_chip_systems.html) and FDA

[http://www.burrillreport.com/article-fda\\_backs\\_“organs\\_on\\_chip”\\_with\\_5\\_6\\_million\\_grant.html](http://www.burrillreport.com/article-fda_backs_“organs_on_chip”_with_5_6_million_grant.html)

<sup>111</sup> [http://www.epa.gov/ncct/download\\_files/basic\\_information/CTRP2\\_Implementation\\_Plan\\_FY09\\_12.pdf](http://www.epa.gov/ncct/download_files/basic_information/CTRP2_Implementation_Plan_FY09_12.pdf)

#### 4. f. There are laws that apply to wild animals

Ranking: C

Part I: Verification
<p>There is legislation with partial application</p> <p>There is a raft of federal legislation aimed at conserving certain species of wild animals, including the Endangered Species Act (16 U.S.C. § 1531-1544) and the Marine Mammal Protection Act (16 U.S.C. § 1361-1423), and some species-specific legislation on the trade in endangered animals and animal products (for example, the Bald Eagle Protection Act (16 U.S.C. § 668). The government has provided international support on conservation issues, for example, in the campaign to save the elephant, the tiger and the rhinoceros, by establishing a Presidential taskforce and providing resources.<sup>112</sup> For example, the Great Ape Conservation Act (16 U.S.C. § 6301-6305) provides financial resources for the conservation programs of countries within the range of great apes. Federal legislation covering wildlife within the country is aimed for the most part at conserving groups of animals rather than protecting the welfare of individual animals. The Endangered Species Act implements the Convention on International Trade in Endangered Species (CITES) and the United States Department of the Interior is responsible for protecting listed species from hunting, killing, taking and injuring. However, the Act does not prevent individual ownership of endangered species and does not prevent the hunting in some states of privately owned endangered species in so-called “canned” or captive hunts.<sup>113</sup> The Marine Mammal Protection Act prohibits killing, taking, or harassing species including dolphins, whales and seals without a permit. Some exceptions are allowed for traditional hunting by indigenous people. The Antarctic Conservation Act (16 U.S.C. § 2401-2413) also contains some welfare-related provisions including restrictions on hunting or interfering with Antarctic native mammals and birds, and requires that any taking (such as hunting or capture) of native mammals and birds is done in a manner that involves the least degree of pain and suffering practicable (§3(6)).</p> <p>Some animal welfare aspects are addressed in the Wild Free-Roaming Horses and Burros Act of 1971 (16 U.S.C. § 1331-1340) which protects wild horses living on federally owned public land from various forms of cruelty. Regulations on airborne hunting (50 C.F.R. § 19.1-19.32) prohibit shooting or attempting to shoot or harassing any bird, fish, or other animal from aircraft except for certain specified reasons, including protection of wildlife, livestock, and human life under a permit or license provided at Federal or State level. The Shark Conservation Act of 2010 (Pub. L. 111-348) makes it illegal to remove any of the fins of a shark (including the tail) at sea; requiring all sharks to be brought aboard and landed with their fins attached.</p> <p>In 2011, President Obama signed the Truth in Fur Labeling Act of 2010 (Pub. L. 111-313) into law, requiring all products containing real fur to be labelled as such.</p> <p>At the state level, a majority of states have introduced partial or full bans on “canned hunting” and on</p>

<sup>112</sup> <http://www.whitehouse.gov/blog/2013/09/09/announcing-advisory-council-president-s-taskforce-wildlife-trafficking>

<sup>113</sup> [http://www.humanesociety.org/issues/captive\\_hunts/facts/captive\\_hunt\\_fact\\_sheet.html](http://www.humanesociety.org/issues/captive_hunts/facts/captive_hunt_fact_sheet.html)



shooting animals remotely via the internet, and have introduced measures on some other welfare-negative activities including prohibiting the trapping of bears.<sup>114</sup> However, a sizeable minority of states continues to permit activities such as bear and cougar hunting with dogs and the hunting of bears over bait.

## Part 2: Assessment

### Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?

Internationally the government promotes conservation and protection of endangered species and has condemned wildlife poaching and trafficking of animals and animal parts. The Obama administration has been praised by animal protection organisations around the world for establishing a Presidential Task Force on Wildlife Trafficking and for providing funds to assist African nations to defend their endangered wildlife.<sup>115</sup>

Within the country itself, there is limited federal legislation addressing the treatment of individual wild animals during hunting, trapping and fishing. There is also no basic federal legislation to protect wild animals from acts of cruelty and/or abuse. At state level there is some protection of the welfare of individual animals during hunting activities, but this is limited and varies between states.

A wide range of cruel activities involving wildlife takes place in the country without legal prohibition, including “canned hunting”, the hunting of animals with dogs, the hunting of animals with bows and the use of the steel-jawed leghold trap and other traps (for example, for fur trapping).

A great deal of activity takes place in the country related to wildlife damage control and directed at controlling the spread of diseases in wildlife. The United States Department of Agriculture Animal and Plant Health Information Service’s Wildlife Services department aims to provide federal leadership and expertise to resolve wildlife conflicts and “to allow people and wildlife to coexist”.<sup>116</sup>

### Are there economic and societal barriers to improving this aspect of animal welfare?

The lack of federal legislation addressing the welfare of wild animals from acts of cruelty or to protect them from cruelty when being hunted or trapped is a significant barrier to progress in improving animal welfare.

The strength of the hunting, trapping and shooting lobby presents either a potential barrier to progress or an opportunity, depending on the issue to be addressed. The lack of progress on issues such as the prohibition of the steel-jawed leghold trap is a matter of international concern. However, some progress has been made at state level on issues such as “canned hunting”.<sup>117</sup> Although it is positive that state action was taken relatively promptly in many states to address the issue of remote control hunting on the internet, a bill proposed in 2009 to ban this practice at federal level (the Sportsmanship in Hunting Act of 2009, H.R. 2308) was unsuccessful.<sup>118</sup>

### Are enforcement mechanisms in place in policy and legislation?

<sup>114</sup> Humane Society of the United States (HSUS), “State Ranking 2013” at <http://www.humanesociety.org/about/state/humane-state-ranking-2013.html>

<sup>115</sup> <http://advocacy.britannica.com/blog/advocacy/tag/barack-obama/>

<sup>116</sup> [http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/wildlifedamage?1dmy&urile=wcm%3apath%3a%2Faphis\\_content\\_library%2Fsa\\_our\\_focus%2Fsa\\_wildlife\\_damage%2Fsa\\_landing\\_page%2Fsa\\_spotlights%2Fct\\_rabies](http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/wildlifedamage?1dmy&urile=wcm%3apath%3a%2Faphis_content_library%2Fsa_our_focus%2Fsa_wildlife_damage%2Fsa_landing_page%2Fsa_spotlights%2Fct_rabies)

<sup>117</sup> Laura J. Ireland, Canning Canned Hunts: Using State and Federal Legislation to Eliminate the Unethical Practice of Canned “Hunting”, *Animal Law* 8, *Animal Law* 223, 2002

<sup>118</sup> <https://www.govtrack.us/congress/bills/111/hr2308>

There are enforcement mechanisms relating to the relevant legislation on the conservation of endangered species and protection of specified animals, and regulatory authorities are designated in each of the Acts alongside penalties.

## Goal 2: Presence of effective governance structures and systems

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

**Ranking: B**

<b>Part 1: Verification</b>
<i>There is legislation</i>
<p>The United States Department of Agriculture has been granted authority by Congress to promulgate legally binding regulations pertaining to animal welfare on a limited number of issues. This authority derives from a number of statutes, perhaps most importantly the Animal Welfare Act (7 U.S.C. §2131-2159). The Secretary of Agriculture, a member of the Administration’s Cabinet, heads the Department of Agriculture.<sup>119</sup></p> <p>The Secretary of Agriculture delegates his responsibility for the Animal Welfare Act, and other federal acts that are the responsibility of the Department of Agriculture, to the Department’s subsidiary the Animal and Plant Health Inspection Service. The Animal Care unit of the Service provides leadership in determining standards for the humane care and treatment of animals. The Veterinary Services unit concentrates in particular on issues concerning livestock. The Wildlife Services unit is involved in managing problems caused by wildlife that threaten human health or safety.</p> <p>The 2010 to 2015 Strategic Plan produced by the Animal and Plant Health Inspection Service includes an objective to protect and promote animal welfare. The plan advises that strategies and means to achieve the objective relate to the Animal Welfare Act and the Horse Protection Act (15 U.S.C. §1821-1831), carrying out training, outreach, education and other non-regulatory activities via its Center for Animal Welfare, assisting local communities during natural disasters and evaluating “new and existing technology, such as thermal and digital imaging, that can be used to evaluate physical and environmental conditions to assess and improve the well-being of animals”.<sup>120</sup></p> <p>According to the strategic plan the Animal and Plant Health Information Service ranks its animal protection objective as a component of a wider aim of supporting rural communities.</p> <p>Some responsibility for animal protection relating to research also sits with the Department of Health and Human Services responsible for the National Institutes of Health, which has an Office of</p>

<sup>119</sup> <http://www.whitehouse.gov/administration/cabinet>

<sup>120</sup> [http://www.aphis.usda.gov/about\\_aphis/downloads/APHIS\\_Strategic\\_Plan\\_2015.pdf](http://www.aphis.usda.gov/about_aphis/downloads/APHIS_Strategic_Plan_2015.pdf)

Laboratory Animal Welfare. The Secretary of the Department of Health and Human Services is a member of the Cabinet.

Issues concerning wild animals not covered by the Animal Welfare Act are the responsibility of the States Fish and Wildlife Service<sup>121</sup> under the Department of the Interior. The Secretary of the Department of the Interior is a member of the Cabinet. The Animal and Plant Health Information Service also has objectives relating to reducing agricultural pest and wildlife damage within its strategic plan.<sup>122</sup>

Resources are provided by the federal government for animal protection under, in particular, the Animal Welfare Act and also specifically with respect to the use of animals in research, the promotion of alternatives to animals in research and for the conservation of animals and the fight against wildlife poaching.

United States Department of Agriculture 2013 funding under the Animal Welfare Act included \$26,406,304 for enforcement of the Act in commercial breeding facilities (in particular of dogs), laboratories, roadside zoos, circuses, and airlines; \$15,866,009 for the Department's Investigative and Enforcement Services division, whose responsibilities include investigation of inspectors' findings regarding alleged violations of federal animal welfare laws and the initiation of follow-up enforcement actions; and \$86,779,028 for the Department's Office of the Inspector General, that carries out activities including investigations and audits of enforcement efforts.<sup>123</sup>

It is noted that, although government bodies are given responsibility for animal protection, the remit of this responsibility does not extend to all groups and species of animals and to all activities connected with animals.

## Part 2: Assessment

Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?

An active programme concerning most of the animal protection issues addressed by the federal government is visible, for example, on the website of the Animal and Plant Health Information Service with respect to enforcement of the Animal Welfare Act (7 U.S.C. §2131-2159), the Horse Protection Act (15 U.S.C. §1821-1831) and the Animal Care Emergency Programs<sup>124</sup>. In 2010 the Animal and Plant Health Information Service established a Center for Animal Welfare to give guidance and best practice advice on animal welfare issues to stakeholders and industry partners. The Service advises that the Center works in collaboration with a diverse network of partners and experts to serve as the national resource for: policy development and analysis; education and outreach; and science and technology in support of the Animal Welfare Act and the Horse Protection Act and to provide leadership on the safety and well-being of animals during emergency preparedness and response.<sup>125</sup>

<sup>121</sup> <http://www.fws.gov>

<sup>122</sup> [http://www.aphis.usda.gov/about\\_aphis/downloads/APHIS\\_Strategic\\_Plan\\_2015.pdf](http://www.aphis.usda.gov/about_aphis/downloads/APHIS_Strategic_Plan_2015.pdf)

<sup>123</sup> [http://hslf.typepad.com/political\\_animal/2013/07/senate-committee-comes-through-on-animal-welfare-funding.html](http://hslf.typepad.com/political_animal/2013/07/senate-committee-comes-through-on-animal-welfare-funding.html)

<sup>124</sup>

[http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/emergencyresponse/sa\\_animal\\_welfare/lut/p/a0/04\\_Sj9CPykssyOxPLMnMzOvMAfGjzOK9\\_D2MDJOMjDzd3V2dDDz93HwCzL29jAw8zfULsh0VAZdw3fgl/](http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/emergencyresponse/sa_animal_welfare/lut/p/a0/04_Sj9CPykssyOxPLMnMzOvMAfGjzOK9_D2MDJOMjDzd3V2dDDz93HwCzL29jAw8zfULsh0VAZdw3fgl/)

<sup>125</sup>[http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/animalwelfare?1dmy&urile=wcm%3apath%3a/aphis\\_content\\_library/sa\\_our\\_focus/sa\\_animal\\_welfare/sa\\_landing\\_page/sa\\_spotlights/ct\\_caw\\_program\\_info](http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/animalwelfare?1dmy&urile=wcm%3apath%3a/aphis_content_library/sa_our_focus/sa_animal_welfare/sa_landing_page/sa_spotlights/ct_caw_program_info)

Department of Agriculture employees strategically located through the 50 states and territories enforce the federal legislation under the Animal and Plant Health Information Service. These employees are either veterinary medical officers or Animal Care inspectors. The placement of enforcers throughout the country should promote good animal welfare; however, audits have found significant issues with respect to enforcement. For example, in 2013 an audit by the United States Department of Agriculture's Office of the Inspector General of swine slaughter plants found that "FSIS [Food Safety and Inspection Service] inspectors did not take appropriate enforcement actions at 8 of the 30 swine slaughter plants we visited for violations of the Humane Method of Slaughter Act. We reviewed 158 humane handling noncompliance records (violations) issued to the 30 plants and found 10 instances of egregious violations where inspectors did not issue suspensions. As a result, the plants did not improve their slaughter practices, and FSIS could not ensure humane handling of swine."<sup>126</sup>

The requirement for each institution engaged in using animals in research to have an Institutional Animal Care and Use Committee has the potential to improve animal welfare, as does the promotion by the National Institutes of Health of alternatives to the use of animals in research and the Public Health Service.

However the government's constitutional remit in relation to legislating on animal welfare issues at a federal level is limited, and the remit of responsibility under current legislation does not extend to all groups and species of animals and to all activities connected with animals, and is therefore not fully effective to make animal welfare a mainstream concern of society.

#### Are there economic and societal barriers to improving this aspect of animal welfare?

This legislative approach whereby because animals are not mentioned in the United States Constitution, so that animal protection has been left for the most part to individual states, has acted as a structural barrier to improving animal welfare.<sup>127</sup> <sup>128</sup> Liability for harm to animals or harm caused by animals and anti-cruelty laws have in general been the prerogative of the individual states and have not been addressed by the federal government except in circumstances or issues considered to be of national importance, for example, with respect to animal fighting and issues involving multi-states such as animal transport. Federal laws relating to animals have also been instituted for reasons of public health and in response to public outcry, as occurred in the aftermath of Hurricane Katrina. Whilst members of the Cabinet (for example, the Secretary of Agriculture) have responsibility for issues that affect animal protection, no individual overall responsibility has been assigned by the government for coordinating the improvement of animal welfare across agencies and throughout the country, as is the case with, for example, the environment. The White House website advises that the Council on Environmental Quality coordinates Federal environmental efforts and works closely with agencies and other White House offices in the development of environmental policies and initiatives.<sup>129</sup> The Council was established within the Executive Office of the President by Congress as part of the National Environmental Policy Act of 1969 (42 U.S.C. §4321). This could provide a good model for co-ordination of improving animal welfare throughout the country particularly in the

<sup>126</sup> <http://www.usda.gov/oig/webdocs/24601-0001-41.pdf>

<sup>127</sup> David J. Wolfson, "Beyond the Law: Agribusiness and the Systematic Abuse of Animals Raised for Food or Food Production." *Animal Law* 2, no. 123, 1996

<sup>128</sup> M. Engebretson, Chapter 9: North America, in *Long Distance Transport and Welfare of Farm Animals*, edited by M.C. Appleby et al, WSPA, 2008

<sup>129</sup> <http://www.whitehouse.gov/administration/eop/ceq/about>

<p>light of the range of widely supported initiatives at state-level. Another option could be to establish a Presidential taskforce or Advisory Council on animal protection, as has been established for the issue of wildlife trafficking.<sup>130</sup></p> <p>The government is encouraged to establish more visible leadership for the issue of improving animal welfare across the country.</p>
<p><b>Are enforcement mechanisms in place in policy and legislation?</b></p>
<p>Those responsible for animal welfare within the administration receive authority and funding via legal mechanisms, for example, via the Farm Bill.</p>

### Goal 3: Implementation of animal protection standards

#### 6. The government is actively engaged with the OIE to improve animal welfare internationally, regionally and nationally

**Ranking: C**

<p><b>Part 1: Verification</b></p>
<p><b>There is legislation with partial application</b></p>
<p>The United States has a high level of collaboration with the OIE in the field of animal health and is encouraged to extend this to engagement on the subject of animal welfare.</p> <p>The Veterinary Services program of the Animal and Plant Health Information Service is actively engaged in collaborating with the OIE on issues concerning animal health. According to a Veterinary Services factsheet, four major groups within the Veterinary Services interact with the OIE in a mission to safeguard American agriculture: the National Center for Import and Export’s International Animal Health Standards Team, the Centers for Epidemiology and Animal Health, the Center for Veterinary Biologics, and the National Veterinary Services Laboratories which are part of the Center for the Diagnosis of Animal Diseases and Vaccine Evaluation for the Americas, and these teams collectively aim to help develop international animal health standards and to advance other international veterinary activities important to animal health and trade.</p> <p>Veterinary Services also coordinate the activities of other bodies contributing their expertise to international veterinary efforts including OIE collaborating centers based in the United States: the Centers for Epidemiology and Animal Health, the Center for the Diagnosis of Animal Diseases and Vaccine Evaluation for the Americas and the National Center for Zoonotic, Vector-Borne and Enteric Diseases; the Southeast Poultry Research Laboratory and the Center for Animal Health and Food Safety of the University of Minnesota.</p> <p>The Animal and Plant Health Information Services advised that the National Center For Import and</p>

<sup>130</sup> <http://www.whitehouse.gov/blog/2013/09/09/announcing-advisory-council-president-s-taskforce-wildlife-trafficking>

Export's International Animal Health's Standards Team coordinates consensus-based comments on proposed amendments to the OIE's Terrestrial Animal Health Code.

## Part 2: Assessment

Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?

Veterinary Services advises that their latest partner, the Center for Animal Health and Food Safety, will have a focus of helping veterinary professionals in OIE countries to improve the technical skills needed to respond to animal health problems utilising expertise in online learning, and that the Center will be assisting OIE member states in key areas including advancing veterinary capacity and by providing leadership development opportunities.<sup>131</sup>

President Obama signed the 2014 Farm Bill at a veterinary college. The legislation was described by the American Veterinary Medical Association as containing "several crucial veterinary research and food safety programs that are vitally important for animal health and welfare".<sup>132</sup>

The focus of the government appears to be animal health and disease; although of course good health is a component of good welfare, it would be beneficial to extend engagement with the OIE to focus also on improving animal welfare.

Are there economic and societal barriers to improving this aspect of animal welfare?

There are no significant barriers to the government increasing its involvement and collaboration with the OIE in the area of animal welfare. In other words, the legislative framework of the country does not show restrictions in human or financial resources, nor there is evidence of cultural barriers that would restrict interaction with OIE.

Are enforcement mechanisms in place in policy and legislation?

Although there are no formal enforcement mechanisms relating to the government's current engagement with the OIE, this level of engagement is cemented in clear policy commitments and the Veterinary Services recognise (in their factsheet) the government's obligations under the World Trade Organisation to implement OIE animal health standards.

## 7. The government has incorporated the OIE's guiding principles for animal welfare and its animal welfare standards into policy and legislation

Ranking: D

### Part 1: Verification

There is legislation with partial application

The United States has been a member of the OIE since 1976 and recognises the OIE's role as the international forum for setting animal health standards, reporting global animal health events and

<sup>131</sup> [http://www.aphis.usda.gov/publications/animal\\_health/2011/fs\\_woah\\_oie.pdf](http://www.aphis.usda.gov/publications/animal_health/2011/fs_woah_oie.pdf)

<sup>132</sup> <http://www.prnewswire.com/news-releases/avma-president-obama-picks-veterinary-college-as-site-to-sign-farm-bill-244390391.html>

disease status.

A 2011 Animal and Plant Health Information Service Veterinary Services Factsheet “Collaborating with the World Organization for Animal Health (OIE)” explains how Veterinary Services works to facilitate the domestic and international marketability of United States animals and animal products through its National Center for Import and Export. The factsheet advises that the United States is required to base its policies on the international standards set by the OIE as part of World Trade Organisation obligations.<sup>133</sup> The 2010 to 2015 Strategic Plan of the Animal and Plant Health Information Service includes objectives relating to international standard setting and effective management of sanitary and phytosanitary issues and development of plans to deal with disease risk issues.<sup>134</sup>

Chapter 7 of the OIE’s Terrestrial Animal Health Code contains guiding principles for animal welfare and eleven animal welfare standards that have been agreed by the OIE’s 178 member countries, including the United States. However, legislation in the United States covers only some elements of the guiding principles and the animal welfare standards.

The Animal Welfare Act (7 U.S.C. §2131-2159) does not encompass the basic concept of the Five Freedoms as it does not recognise the importance of animals having the freedom to perform normal behaviours or to be in a state of psychological well-being (with the exception of non-human primates).

With respect to the use of animals in scientific research, the Animal Welfare Act does incorporate the approach of the Three Rs to some extent. The Public Health Service Policy on Humane Care and Use of Laboratory Animals incorporates the Three Rs and the concept is outlined in the Guide for the Care and Use of Laboratory Animals.<sup>135</sup> The United States advances the Three Rs approach internationally, for example via the body International Collaboration on Alternative Test Methods. With respect to the animal welfare standards of the OIE, the government has not enacted federal legislation in a number of important respects, including on humane slaughter of poultry, humane transport of poultry, standards for all research facilities in relation to animals such as rats, mice and birds, and welfare in beef cattle production systems. There is also a lack of federal legislation and oversight on stray dog population control, although this is addressed at state level.

## Part 2: Assessment

Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?

In relation to the use of animals for scientific research, the United States has provided leadership in international fora and has achieved progress for 21<sup>st</sup> century non-animal approaches via its funding. However the exclusion of rats, mice and birds bred for research from the protection of the Animal Welfare Act (7 U.S.C. §2132) is not considered to be in line with obligations under the OIE

<sup>133</sup> [http://www.aphis.usda.gov/publications/animal\\_health/2011/fs\\_woah\\_oie.pdf](http://www.aphis.usda.gov/publications/animal_health/2011/fs_woah_oie.pdf)

<sup>134</sup> [http://www.aphis.usda.gov/about\\_aphis/downloads/APHIS\\_Strategic\\_Plan\\_2015.pdf](http://www.aphis.usda.gov/about_aphis/downloads/APHIS_Strategic_Plan_2015.pdf)

<sup>135</sup> Guide for the Care and Use of Laboratory Animals, Eighth Edition, Committee for the Update of the Guide for the Care and Use of Laboratory Animals, Institute for Laboratory Animal Research, Division on Earth and Life Studies, National Research Council of the National Academies, The National Academies Press, 2011  
[http://www.nap.edu/openbook.php?record\\_id=12910&page=4](http://www.nap.edu/openbook.php?record_id=12910&page=4)

<p>Terrestrial Animal Health Code.</p> <p>There is some protection for the welfare of farmed animals at slaughter, although approximately nine billion poultry a year<sup>136</sup> are slaughtered in the country without the benefit of any federal legislative protection of their welfare, as they are excluded from the provisions of the Humane Methods of Livestock Slaughter Act (7 U.S.C. §1901-1907).</p> <p>The National Cattlemen’s Beef Association has produced guidelines, the Cattle Industry’s Guidelines for the Care and Handling of Cattle and Beef Quality Assurance Manual, although these have been criticised by NGO the Animal Welfare Institute as not meeting the minimum standards proposed by the OIE.<sup>137</sup> The National Chicken Council (NCC) has also introduced its own guidelines for humane treatment of chickens at slaughter, which have been updated recently in 2014, and which have also been criticised by the Animal Welfare Institute for failing to meet some of the minimum standards proposed by the OIE.<sup>138</sup></p> <p>The government is encouraged to implement federal legislation to meet its obligations to the OIE relating to animal welfare under Chapter 7 of the Terrestrial Animal Health Code.</p>
<p><b>Are there economic and societal barriers to improving this aspect of animal welfare?</b></p>
<p>The government’s constitutional remit in relation to legislating on animal welfare issues at a federal level is limited, resulting in a situation where some animal protection issues can be addressed at federal level and others at state level. This presents a significant barrier to the national incorporation within legislation of the OIE’s guiding principles on animal welfare and minimum animal welfare standards.</p>
<p><b>Are enforcement mechanisms in place in policy and legislation?</b></p>
<p>There are enforcement mechanisms relating to those aspects of the OIE standards that have been included in legislation.</p>

## 8. The government publishes reports on progress towards goals set to monitor and improve standards of animal welfare

**Ranking: C**

<p><b>Part 1: Verification</b></p>
<p><b>There is legislation with partial application</b></p>
<p>The United States Department of Agriculture’s Office of the Inspector General carries out audits that are published regarding enforcement of federal legislation such as the Animal Welfare Act (7 U.S.C. §2131-2159).<sup>139</sup></p>

<sup>136</sup> <http://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/production-and-inspection/key-facts-humane-slaughter/key-facts-humane-slaughter>

<sup>137</sup> <https://awionline.org/sites/default/files/uploads/documents/AWI-FA-LettertoNCBAre-welfarestandards2014.pdf>; <https://awionline.org/content/animal-welfare-institute-requests-revision-national-cattlemans-beef-association-standards>

<sup>138</sup> <https://awionline.org/sites/default/files/uploads/documents/AWI-FA-LettertoNCCfromAWI-02112014.pdf>; <https://awionline.org/content/awi-criticizes-chicken-industrys-revised-animal-care-standards>

<sup>139</sup> <http://www.usda.gov/oig/rptsaudits.htm>



The Animal and Plant Health Information Service publishes reports on its website of enforcement carried out under the Animal Welfare Act and the Horse Protection Act (15 U.S.C. §1821-1831).<sup>140</sup> The Service also provides a database on its website whereby searches can be carried out regarding registered facilities or individuals under the Animal Welfare Act. The Service has published a 2010 to 2015 Strategic Plan that contains targets for its various objectives against performance in previous years.<sup>141</sup>

The Food Safety and Inspection Service is required by Congress under the Humane Methods of Livestock Slaughter Act (7 U.S.C. §1901-1907) to provide an annual report on its enforcement of the legislation. In 2012, transparency was improved by the commencement of online posting of Humane Handling Quarterly Reports that include humane handling noncompliance records and slaughter data, in addition to humane handling suspensions.<sup>142</sup>

The Department of Agriculture’s National Agriculture Library maintains an “Animal Welfare Information Center,” which tracks legal and policymaking developments.<sup>143</sup> The Center was established in 1986 at the behest of Congress under 1985 amendments to the Animal Welfare Act, with the aim of providing information, in cooperation with the National Library of Medicine, pertinent to employee training; to prevent unintended duplication of animal experimentation as determined by the needs of the research facility; and on improved methods of animal experimentation, including methods which could reduce or replace animal use and minimise pain and distress to animals. The Animal Welfare Information Center, as part of the National Agriculture Library, is funded by Congressional appropriations.

**Part 2: Assessment**

Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?

Whilst federal agencies such as the United States Department of Agriculture and the Food Safety and Inspection Service are active in reporting on the areas of animal protection within their areas of responsibility, there is no national policy of acting to improve animal welfare and therefore no coordinated reporting. Therefore current legislation and policy is not fully effective in this area. Critical reports of enforcement efforts produced by the Office of the Inspector General have caused public debate and resulted in political action, for example, congressional hearings on the issue of “downed animals”<sup>144</sup> and recent action to bring pets sold over the internet within the remit of the Animal Welfare Act (7 U.S.C. §2131-2159).<sup>145</sup> In this respect the audit reports have promoted awareness of some animal welfare issues.

Are there economic and societal barriers to improving this aspect of animal welfare?

Agencies such as the Animal and Plant Health Information Services and the Food Safety and

<sup>140</sup>[http://www.aphis.usda.gov/wps/portal/aphis/newsroom/news?1dmy&urile=wcm%3apath%3a%2FAPHIS\\_Content\\_Library%2FSA\\_Newsroom%2FSA\\_News%2FSA\\_By\\_Date%2FSA\\_2014%2FSA\\_02%2FCT\\_awa\\_February](http://www.aphis.usda.gov/wps/portal/aphis/newsroom/news?1dmy&urile=wcm%3apath%3a%2FAPHIS_Content_Library%2FSA_Newsroom%2FSA_News%2FSA_By_Date%2FSA_2014%2FSA_02%2FCT_awa_February)

<sup>141</sup> [http://www.aphis.usda.gov/about\\_aphis/downloads/APHIS\\_Strategic\\_Plan\\_2015.pdf](http://www.aphis.usda.gov/about_aphis/downloads/APHIS_Strategic_Plan_2015.pdf)

<sup>142</sup> <http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/regulatory-enforcement/humane-handling-quarterly-reports/humane-handling-quarterly-reports>; <http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/regulatory-enforcement/humane-handling-enforcement-actions>

<sup>143</sup> <http://awic.nal.usda.gov/>

<sup>144</sup> <http://www.cbsnews.com/news/congress-debates-use-of-downer-cows/>

<sup>145</sup> [http://www.aphis.usda.gov/publications/animal\\_welfare/2013/APHIS-2011-0003-15371%20RIA.pdf](http://www.aphis.usda.gov/publications/animal_welfare/2013/APHIS-2011-0003-15371%20RIA.pdf)

<p>Inspection Service provide information and reports on their efforts. The Office of the Inspector General has demonstrated a willingness to publish reports regarding enforcement issues.<sup>146</sup> Therefore there are not considered to be any significant barriers to the federal government improving its reporting on animal welfare.</p>
<p><b>Are enforcement mechanisms in place in policy and legislation?</b></p>
<p>The production of an annual report by the Food Safety and Inspection Service is mandated by legislation.</p>

## Goal 4: Provision of humane education

### 9. Animal care and protection are included in the national education system

**Ranking: D**

<p><b>Part 1: Verification</b></p>
<p><b>There is legislation with partial application</b></p>
<p>The Department of Education advises that the federal role in education is limited because of the Tenth Amendment to the Constitution, which means that most education policy is decided at the state or local level.<sup>147</sup> The 2014 to 2018 Department of Education Strategic Plan does not include any goals or mention of humane education issues.<sup>148</sup> However, the Department of Education does engage in strategic policymaking and provides federal grants in support of educational initiatives, and since 1995 the Department has provided grants to state and local education agencies to support the development of “character education”.<sup>149</sup> “Character education” is aimed at promoting strong character and citizenship amongst the nation’s youth, which has been recognised as an important goal by Congress<sup>150</sup> and was a former strategic goal of the Department of Education in its 2002 to 2007 plan.<sup>151</sup> The Department of Education describes character education as “a learning process that enables students and adults in a school community to understand, care about and act on core ethical values such as respect, justice, civic virtue and citizenship, and responsibility for self and others”.<sup>152</sup> Animal protection organisations in the</p>

<sup>146</sup> Cohen, Henry., Brief Summaries of Federal Animal Protection Statutes, Congressional Research Service Library, 2009

<sup>147</sup> <http://www2.ed.gov/policy/landing.jhtml>

<sup>148</sup> US Department of Education Strategic Plan 2014 - 2018 <http://www2.ed.gov/about/reports/strat/plan2014-18/strategic-plan.pdf>

<sup>149</sup> <http://www2.ed.gov/admins/lead/character/brochure.html>

<sup>150</sup> <http://www2.ed.gov/admins/lead/character/brochure.html>

<sup>151</sup> <http://www2.ed.gov/admins/lead/character/brochure.html>

<sup>152</sup> <http://www2.ed.gov/admins/lead/character/brochure.html>

United States have therefore sought to introduce animal care and protection education to schools via character education.<sup>153</sup>

Currently 12 out of the 50 states have legislation requiring humane education as part of the school curriculum.<sup>154</sup> However, this does not necessarily appear as an item of study. For example, in the state of Washington all common school teachers are required to “stress the importance of ... the worth of kindness to all living creatures” (RCW 28A.230.020), and this is included in a list of attributes which teachers are required to stress, including honesty and good health, rather than in the list of subjects for study (which includes reading, history, hygiene and science).

## Part 2: Assessment

### Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?

It is positive that some states have introduced a legal requirement for humane education to be included or stressed in the school curriculum. It would be beneficial for this to be extended to a formal requirement for study in all states or at federal level. Some NGOs also collaborate with schools to provide elements of humane education on a voluntary basis.

In other educational levels, the inclusion of animal law into law schools is an area where the country is leading with respect to animal protection internationally. The government is encouraged to support these initiatives officially.

The Association of American Veterinary Medical Colleges, together with the American Veterinary Medical Association, hosted a symposium on animal welfare in 2009. A subsequent special animal welfare edition of the Association’s Journal of Veterinary Medical Education in 2011 included an article commenting that some veterinary colleges offered courses and other educational opportunities on animal welfare but that there was “a notable gap between aspiration and achievement” in this area. The Association of American Veterinary Medical Colleges, together with the Department of Agriculture, has since developed a model curriculum for veterinary students outlining the provisions of the Animal Welfare Act (7 U.S.C. §2131-2159).

### Are there economic and societal barriers to improving this aspect of animal welfare?

It appears unlikely that the United States will adopt a national curriculum of humane education at federal level in view of the statement by the Department of Education that the federal role in education is limited by the Tenth Amendment to the Constitution. However, federal funding of educational initiatives and resources, such as those to promote good character and citizenship development, may provide a means to encourage inclusion of animal care and protection into education.

Resources on character education are available on the Department of Education’s website.<sup>155</sup> One of the resources is a booklet for parents entitled “Helping your child become a responsible citizen”, which highlights the importance of compassion towards people and presents a possible opportunity

<sup>153</sup> Bernard Uti and Bill DeRosa, Humane Education, Past, Present and Future, in: The State of the Animals, Humane Society Press, Public Policy Series, 2003 edited by Deborah J. Salem and Andrew N. Rowan

<sup>154</sup> <http://www.teachkind.org/laws.asp>

<sup>155</sup> <http://www2.ed.gov/teachers/how/character/edpicks.jhtml?src=ep>

to include messaging highlighting the importance of humane attitudes to animals. When running for election as President in 2008 Barack Obama linked good character to animal protection, saying: "I think how we treat our animals reflects how we treat each other," and "it's very important that we have a president who is mindful of the cruelty that is perpetrated on animals."<sup>156</sup>

**Are enforcement mechanisms in place in policy and legislation?**

Elements of humane education are mandated by law in 12 out of the 50 states.

## Goal 5: Communication and awareness

### 10. The government works with others to improve animal protection by consulting and engaging relevant stakeholders, including NGOs

#### Ranking: B

**Part 1: Verification**

**There is legislation**

Federal legislation in the United States is implemented and enforced by administrative agencies. For example, the Animal Welfare Act (7 U.S.C. §2131-2159) authorises the United States Department of Agriculture to promulgate rules on the humane treatment of animals. During the rule promulgation process, agencies (such as the Department of Agriculture) are required to engage with stakeholders, such as research facility operators, non-governmental organisations, and members of the general public. Stakeholders may also petition agencies to initiate a rulemaking process if there is a perceived need for a new rule. This process should give stakeholders, including NGOs, a potential role in shaping some areas of animal welfare law at the federal level.

The Department of Agriculture makes an effort to keep stakeholders apprised of its regulatory activities, by maintaining a web-based information service that allows stakeholders to sign up to receive information.<sup>157</sup>

The Animal and Plant Health Information Service advises in its strategic plan that it works with other federal agencies and with state, local and private partners. Primary partnership organisations concerning animal welfare and wildlife services include the Fish and Wildlife Service, the Center for Disease Control, the Office of Laboratory and Animal Welfare, the Office of the Inspector General, various state game and fish agencies, 37 state wildlife agencies, state animal welfare authorities, state departments of agriculture, local law enforcement bodies, the National Animal Rescue and Sheltering Coalition, and various NGOs.

Within its strategic plan the Animal and Plant Health Information Service also advises that it consults regularly with external groups "about the effectiveness of its programs and the need for

<sup>156</sup> <http://globalphilosophy.blogspot.co.uk/2008/06/candidates-on-animal-rights.html>

<sup>157</sup> <http://www.aphis.usda.gov/wps/portal/aphis/newsroom/news>

improvement” and that these consultations “influence the program’s strategic goals, objectives, strategies and targets”.<sup>158</sup> Organisations with which the Service holds consultations include the National Wildlife Services Advisory Committee, the Association of Fish and Wildlife Agencies and the World Organization for Animal Health Regions of the America’s Committee on Veterinary Medicines.

## Part 2: Assessment

**Are policy and legal provisions effective in acknowledging animal welfare as a mainstream concern?**

The consultative approach to federal legislation and rule-making means that a wide range of stakeholders should have an opportunity to comment on proposals. For example, the recent consultation on proposed rules to bring breeders selling pets on the internet within the remit of the Animal Welfare Act (7 U.S.C. §2131-2159) stimulated an active response and the Department of Agriculture’s published Final Rule included a summary of and responses to key issues raised by stakeholders.<sup>159</sup>

The Department of Agriculture’s Animal Welfare Information Center is engaged in a number of outreach activities that support the dissemination of animal welfare knowledge, for example, conducting workshops for researchers involved in scientific research.<sup>160</sup> The Animal Welfare Information Center was a founding member and continues as a collaborator for the consortia that manages the AltWeb site<sup>161</sup> that promotes communication and collaboration among members of the alternatives to animals in research community.

**Are there economic and societal barriers to improving this aspect of animal welfare?**

It is positive that the United States approach is to involve stakeholders in the development of legislation. However, the adversarial approach to policy and legislation development<sup>162</sup>; the strength of commercial lobbies opposed to measures increasing animal protection<sup>163</sup>; and measures that inhibit or prevent public exposure of animal suffering in agricultural production<sup>164 165</sup> represent considerable barriers to progress.

**Are enforcement mechanisms in place in policy and legislation?**

Engagement between government and stakeholders is driven by the need to fulfil legislative and policy commitments and/or to deal with issues that one or more parties wish to see addressed within legislation. The law-making progress requires stakeholder engagement and stakeholder engagement is included in, for example, the Animal and Plant Health Information Service’s Strategic Plan.

<sup>158</sup>[http://www.aphis.usda.gov/about\\_aphis/downloads/APHIS\\_Strategic\\_Plan\\_2015.pdf](http://www.aphis.usda.gov/about_aphis/downloads/APHIS_Strategic_Plan_2015.pdf)

<sup>159</sup> [http://www.aphis.usda.gov/publications/animal\\_welfare/2013/APHIS-2011-0003-15371%20RIA.pdf](http://www.aphis.usda.gov/publications/animal_welfare/2013/APHIS-2011-0003-15371%20RIA.pdf)

<sup>160</sup> <http://awic.nal.usda.gov/workshops>

<sup>161</sup> <http://altweb.jhsph.edu>

<sup>162</sup> Whiting, T.L. Policing Farm Animal Welfare in Federated Nations: The Problem of Dual Federalism in Canada and the USA. *Animals* 2013, 3, 1086-1122

<sup>163</sup> David Favre, “Overview of the U.S. Animal Welfare Act”, Animal and Legal Historical Centre, 2002 at <http://www.animallaw.info/articles/ovusawa.htm>

<sup>164</sup> Brief of the American Civil Liberties Union, the Massachusetts American Civil Liberties Union and The Lawyers Guild <http://www.nlg.org/resource/amicus-curiae/nlg-amicus-curiae-blum-et-al-v-holder>

<sup>165</sup> [http://www.humanesociety.org/news/press\\_releases/2014/02/idaho\\_aggag\\_020714.html#.UyrKOf1Byf0](http://www.humanesociety.org/news/press_releases/2014/02/idaho_aggag_020714.html#.UyrKOf1Byf0)

**Publication: November 2014**

## United States of America: Socioeconomic information

### Politics

Where not otherwise noted, information for this section has been sourced from the Economist Intelligence Unit's (EIU) country profiles.

#### Government type

Federal republic

#### Capital

Washington, D.C.

#### International law organisation<sup>166 167</sup>

Withdrew acceptance of ICC and ICJ jurisdiction

#### Suffrage<sup>168</sup>

18

#### Legal system<sup>169</sup>

Common law (excluding Louisiana)

#### Executive branch

President: Barack Obama

Vice-president: Joe Biden

#### Judicial branch<sup>170 171</sup>

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<sup>166</sup>

[http://treaties.un.org/Pages/ViewDetails.aspx?src=TR&EATY&mtdsg\\_no=XVIII-10&chapter=18&lang=en#11](http://treaties.un.org/Pages/ViewDetails.aspx?src=TR&EATY&mtdsg_no=XVIII-10&chapter=18&lang=en#11)

<sup>167</sup> [http://www.icj-](http://www.icj-cij.org/jurisdiction/index.php?p1=5&p2=1&p3=3)

[cij.org/jurisdiction/index.php?p1=5&p2=1&p3=3](http://www.icj-cij.org/jurisdiction/index.php?p1=5&p2=1&p3=3)

<sup>168</sup> [http://aceproject.org/epic-](http://aceproject.org/epic-en/CDTable?question=VR001#g)

[en/CDTable?question=VR001#g](http://aceproject.org/epic-en/CDTable?question=VR001#g)  
<sup>169</sup> [http://www.juriglobe.ca/eng/sysjuri/index-](http://www.juriglobe.ca/eng/sysjuri/index-alpha.php#UNITED_STATES_OF_AMERICA)

The court of final appeal in the United States is the Supreme Court, which is composed of a Chief Justice and eight Associate Justices. The Justices are nominated by the President of the United States, confirmed by the United States Congress, and appointed for life.

#### Legislative branch

The United States has a bicameral system with a 100 member Senate, the upper house, with elections taking place every six years, except for a third of the seats, where elections take place every two years. The lower house, the House of Representatives, has 435 members and is elected every two years.

#### Political parties

Democratic Party, Republican Party

### Economics

Where not otherwise noted, information for this section has been sourced from the World Bank.

The United States is making steady progress and the economy grew by 3.2% in the last three months of 2013<sup>172</sup>. The EIU forecasts the economy to grow by 3% in 2014<sup>173</sup>. It is

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<sup>170</sup>

[http://www.nyulawglobal.org/globalex/United\\_States1.htm#\\_C.\\_United\\_States Supreme Court](http://www.nyulawglobal.org/globalex/United_States1.htm#_C._United_States_Supreme_Court)

<sup>171</sup>

<http://www.supremecourt.gov/about/briefoverview.aspx>

<sup>172</sup> <http://country.eiu.com/us>

<sup>173</sup> <http://country.eiu.com/us>

expected that household consumption and investment will be the main driver of this growth in 2014. Unemployment is expected to dip below 7% in the first three months of 2014 and household disposable income underwent a percentage rise in 2013<sup>174</sup>. The current account deficit is also expected to narrow to 2.2% by 2017<sup>175</sup>, mainly due to a "falling reliance on energy imports and an uptick in global demand for US goods and services"<sup>176</sup>. Although there are several positive indicators, United States public debt is still 106% of GDP<sup>177</sup>, and the fraught negotiations between the Democrats and Republicans concerning the federal debt ceiling could still shut down the government and knock consumer and business confidence, as it did in 2013<sup>178</sup>. The EIU forecasts real GDP growth to average out at 2.4% for the period 2012-30<sup>179</sup>.

#### Main trading partners (2012)<sup>180</sup>

Import

China - 18.7%

Canada - 14.3%

Mexico - 12.2%

Export

Canada - 18.9%

Mexico - 14.0%

China - 7.1%

<sup>174</sup> <http://coface.com/Economic-Studies-and-Country-Risks/United-States-of-America>

<sup>175</sup> <http://www.businessmonitor.com/united-states##>

<sup>176</sup> <http://www.businessmonitor.com/united-states##>

<sup>177</sup> <http://coface.com/Economic-Studies-and-Country-Risks/United-States-of-America>

<sup>178</sup> <http://www.businessmonitor.com/united-states##>

<sup>179</sup>

<http://country.eiu.com/article.aspx?articleid=1300582914&Country=US&topic=Economy&subtopic=Long-term+outlook&subsubtopic=Summary>

<sup>180</sup> <http://country.eiu.com/article.aspx?articleid=1641460748&Country=US&topic=Summary&subtopic=Fac+t+sheet>

#### Commodities (2012)<sup>181</sup>

Imports

Machinery & transport equipment - 38.2%

Manufactured goods - 24.3%

Mineral fuels & lubricants - 18.7%

Exports

Machinery & transport equipment - 40.5%

Manufactured goods - 19.0%

Chemicals - 13.4%

#### GDP (current USD, 2012)

\$15,684,800,000,000

#### GDP per capita, PPP (2012)

\$49,965

#### Labour force, total (2012)

159,068,557

#### Currency

American dollar

#### Equivalence to 1 USD

1

#### Central government debt, total, (% of GDP, 2011)

81.8

#### Manufacturing, value added (% of GDP, 2012)

13 (2011)

#### Agriculture, value added (% of GDP, 2012)

1 (2011)

#### Industry, value added (% of GDP, 2012)

<sup>181</sup> <http://country.eiu.com/article.aspx?articleid=1641460748&Country=US&topic=Summary&subtopic=Fac+t+sheet>



20 (2011)

Exports of goods and services (% of GDP, 2012)

14 (2011)

Imports of goods and services (% of GDP, 2012)

18 (2011)

Services, etc., value added (% of GDP) (2012)

79 (2011)

Unemployment rate, (% , 2011)

8.9

Education expenditure (% of GDP, 2012)

5.6 (2010)

Adjusted savings: Education expenditure USD (2011)

728,518,411,990

Population growth, annual % (2012)

0.7

Population: ages 0-14 (% of total) (2012)

20

Population: ages 15-64 (% of total) (2012)

67

Population: ages 65 and over (% of total) (2012)

14

Population living in rural areas (% of total) (2012)

17

Population living in urban areas (% of total) (2012)

83

## Society

Where not otherwise noted, information for this section has been sourced from the World Bank.

Total population (2012)

313,914,040

Religion<sup>182</sup>

Christian (78.3%), Unaffiliated (16.4%), Jewish (1.8%), Buddhist (1.2%), Muslim (0.9%), Other religions (0.6%), Hindu (0.6%), Folk religions (0.2%)

Languages

English<sup>183</sup>

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<sup>182</sup> <http://features.pewforum.org/grl/population-percentage.php>

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<sup>183</sup> <http://country.eiu.com/article.aspx?articleid=1750955159&Country=US&topic=Summary&subtopic=Basic+data>

