



Animal Protection Index (API) 2020

Canada: ranking D

Executive summary

At the federal level, the *Criminal Code* contains provisions banning animal cruelty. Since the API was first published in 2014, new legislation has been passed that improves animal protection. Notably, amendments to the *Criminal Code* explicitly prohibit all sexual abuse of animals and strengthen the Code's provisions dealing with organizing and keeping animals for animal fighting. Moreover, the *Ending of Captivity of Whales and Dolphins Act* was passed in June 2019, which effectively outlaws the keeping, breeding and capture of cetaceans for public entertainment through amendments to the *Criminal Code*, the *Fisheries Act* and the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act*. In addition, the *Health of Animals Regulations* were amended in 2019, reducing the maximum length of transport without access to feed, rest or water for some animals. At the provincial level, Quebec passed the *Act to Improve the Legal Situations of Animals* in 2015, which recognises domestic and captive wild animals as sentient.

However, there is room for improvement in many areas related to animal welfare. Notably, there is no legislation applicable at the federal level dedicated to positive requirements for animal welfare. The variability in legislative and regulatory animal welfare protection across provinces means there is no consistency in Canada in the level of protection offered to animals. Although the *Criminal Code* applies to all provinces and territories and can be enforced across the country, provincial enforcement agencies generally use provincial or territorial legislation first, as they tend to be easier to enforce. Despite having been improved in 2019, the current *Health of Animals Regulations* still allow for the transport of animals for very long periods of time (36 hours for ruminants) without feed, water or rest. Moreover, the Federal Government has failed to regulate farming practices to safeguard animal welfare, choosing instead to leave the industry to self-police through the development and implementation of the Codes of Practice. These Codes are developed by the National Farm Animal Care Council (NFACC), an industry-led multi-stakeholder committee that includes representatives from two animal welfare organizations, World Animal Protection and Humane Canada. The Codes are not legally binding themselves, but they are referenced in the animal protection regulations of six provinces to establish accepted industry practices. They are also often introduced as evidence in court as established accepted practices, even when they are not referenced in the law.¹ The Federal Government also defers to the Canadian Council on Animal Care (CCAC), made up of industry representatives, to develop guidelines with regards to animals used in research. Once again, allowing the industry to self-police.

At the federal level, there is no specific body with responsibility for development of policy on animal welfare. The Federal Government also relies on implementation and more detailed regulation and enforcement taking place at the provincial level. Most provincial legislation is the responsibility of a provincial minister who usually has the power to make regulations and the powers of enforcement are

¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5819020/>



typically given to the Society for the Prevention of Cruelty to Animals (SPCA), which is primarily funded by public donations in many provinces.

The Government of Canada is strongly encouraged to strengthen the Criminal Code's animal cruelty provisions and to move them out of the property section of the Criminal Code, and into a separate section acknowledging them as sentient beings. Furthermore, the Government of Canada is urged to work with the provinces and territories to ensure consistent protection to animals across the country. In particular, they should address the daily treatment of farm animals on the farm. Moreover, recognizing that wild animals cannot have their needs entirely met when kept as pets, the Government of Canada is strongly encouraged to follow the lead of countries like the Netherlands and Belgium which have developed laws governing which animals can be kept as companion animals², based on clear criteria including animal welfare and other robust scientific risk assessments. Another significant wildlife welfare issue impacting many wild animals in Canada is fur farming. The Government is strongly encouraged to take steps towards phasing-out this inhumane and unnecessary industry at the federal level as other nations have done or are in the process of doing (e.g. UK, Netherlands, Germany, Sweden, Switzerland, Japan, New Zealand and Denmark).³ The Government is also highly encouraged to develop legislation mandating the humane treatment of stray animals, wild animals and animals used in scientific experiments. Further legal and policy recommendations are associated with each Animal Protection Index (API) indicator and contained in the relevant sections of this report.

² Positive lists are considered by experts to be the best practice because they are concise, cost-effective, enforceable and easy to understand. They are designed to follow a proactive and flexible process to respond to the latest independent peer-reviewed scientific information and public acceptability relating to the impact of the keeping of animals by private individuals.

³ <https://www.hsi.org/news-media/fur-trade/#:~:targetText=Have%20any%20countries%20banned%20fur,Serbia%2C%20Slovenia%2C%20United%20Kingdom>.



Animal Protection Index Indicators

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

1. Animal sentience is formally recognised in legislation

Analysis of the legislation	
Ranking	C
<p>Legislation recognizes some aspects of animal sentience relating to pain, suffering and distress. The Criminal Code of Canada,⁴ Section 445(1)-(2) includes suffering as a separate concept from pain and injury, which applies to all animals and birds. The Code also refers to abandoning animals in distress. There is also some recognition of biological needs, with Section 446 making it an offence to fail to provide suitable and adequate food, water, shelter and care for domesticated animals.</p> <p>Canadian provinces and territories have their own laws to protect animals from cruelty and most set basic standards of care that apply to most species. However, there are many exemptions for what are considered to be standard practices (e.g. common agricultural practices that cause animals pain and suffering). These laws vary widely in terms of which animal welfare issues are covered and the level of protection provided. This may in part be in response to high profile animal cruelty incidents that have occurred within particular provinces and the prevalence of different animal uses.</p> <p>On 4 December 2015, the Quebec national assembly passed legislation stating that ‘animals are not things but rather sentient beings with biological needs’.⁵ Bill 54, An Act to Improve the Legal Situation for Animals⁶ effectively replaces former animal welfare provisions in the <i>Animal Health Protection Act</i> of Quebec and brings Quebec more in line with the other provinces of Manitoba, Ontario and British Columbia. In this Act, the term ‘animal’ encompasses all domestic animals, as well as wild animals, including fish, kept in captivity for fur farming, wildlife conservation or meat production’ (Chapter 1, Article 1). The Act also amends the Civil Code of Quebec to explicitly state that animals are sentient. This new law significantly increases penalties for animal abuse, neglect and cruelty, including fines of up to \$250,000 and jail time for repeat offenders. It also includes a more rigorous permit system for pet stores. In addition, the <i>Act to Improve the Legal Situation for Animals</i> gives inspectors the power to demand to see an animal if they have ‘reasonable cause’ to suspect the companion animal is being mistreated. They can also obtain a warrant from a judge to enter a home and seize animals. However, this law is limited, as it completely excludes wildlife in captivity, farm animals, exotic species and zoo animals.</p>	

⁴ <https://laws-lois.justice.gc.ca/eng/acts/C-46/>

⁵ <https://www.ctvnews.ca/politics/quebec-defines-animals-as-sentient-beings-in-new-legislation-1.2687500>

⁶ <http://www.assnat.qc.ca/en/travaux-parlementaires/projets-loi/projet-loi-54-41-1.html>



In 2019, Quebec also passed the *Animal Welfare and Safety Act*,⁷ which expands the scope of its animal welfare legislation to offer increased protection to a wide range of species, including horses, bison, deer, boar, ostriches, wild turkeys and some species of fish.

In 2016, MP Nathaniel Erskine-Smith introduced a private members Bill C-246 – The Modernizing Animal Protections Act – in the House of Commons to amend the Criminal Code, in order to recognize animals as sentient beings. It would have also closed the loopholes to make it easier to prosecute criminal neglect and would have banned the importation of shark fins, cat and dog fur and other cruel activities. However, Bill C-246 was defeated on 5 October 2016.⁸

Analysis

Although the Criminal Code recognises that animals can suffer, there is no acknowledgement of animals' awareness and their ability to experience positive feelings. This anti-cruelty legislation dates back to 1892, and there have been no significant revisions since the 1950s, although there is more recent and more detailed legislation at province and territory level.⁹

The Ending of Captivity of Whales and Dolphins Act shows the Canadian government is starting to recognize animal feelings and consciousness in legislation. The ban on breeding and display of cetaceans takes into account scientific findings regarding animal sentience. The new law stipulates that the Government must consider the best interest of the animals when considering an application for an export permit.

The degree to which provincial and territory laws relating to animal welfare are implemented and enforced, and who is responsible for this, varies significantly. Some province and territory laws have broader, stronger regulations to protect animals than the Criminal Code and include specific standards of care that must be adhered to. In most provinces and territories, the local Society for the Prevention of Cruelty to Animals (SPCA) enforces animal protection legislation, with additional enforcement personnel appointed by the minister in most cases involving farm animals.

Province and territory prosecutions are regulatory prosecutions and as such there is a lower burden of proof. Under province and territorial legislation, offenders need only be found non-compliant with regulations or negligent as a result of not taking all reasonable care to prevent harm from occurring. Under the Criminal Code intent must be proven. This is important because intent is difficult to prove, making prosecutions more challenging. It may therefore be more attractive for prosecutors to pursue lesser sentences under province and territorial legislation than to seek penalties under the Criminal Code.

The fact that in 2015, the Minister of Agriculture, Fisheries and Food, Pierre Paradis supported Quebec's legislation recognising animals as sentient beings, demonstrates the Government's efforts to mainstream the definition of animal welfare. The rationale for the law was to improve Quebec's

⁷ <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/B-3.1>

⁸ <https://openparliament.ca/bills/42-1/C-246/>

⁹ <https://www.animaljustice.ca/media-releases/bestiality-bill-fails-to-deliver-on-promise-to-fix-outdated-animal-cruelty-laws>



reputation in terms of animal welfare, as the province is known for its many puppy mills.¹⁰ There remains a need for the Federal Government to follow Quebec's path and adopt a nation-wide legislation recognising animals as sentient beings, especially seeing that Bill C-246 was defeated.

With regards to Quebec's recent legislation recognizing animals as sentient, the fact that many species remain excluded from this law illustrates the economic interests vested in the business of keeping wildlife captive or raising animals for human consumption. As animal sentience has been largely documented by scientists, all species should be included in Quebec's Act to Improve the Situation of Animals.

Enforcement mechanisms

Contravention of Sections 445 and 446 of the Criminal Code can result in a violator being found guilty of an offence punishable with fines, imprisonment, probation and house arrest. The court may also make an order prohibiting ownership, custody, control or living with an animal or bird for as long as is deemed appropriate. In the case of a second offence, this will be for a minimum of five years. The convicted person can also be made to compensate an individual or organization that has cared for their animal as a result of the cruelty.

Enforcement mechanisms under provincial laws vary. All provinces and territories have fines for animal cruelty offences. Most also have imprisonment penalties and can prohibit the offender from owning animals for an unlimited period of time. British Columbia's penalties for a provincial animal cruelty offence are up to CA\$75,000 and up to two years imprisonment. In 2019, the Ontario government passed the Provincial Animal Welfare Services (PAWS) Act to make consequential amendments with respect to animal protection. It establishes fines of CA\$75,000 for a minor first offence and up to CA\$1 million for a major corporate offence.¹¹

In Quebec's Act to Improve the Legal Situation of Animals, Section 67 also provides various degrees of fines for offences relating to animal cruelty or abuse.

Key recommendations

- Building upon the passage of Quebec's **Act to Improve the Legal Situation of Animals** in 2015, the Federal and Provincial Governments of Canada are strongly encouraged to enshrine animal sentience in legislation. At minimum, all vertebrates, cephalopods and decapod crustaceans should be explicitly recognised as sentient in legislation. A formal recognition of animal sentience should underpin any further animal welfare measures.
- The Federal Government of Canada is encouraged to move animal cruelty provisions out of the property section of the Criminal Code, and into a separate section or put all of these offences into a new Act that acknowledges animals as sentient beings, who deserve protections in their own right.

¹⁰ https://www.huffingtonpost.ca/barbara-cartwright/quebec-animal-welfare-law_b_8749820.html

¹¹ <https://www.ontario.ca/laws/statute/s19013>



- Furthermore, the 2015 Act to Improve the Legal Situation of Animals should be amended to encompass all animal species.

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

Analysis of the legislation	
Ranking	B
<p>Sections 445 to 447 of the Criminal Code of Canada, which is the primary legislation at the federal level on animal welfare, makes several types of animal cruelty a criminal offence. Section 445.1 prohibits anyone from wilfully causing or, being the owner, wilfully permitting to be caused, unnecessary pain, suffering or injury to an animal or a bird. Section 446 prohibits causing damage or injury by wilful neglect of animals during transport, and by wilful neglect of a domestic or captive wild animal.</p> <p>In 2016, the <i>Modernizing Animal Protections Act</i> (Bill C-246) proposed the creating of a new offence for individuals who cause unnecessary pain, suffering or injury to an animal through gross negligence of the animal's welfare.¹² This federal private members bill also promised to close loopholes related to animal fighting by making it illegal to train, breed or convey animals for the purpose of fighting, as well as making it illegal to profit from dog fighting. On 5 October 2016, the Bill was defeated by a wide margin during second reading in the House of Commons. The provisions to ban animal fighting passed through another private members bill.</p> <p>In Canada, numerous Codes of Practices are developed by the National Farm Animal Care Council.¹³ The requirements in these Codes are not directly enforceable by law and failure to comply is not an offence on its own in most provinces. They can be used as evidence in prosecution to demonstrate when animals have been caused distress by practices that are not generally accepted. The Codes can also be used as a defence, to demonstrate that a farmer was using accepted practices when causing distress to an animal.</p> <p>Each province and territory has its own animal protection legislation, which makes it an offence to cause or permit an animal to be in distress and allow animals to be inspected. When the Ontario SPCA Act was amended in 2009, it allowed for inspections to happen wherever animals are kept for sale, hire or exhibition. The Provincial Animal Welfare Services (PAWS) Act changed this since animal welfare inspectors would need to apply for a warrant to investigate potential offences. Inspections without warrant may be authorised if the inspector has reasonable grounds to believe that the time required to obtain a warrant would lead to the loss, removal or destruction of evidence (Part VII).</p>	

¹² <https://openparliament.ca/bills/42-1/C-246/>

¹³ <http://www.nfacc.ca/codes-of-practice>



Provincial legislations also vary in terms of which species are covered and the types of activities that may cause suffering but are still permitted. For example, Manitoba's *Animal Care Act* has a substantial list of exemptions: the relevant provisions do not apply to uses of animals including hunting, trapping, fishing, husbandry, slaughter, zoos, research, pest control and sporting events provided that these activities are consistent with generally accepted practices or standards specified in the regulations. Most provincial animal cruelty laws excuse hunting, trapping and farming practices as generally accepted practices.

The *Ontario Society for the Protection of Animals (OSPCA) Act* was amended in 2009 with Bill 50, which made it a provincial offence to abuse any animal – whereas former legislation only condemned the abuse of cats and dogs in commercial breeding operations. These 2009 amendments also established penalties including the potential to prohibit the offender from owning animals ever again; it established standards of care for all animals and more specific standards for captive wildlife; it made it an offence to train animals to fight and it made it mandatory for vets to report animal abuse. Moreover, it empowered Ontario's SPCA to conduct regular inspections of facilities that keep animals including zoos and aquaria, whereas before the passage of this Act, anyone could refuse to show their animal to the SPCA. The *OSPCA Act* was amended again in 2015 to ban the buying, selling and breeding of orcas and to set standards of care for marine mammals in captivity following an expose of conditions at Marineland in Niagara Falls.¹⁴ The one orca currently in captivity in Marineland, was grandfathered despite requests by animal protection groups to have her moved so she doesn't have to be alone. And on 29 October 2019, the Ontario Government introduced Bill 136, The Provincial Animal Welfare Services (PAWS) Act, which would set up a publicly transparent and accountable animal welfare enforcement system and training for specialized inspectors for agriculture, zoos, aquariums and equines. It will also increase penalties for offenders. The Act was passed and received Royal Assent in December 2019.

Since the API was first published in 2014, several attempts have been made to amend Canada's *Criminal Code* to introduce stronger anti-cruelty legislations.¹⁵ Unfortunately, Prime Minister Trudeau and his Cabinet voted against the 2016 Modernizing Animal Protection Act, which proposes a new offence for individuals who cause unnecessary pain, suffering or injury to an animal through gross negligence of the animal's welfare.¹⁶ The bill was also fiercely opposed by the animal use industry.¹⁷

In June 2019, Bill C-84¹⁸ amended the *Criminal Code* to close loopholes to fully ban animal fighting and bestiality. It is prohibited for anyone to take part of, promote, receive money for animal fights.

Analysis

It is positive that animal cruelty is prohibited under the Criminal Code of Canada. The 2019 amendments to the Criminal Code, fully prohibiting animal fights and bestiality, also show some progress for protecting animals from egregious acts of cruelty. While the provisions to ban animal fighting passed through another private members bill, it is very disappointing that the offence for

¹⁴ <https://www.thestar.com/news/canada/2015/05/28/new-ontario-law-bans-breeding-and-sale-of-orcas.html>

¹⁵ <https://www.humanecanada.ca/history-of-the-amendments>

¹⁶ <https://www.animalalliance.ca/campaigns/bill-c-246-modernizing-animal-protection-act/>

¹⁷ <http://www.keepcanadafishing.com/tag/bill-c-246/>

¹⁸ <https://www.parl.ca/DocumentViewer/en/42-1/bill/C-84/royal-assent>



negligence has not yet been amended. The Criminal Code requires that, for neglect to be prosecuted, it must be 'wilful', thus requiring proof that the cruelty was deliberate. In most cases, this would exclude charges in cases of negligent behaviour, except in the most egregious cases, for example, failure to provide food and water.

The Criminal Code provisions apply to egregious cases of animal cruelty but are not proactive animal welfare standards. Notably, they do not refer to the Five Freedoms or Five Domains. They are complaint-driven, and the burden of proof is high. Furthermore, the prohibition on bestiality does not give power to judges to ban bestiality offenders from owning animals in the future. Additionally, the Criminal Code is rarely used to prosecute industries, because it only relates to 'unnecessary' suffering and industry practices that cause suffering are almost always excused as necessary. The Federal Government is strongly encouraged to regulate industries that cause animal suffering.

Provincial and territorial legislation is limited, as it exempts certain inhumane practices common to the research and/or agriculture industries. Furthermore, the inconsistencies in animal welfare protection between the provinces means that animals in some areas are better protected than in others. Most provincial animal protection acts make it an offence to cause distress to animals, except if the distress is caused by an action that is a 'reasonable and generally accepted practice', such as branding, dehorning and castration. However, the definitions of distress, as well as what is considered reasonable in terms of exemptions, differ by province.

Animal welfare could be improved if the Federal Government was to harmonise legislation across the country, as at present every province or territory has different legislation with different limitations and loopholes. A strong federal law could ensure the worst animal cruelty cases are prosecuted as crimes under the Criminal Code and could enable both records on animal abuse and prohibitions on owning animals to follow individuals if they move between provinces. This is important as provincial prohibition orders are not enforceable in other provinces.

It is legal in Canada to take part in practices involving animals that are considered to be inhumane or abhorrent in many other nations. For example, fur farming is legal, as is the commercial hunting of seals. The banning of these practices would not only benefit animals directly, but it would also be meaningful in showing Canada to be progressive with regards to animal welfare, thus keeping up with public sentiment. Cultural acceptance in some parts of the country of seal hunting and rodeos, particularly the annual Calgary Stampede in Alberta may also represent a barrier to improved animal protection laws and the recognition that animals are sentient despite growing widespread concern among Canadians over animal suffering. An example of this resistance is that no government has worked to phase out these activities and none of the main political parties have taken a position against them.

Enforcement mechanisms

Contravention of Sections 445 and 446 of the Criminal Code is guilty of an offence punishable with fines and/or imprisonment. The court may also make an order prohibiting ownership, custody, control or living with an animal or bird for as long as is deemed appropriate. In the case of a second offence, this will be for a minimum of five years. The convicted person can also be made to compensate an



individual or organization that has cared for their animal as a result of the cruelty.

Enforcement mechanisms under provincial laws vary.

All provinces and territories have fines for animal cruelty offences, and most have imprisonment penalties and can prohibit the offender from owning animals for an unlimited period of time. British Columbia's penalties for a provincial animal cruelty offence are up to CA\$75,000 and up to two years imprisonment.¹⁹ Quebec allows fines up to CA\$250,000 for major cruelty offences. Ontario recently raised fines for an individual minor offence to CA\$75,000 to a maximum of CA\$1 million and two years of jail time for major subsequent corporate offences.²⁰

When an Ontario Court decided in January 2019 that the Ontario SPCA's powers were unconstitutional, it called into question the appropriateness of having private charities fundraise to enforce the law. In March 2019 the Ontario SPCA announced it would no longer enforce animal cruelty laws.²¹ Edmonton Humane Society announced and ended enforcement of animal cruelty laws in January 2019. In Saskatchewan, the SPCA also surrendered its enforcement role, leaving the province to contract with a separate entity to enforce their animal protection legislation. In Manitoba, the Chief Veterinary Officer, part of a public agency, has the main responsibility to enforce animal protection laws. In Newfoundland, animal protection laws are enforced by the police.

Key recommendations

- The Government of Canada is urged to amend the Criminal Code to allow for the prosecution **of animal cruelty and neglect cases without 'wilful' intent**. The standard should be updated to **define 'negligently' as a marked departure from the standard of care that a reasonable person would include**.
- **The Federal Government is strongly encouraged** play an active role in directing Provinces to improve their laws to harmonize legislation across the country with regards to animal cruelty. The worst animal cruelty cases should be prosecuted as crimes under the Criminal Code, rather than as provincial offences.
- Provincial Governments are encouraged to follow the example of Ontario in establishing and resourcing a transparent and publicly accountable animal protection enforcement system.

¹⁹ http://www.bclaws.ca/Recon/document/ID/freeside/00_96372_01#section24.1

²⁰ <https://www.cbc.ca/news/canada/montreal/quebec-bill-calls-animals-sentient-beings-and-includes-jail-time-for-cruelty-1.3102399>

²¹ <https://www.blogto.com/city/2019/03/ontario-sPCA-animal-cruelty/>



Goal 2: Presence of animal welfare legislation

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

Analysis of legislation	
Ranking	D
<p><u>Rearing</u></p> <p>Section 445.1 of the Criminal Code prohibits anyone from wilfully causing or, being the owner, wilfully permitting to be caused unnecessary pain, suffering or injury to an animal or a bird. Section 446 provides that it is an offence to cause an animal or bird to become injured when being transported by neglecting them wilfully, and it is an offence for the owner or person in custody or control of a domestic or captive wild animal or bird to abandon it in distress or to wilfully neglect it or fail to provide suitable and adequate food, water, shelter and care for it. The Criminal Code has a special section to protect cattle, as well as horses, mules, asses, pigs, sheep and goats. This excludes other farmed species such as chickens and turkeys.</p> <p>There is no federal legislation that addresses the welfare of animals on the farm. The National Farm Animal Care Council (NFACC) produces Codes of Practice for the care and handling of farm animals, which detail non-regulatory requirements and recommendations for good animal care on farms.²² The Codes are not directly legally mandated. However, most commodity groups (e.g., Dairy Farmers of Canada) require their members to meet the Code requirements and have programs of varying rigour to ensure they are met.</p> <p>Various provincial agriculture and food legislation contain provisions for humane treatment of farm animals. Six provinces – British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Prince Edward Island (PEI) and Saskatchewan – have referenced the NFACC Codes of Practice for farm animals in their animal protection laws.²³ Some provinces also have animal welfare regulations which pertain specifically to farm animals, for example, the <i>Alberta Animal Protection Regulation</i>, whereas others have an Act or regulations which are much more general or only mention certain aspects of farm animal use.</p> <p>At the time of writing, the Codes on dairy cattle, goats and transportation of all farmed animal species are being updated, and a new Code, for farmed fish, is in development. The animal welfare NGOs Humane Canada and World Animal Protection are involved as members of NFACC.</p> <p>In 2009, a Working Group comprised of federal and provincial governments and industry representatives with an interest in animal agriculture in Canada drafted a National farmed Animal</p>	

²² <http://www.nfacc.ca/codes-of-practice>

²³ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5819020/>



Health and Welfare Strategy.²⁴ This Strategy entailed the creation of a National Farmed Animal Health and Welfare Council (NFAHW Council), formed in 2010 to advise governments and the animal-source food industries on all aspects of the health and welfare of farmed animals in Canada.²⁵ The Council is funded jointly by Canada's animal production sector, the Federal Government and provincial-territorial Government. The NFAHW Council advocated for the creation of a 'National Farm Animal Welfare System' in 2012, which would effectively establish nation-wide animal welfare standards.²⁶ The Strategy has to date not been enshrined into law.

In December 2018, the NFAHW Council called for a greater harmonisation of animal welfare legislation across provinces.²⁷ It suggested that the NFACC's Codes of Practice governing horses, cattle and other livestock species be referenced in every province's legislation, to establish a more coherent system of animal welfare protection in Canada.

Rearing - pigs

NFACC developed a Code of Practice for the Care and Handling of Pigs in 2014.²⁸ Individual stalls may be used for up to 28 days after the date of last breeding, and an additional period of up to seven days is permitted to manage grouping. Time in stalls can only be extended to protect the welfare of individual sows on the advice of a competent stockperson. As of 1 July 2024, sows must be housed in groups, individual pens or stalls, if they are provided with the opportunity to turn around or exercise periodically, or other means that allow greater freedom of movement. It was communicated that suitable options will be clarified by 1 July 2019, as informed by scientific evidence. However, at the time of writing, no explicit mention of suitable options has been published.

Sows must not be kept in farrowing crates for more than six weeks in any one reproductive cycle except in exceptional circumstances (e.g. when a sow is required to foster a second litter).

Castration, tail-docking and tusk trimming of piglets is allowed when it minimises stress, discomfort and pain. It may only be carried out by a 'competent stockperson'. As of 2016, pain control must be used when performing these procedures. Ear-notching can only be performed on piglets less than 14 days of age, but pain control is only recommended, not required. Teeth clipping is still permitted, but only when deemed necessary.

Rearing - broiler chickens

NFACC developed a Code of Practice for the Care and Handling of Hatching Eggs, Breeders, Chickens and Turkeys in 2016.²⁹ Stocking densities for broiler chickens must not exceed 31 kg/m² at any time. Stocking density may be increased to 38 kg/m² when the following conditions are met:

²⁴ <http://www.ahwcouncil.ca/pdfs/background-materials/NFAHWSFinalMay2009ENG.pdf>

²⁵ <http://www.ahwcouncil.ca/>

²⁶ http://www.ahwcouncil.ca/pdfs/animal-welfare-statement/NFAHWC%20animal%20welfare%20vision_cover%20page_2012.pdf

²⁷ <https://www.producer.com/2018/12/report-calls-for-standardizing-animal-welfare-rules/>

²⁸ https://www.nfacc.ca/pdfs/codes/pig_code_of_practice.pdf

²⁹ https://www.nfacc.ca/pdfs/codes/poultry_code_EN.pdf



- daily environmental monitoring (temperature, and relative humidity or ammonia) that demonstrates acceptable ranges are maintained and recorded
- daily water intake is monitored and recorded
- a Flock Health Plan is developed and followed
- alarms are installed and maintained to alert personnel when environmental conditions are out of acceptable ranges
- ongoing health and/or injury data indicate that the increased stocking density does not compromise bird welfare.

No enrichment is required. A minimum of four hours of continuous darkness is required.

Rearing - egg-laying hens

In NFACC's 2016 Code of Practice for the Care and Handling of Hatching Eggs, Breeders, Chickens and Turkeys, physical alterations to beaks, toes, spurs, combs, and snoods must be reviewed and evaluated regularly for welfare improvements and to determine the need for these practices.

NFACC has also published a Code of Practice for the Care and Handling of Pullets and Laying Hens in 2017.³⁰ This Code mandates a transition from conventional cages to enriched cages and non-cage systems. All hens must be housed in enriched cage or non-cage housing systems that meet this Code's requirements by 1 July 2036. If any hens have not been transitioned from conventional cages by 1 July 2031, each of those hens still kept in conventional cages must be provided with a minimum space allowance in those systems of 580.6 cm².

Rearing - dairy cattle and calves

NFACC developed a Code of Practice for the Care and Handling of Dairy Cattle in 2009.³¹ This does not prohibit tethering (tie stalls). The use of electric trainers is still permitted but must not exceed 2500 volts. Pain control must be used when dehorning or disbudding (removal of the horn bud prior to three weeks of age), as well as during castrating. Tail-docking must not be used unless medically necessary. Furthermore, dairy cows must have housing that allows them to easily stand, lie down, turn around and keep visual contact with other cattle. Bare concrete without bedding is prohibited. The Code of Practice for the Care and Handling of Dairy Cattle is being reviewed at the time of writing, with a completion date planned for 2021.

In addition, NFACC developed a Code of Practice for the Care and Handling of Veal Cattle in 2017.³² The Code states that from 1 July 2018, calves must not be tethered in newly built or substantially renovated facilities. The tethering of calves is fully prohibited starting from 31 December 2020. Calves must also be housed in groups no later than after eight weeks of age (effective on 31 December 2020). If individual housing in the first eight weeks of a calf's life must be used, then it must allow for easy movement to stand, lie down and turn around. Tail-docking is prohibited unless it is the advice of a veterinarian, and it must be done using pain control. Electrical prods must not be used on

³⁰ https://www.nfacc.ca/pdfs/pullets_and_laying_hens_code_of_practice.pdf

³¹ http://www.nfacc.ca/pdfs/codes/dairy_code_of_practice.pdf

³² https://www.nfacc.ca/pdfs/codes/veal_cattle_code_of_practice.pdf



calves less than three months old; and for older calves, electrical prods must not be used repeatedly on the same animal on genitals, belly or face.

Transport

The *Health of Animals Act* 1990³³ is the national law that protects the welfare of animals during transport and loading. It contains measures to prevent undue suffering by prohibiting overcrowding and setting the maximum amount of time an animal can be transported before receiving food and water and being unloaded to the ground for rest.

The *Health of Animals Regulations* were amended in 2019.³⁴ Starting in 2020, the Regulations will provide for longer rest periods and shorter hours of transport for many animals. For ruminants, instead of 48 hours they will now be transported for a maximum of 36 hours without feed, water or rest. Young cattle of eight days of less, can be transported up to 12 hours without food, water or rest. Pigs were allowed to be transported for 36 hours without feed, rest and water in the former legislation; in 2020, that will decrease to 28 hours. For broiler chickens, instead of 36 hours in former legislation, they will be able to be transported for a maximum of 24 hours without water and 28 hours without feed.

The NFACC developed a Code of Practice for Transportation in 2001.³⁵ At the time of writing, this Code is currently under review. There are species-specific provisions for calves, beef and dairy cattle farm deer, pigs, poultry, sheep and diversified livestock. There are also recommended maximum transport times and minimum feed, water and rest times, which are within the standards of the *Health of Animals Regulations*. Sheep and cattle may be transported for 48 hours; poultry for 36 hours; lactating dairy cows for 12 hours. For all species, the minimum feed, water and rest time is five hours.

Slaughter

The *Meat Inspection Act* is the only other federal law that applies to the welfare of farm animals. Relevant sections concern inspections and the slaughter of animals. The Act permits the use of electric prods and does not require chickens and domesticated rabbits to be rendered unconscious before being suspended for slaughter. The *Meat Inspection Act* was repealed and was replaced by the *Safe Food for Canadians Act* in 2012.^{36,37} This Act mostly regulates the conditions of slaughter (e.g. lightning, ventilation system, room dimensions. Subdivision C is dedicated to the humane treatment of animals. Animals must be handled in a way that does not cause avoidable suffering, injury or death (Section 128). The use of electric prods is allowed for pigs and for forcing the animal to move, when there is no 'practicable alternative' (Section 129(2)). Animals must be rendered unconscious before

³³ <http://extwprlegs1.fao.org/docs/pdf/can3451.pdf>

³⁴ <http://www.inspection.gc.ca/animals/terrestrial-animals/humane-transport/then-vs-now-humane-transportation-regulations/eng/1550521526833/1550521527082>

³⁵ http://www.nfacc.ca/pdfs/codes/transport_code_of_practice.pdf

³⁶ <https://laws-lois.justice.gc.ca/eng/acts/M-3.2/>

³⁷ <http://inspection.gc.ca/about-the-cfia/acts-and-regulations/regulatory-initiatives-and-notices-of-intent/sfca/eng/1338796071420/1338796152395>



slaughter (Section 141), except for ritual slaughters (Section 144). The Canadian Food Inspection Agency has guidelines for ritual slaughter without prior stunning.³⁸

Both provinces of Nova Scotia and British Columbia have Meat Inspection Acts. In Nova Scotia, animals must be stunned before slaughter (Section 81), without any exemption for religious slaughter.³⁹ British Columbia also mandates humane slaughter, with pre- and post-mortem inspections (Part 4, Section 13).⁴⁰

Analysis

Various provincial agriculture and food legislation contain provisions for humane treatment of farm animals. The Codes of Practice are also referenced in some provincial cruelty statutes. The Codes should be strengthened, and compliance with these minimal standards should be enforced through legislation. However, there is concern that these Codes are or could be used as a defence against an animal cruelty charge.

Although the Criminal Code sanctions acts of animal cruelty and neglect as criminal offences, there is little specific reference to farm animal welfare at federal level. There is no consistency in protection for farm animals in Canada, which means that animals may be raised in one part of the country with stronger welfare laws, but then transported to and slaughtered in another part of the country where laws on humane slaughter are not so strong or do not exist. Moreover, both the Criminal Code and provincial laws are complaint-driven, where the burden of proof is high.

With regards to the welfare of pigs, it is regrettable that sows can be housed in stalls and farrowing crates. However, it is positive that sow stalls are being phased out in Canada by 2024. However, there is no public transparency on whether the industry is on track to meeting this deadline. There is also a lack of clarity as to how this requirement will be enforced. Physical alterations are still permitted, but pain management has been required since 2016 for tail-docking and castration, the most common mutilation procedures.

With regards to broiler chickens, it is positive that Canada has included an upper limit to the stocking density. The maximum limit of 38 kg/m² is smaller than the European maximum (42 kg/m²) and still permits crowded conditions. Moreover, no enrichments are required to support natural behaviours such as pecking, perching and foraging.

With regards to egg-laying hens, the Code of Practice allows for a phase-out from conventional to enriched cages until 2036, which is a very long time, and enriched cages are only a modest improvement over conventional ones. Moreover, if there are still hens raised in conventional cages past 1st July 2031, instead of sanctioning the farmers, the cages will just need to be slightly larger. This is highly disappointing and does not effectively support the welfare of egg-laying hens, especially

³⁸ <https://www.inspection.gc.ca/food/food-specific-requirements-and-guidance/meat-products-and-food-animals/guidelines-for-ritual-slaughter-of-food-animals-wi/eng/1542387114106/1542388400893>

³⁹ <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC096271>

⁴⁰ <http://extwprlegs1.fao.org/docs/html/bc77784.htm#section13>



seeing other countries such as EU Member States, which have banned the use of conventional or battery cages since 2012.

For dairy cows, it is positive that tethering is prohibited for calves by 31 December 2020 through the voluntary Codes of Practice; however, tie stalls are still permitted.

With regards to animal transport, though it is positive that the Health of Animals Regulations 2019 have reduced the maximum number of hours that animals can be transported for without feed, rest or water, it is still very long compared to the US and EU. Given that this is one of the most stressful parts of a farmed animals life, the government should continually update the regulations based on the best available animal welfare science. It is disappointing that the federal Government watered down their initial proposal for decreasing food, water and rest intervals under pressure from industry lobby groups rather than basing them on the latest animal welfare science.⁴¹

With regards to slaughter, it is regrettable that the stunning of animals prior to slaughter is not mandated for all species and that non-stun slaughter is still permitted on religious grounds. This exception has been removed in some countries, where non-stun slaughter has been banned, such as in Denmark.

The proposal for a National Farm Animal Welfare System for Canada was motivated by the recognition that 'public attention to the welfare of farm animals has been increasing for the past half century in the industrialized countries, and world-wide especially during the past decade'.⁴² The proposal was effective at mainstreaming animal welfare since greater animal welfare was recognised as 'a benefit in itself'.⁴³ However, the Strategy was largely limited since it focused solely on farm animals.

Data collection and analysis of livestock welfare enforcement is limited, as most agencies do not separate their companion animal and livestock statistics. In addition, some enforcement agencies are not able to provide any enforcement statistics as agencies generally do not keep statistics specific to animal cruelty investigations, charges and convictions.⁴⁴ Greater transparency may assist in removing barriers to improvement.

After drawing up the National Farm Animal Welfare System in 2012, the National Farmed Animal Health and Welfare (NFAHW) Council consulted various organizations and individuals to monitor the progress of the recommendations made. These consultations resulted in a Progress Report (2015) on the National Farm Animal Welfare System.⁴⁵ These stakeholders expressed strong support for the Council's vision of a comprehensive farm animal welfare system. Concerns were raised, however, as to the implications or limiting effects of constitutional divisions of power in Canada, the costs associated

⁴¹ <https://www.theglobeandmail.com/news/national/cfia-bows-to-meat-industry-on-animal-transport-rules-documents-show/article34333265/>

⁴² http://www.ahwcouncil.ca/pdfs/animal-welfare-statement/NFAHWC%20animal%20welfare%20vision_cover%20page_2012.pdf page 3

⁴³ Idem

⁴⁴ <http://www.nfacc.ca>

⁴⁵ <http://www.ahwcouncil.ca/pdfs/NFAHWC%20Progress%20Report%202015.pdf>



with a national system and the future of basic animal welfare research; such key themes remain barriers to mainstreaming animal welfare.

Out of the 22 recommendations advanced in the System proposal, 'considerable progress' has been made.⁴⁶ Almost all recommendations explicitly addressing NFACC and the NFAHWC have been addressed and are either completed or are progressing toward an anticipated positive outcome (eight recommendations). While other recommendations are also progressing, their anticipated outcomes remain uncertain (six recommendations). Two recommendations are either not progressing or have been rejected, namely:

1. The Council of Chief Veterinary Officers (CCCVO) recommends against empowering provincial or territorial officials to enforce the Health of Animals Regulations, asserting that enforcement should be done by CFIA alone.
2. Relevant government agencies and all sectors of the animal-source food system ensure the financial means for regular review and updating of Codes of Practice. Progress on the remaining six proposals are unknown. Hence, the issues that they were intended to address or remedy presumably remain unresolved.

Enforcement mechanisms

Anyone who contravenes the relevant sections of the *Criminal Code* is guilty of an indictable offence with punishment by fines and/or imprisonment. Other enforcement mechanisms listed in Goal 1 apply here. Enforcement of the animal cruelty sections of the Criminal Code relies on general law enforcement by the police. There is no mention of whether there are specialists working for the Government to identify policy areas and instruments that ensure animals are protected or that peace officers are trained in this regard. Neither is there a stipulation for a specific team to implement the animal cruelty provisions of the Criminal Code at the federal level. It appears that law enforcement is dependent on members of the public reporting instances of animal cruelty.

Enforcement of the *Health of Animals Act* is the responsibility of Canadian Food Inspection Agency inspectors, some SPCA inspectors trained and appointed by the Agency, police officers and the British Columbia Minister of Transport.⁴⁷ The Health of Animals Act and the Safe Food for Canadians Act fall under the auspices of the Ministry of Agriculture and Agri-foods, while the Canadian Food Inspection Agency is responsible for administering and enforcing them. However, there is no mention of budget availability for implementing and enforcing these two Acts.

Most provincial regulations that contain stipulations relating to farm animals have enforcement mechanisms for these. Methods for implementing and enforcing provincial and territorial legislations vary. Some regions put responsibility on a Minister, as in Quebec, some have SPCA officers with powers to conduct investigations and seize animals, such as British Columbia., whilst others have committees, boards and animal protection officers as is the case in Manitoba. In Alberta, the Alberta SPCA and local humane societies (CHS, EHS, etc.) all have the ability to enforce the provincial animal

⁴⁶ <http://www.ahwcouncil.ca/pdfs/NFAHWC%20Progress%20Report%202015.pdf> page 4

⁴⁷ <https://www.nfacc.ca>



protection law. In every province, local police or RCMP can also enforce any provincial or federal animal protection law.

Compliance with the National Farm Animal Care Council's Codes of Practice is voluntary, but parts of the farming industry are moving towards second-party verification. For example, the Dairy Farmers of Canada verifies that all dairy producers comply with the National Code of Practice for the Care and Handling of Dairy Cattle.⁴⁸ Six provinces – British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Prince Edward Island (PEI) and Saskatchewan – have referenced the NFACC Codes of Practice for farm animals in their animal protection laws.⁴⁹

Prosecutors often reference the Codes of Practice in court as evidence of what is considered to be an acceptable practice. This is a good first step; however, animal welfare could be improved if the Codes of Practice were fully funded and used consistently as a minimum legal standard in every province. In some areas the Codes would also benefit from updating to reach the level of international best practice to improve farm animal welfare.

Key recommendations

- The Federal Government is urged to develop national policy to improve farm animal welfare and publicly report on progress made. It should play an active role in directing provinces to implement legislation that addresses the welfare of animals on the farm on a daily basis. These recommendations would support the vision cited in the National Farm Animal Welfare System for Canada, proposed in 2012.
- **In line with international standards, the Government of Canada is strongly encouraged to ban the use of any confinement housing for farm animals including sow stalls, farrowing crates, battery cages and tie stalls.**
- **As part of legislation protecting farm animals, it should be a requirement for all species to have minimum space requirements, to be given enrichments that satisfy their behavioural needs and to not be subjected to painful procedures.**
- The Government of Canada is urged to mandate the humane slaughter of all farm animals. Animals should be instantaneously rendered unconscious and insensible to pain and distress prior to slaughter. Today, there is growing consensus amongst religious authorities worldwide that pre-slaughter stunning is compatible with religious principles.⁵⁰ Humane halal slaughter allows for the animal to be temporarily rendered unconscious via stunning prior to slaughter, as long as the animal's skull remains intact and the animal would regain consciousness in time should slaughter not occur. Therefore, animals should be unconscious before being bled, and no further processing should occur until irreversible loss of consciousness is confirmed. No

⁴⁸ http://www.nfacc.ca/pdfs/codes/dairy_code_of_practice.pdf

⁴⁹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5819020/>

⁵⁰ [http://www.fao.org/3/x6909e/x6909e09.htm#b5-Religious%20or%20ritual%20slaughter%20\(Halal%20and%20Kosher\)](http://www.fao.org/3/x6909e/x6909e09.htm#b5-Religious%20or%20ritual%20slaughter%20(Halal%20and%20Kosher))

animal should be forced to witness other animals being slaughtered as this is inherently distressing. Where technology does not allow for pre-slaughter stunning, animals should be killed instantaneously. For poultry, Controlled Atmosphere Stunning is strongly recommended as it removes the need for live-shackling of birds and the errors associated with improper stunning. **When the latter occurs, birds’ necks are cut while they are still conscious, and they enter the scalding tank while still conscious.**

4. There are laws that apply to animals in captivity

Analysis of the legislation	
Ranking	E
<p><u>Zoos</u></p> <p>Sections of the Criminal Code relate to animals in captivity; Section 445.1(c) provides that it is an offence to wilfully give poison or drugs to a captive animal that is wild by nature, and under (d) it is an offence to have any involvement in any event where captive birds are let out of traps to be shot. Section 446(b) provides that it is an offence to abandon in distress or wilfully neglect or fail to provide food, water, shelter and care for a captive animal.</p> <p>Zoos are licensed provincially, and each province has a different approach. Six provinces require a license and have criteria listed to operate a zoo; other provinces might not specifically refer to a ‘zoo’ but will have criteria that need to be met to obtain a licence to keep wildlife in captivity. The requirements under a licence can be very specific (e.g., Alberta), will refer to Canada’s Accredited Zoos and Aquariums⁵¹ (CAZA) (e.g. British Columbia), or only refer to keeping of native wildlife (e.g. Ontario). In fact, Ontario has the weakest zoo regulation. A voluntary zoo registry was set up under the former Ontario Ministry of Community Safety and Correctional Services, which is now the Solicitor General.^{52,53} The Ontario Ministry of Natural Resources and Forestry still issues mandatory licences for the keeping of certain native species in captivity – the license is used for zoos, sanctuaries and rehabilitation centres. In New Brunswick, the criteria to obtain a license are under review at the time of writing.⁵⁴ There are no provisions at a national level providing more detailed regulation of animals kept in captive settings such as zoos.</p> <p>While the Criminal Code can be applied to captive wildlife, provincial laws are used more often to address captive wildlife welfare concerns. Most provincial animal cruelty laws make it an offence to cause or permit captive animals to experience distress but fail to establish adequate standards to address each species physical and behavioural needs. Some provinces have established mandatory</p>	

⁵¹ <https://caza.ca/>

⁵² <https://globalnews.ca/news/2746620/aurora-street-festival-cuts-ties-with-petting-zoo-after-public-complaints/>

⁵³ <https://ontariospca.ca/blog/the-ontario-spca-comments-on-animals-on-exhibit-in-zoos/>

⁵⁴ <https://caza.ca/news-room/canadas-accredited-zoos-and-aquariums-applauds-new-brunswicks-leadership-in-modernizing-exotic-animal-and-zoo-regulations/>



standards that can be applied to all captive wildlife or the purpose of their captivity (e.g. specifically for zoos or circuses). For example, regulations under the Ontario SPCA Act which has now been replaced with the Provincial Animal Welfare Services Act set out specific standards for captive wildlife, regardless of whether they are kept in a zoo, aquarium or circus or kept as a pet, whereas Nova Scotia has specific standards for circuses. British Columbia and Alberta have the most comprehensive zoo standards.

Private keeping of wild animals

At the federal level, permits are required to import or export animal species that are threatened by trade and are listed in the appendices of the Convention of International Trade in Endangered Species (CITES), but many wild animal species are not covered. Furthermore, the Canadian Food Inspection Agency (CFIA) regulates the trade in some other animal species who also require a permit to be imported into Canada, such as turtles, but most animals are not covered. There are few federal laws or regulations that restrict the trade or keeping of wild animals for animal welfare or human health and safety reasons.

Most provinces have licensing systems that restrict the keeping of wild animals (often, but not always, limiting this to zoos rather than keeping wild animals as pets), and these systems set out very basic standards to protect their welfare. These standards tend to cover basic welfare requirements such as ensuring the provision of adequate food, water, shelter and veterinary care but do not address psychological welfare such as the different needs of each species for expressing natural behaviour. Not all provinces have meaningful laws or regulations that adequately address wild animal trade, ownership and other issues, and a few provinces have simply delegated the responsibility for dealing with those issues to individual municipalities to address.^{55,56}

Exotic pet regulations vary from province to province but are primarily influenced by environmental or public safety concerns versus animal welfare. Ontario is the only province that does not require a licence to keep exotic wildlife in a zoo and that does not have any regulations to restrict the keeping of certain exotic wildlife as pets.

The province of British Columbia enacted the Controlled Alien Species Regulation⁵⁷ under the BC Wildlife Act on 17 March 2009. The Regulation, which is based on recommendations submitted by the BC SPCA to the BC Ministry of the Environment in 2007, lists over 1,000 previously unregulated non-native species as Controlled Alien Species (CAS). This list was based solely on potential public safety issues and not animal welfare or environmental concerns. Section 3 of the Controlled Alien Species Regulation specifies that a person must be in possession of a permit if he/she wishes to possess a big cat.

In Quebec, the Regulation Respecting Animals in Captivity⁵⁸ is the main piece of legislation that applies to the keeping of animals in captivity, the capture of animals for the purpose of keeping them

⁵⁵ https://www.worldanimalprotection.ca/sites/default/files/ca_-_en_files/wap_exotic_pets_in_canada_report_final_forweb_oct_3_2019.pdf

⁵⁶ <https://actnow.worldanimalprotection.ca/page/46533/action/1?ea.tracking.id=PR>

⁵⁷ http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/94_2009

⁵⁸ <https://www.canlii.org/en/qc/laws/regu/cqlr-c-c-61.1-r-5.1/latest/cqlr-c-c-61.1-r-5.1.html>



in captivity and, where applicable, the disposal of animals. This Act provides general obligations for the standards of care required to keep animals in captivity. It requires a license for anyone who wishes to keep animals listed in Schedule 1 (Section 5).

While many municipalities have animal control bylaws that include provisions for regulating the sale, trade and keeping of certain kinds of wild animals, there is little consistency amongst them. Some provinces in Canada have already moved towards adopting a Positive List, which is a clear concise list of species allowed to be kept as suitable pets on the basis of scientific risk assessments. For example, New Brunswick introduced in October 2017 and passed in December 2017 the Exotic Animal Act that 'regulates ownership and possession of exotic animals, in consideration of their conservation status and complex life needs'. The province had a positive list and it is currently under review with the aim to strengthen the safeguards for public safety, human health, and the health and safety of native species and habitat.⁵⁹ However other provinces such as Ontario are lacking any form of provincial legislation and have placed the onus on municipalities to regulate wild animals as pets.

Fur farming

There is no federal legislation governing fur farming in Canada. Fur farming has been regulated by law in some provinces. At the national level, fur farming is only covered by the National Farm Animal Care Council which in partnership with the Canada Fox Breeders' Association, it published a Code of Practice for the Care and the Handling of Farmed Fox⁶⁰ and a similar Code of Practice for Farmed Mink.⁶¹ These Codes outline minimum requirements for housing, security, feed, water, health, husbandry, euthanasia and transport, however, at the time of writing, only Newfoundland and Labrador have incorporated these requirements in their provincial legislation.⁶² At present, there is no legislation regarding the treatment of animals raised for fur in Ontario, Manitoba, Quebec, New Brunswick, Prince Edward Island, Yukon, Nunavut and the Northwest Territories. Furthermore, the labelling of fur items according to species and country of origin is not a requirement in Canada.

Analysis

Protection for captive animals varies across provincial laws, which leads to inconsistencies in terms of how provinces regulate the keeping of wild animals in captivity. exotic animals. Provincial statutes vary and some are stronger than others. Many of the standards contain undefined terms that are subject to interpretation and likely a challenge for enforcement. The standards could be improved by referencing the best available standards for each species. Ontario does not have a comprehensive licensing system to restrict the proliferation of zoos and does not have regulations to restrict the keeping of exotic wild animals as pets. Ontario is the only province that licences the keeping of native wildlife in zoos but not of non-native species. The Ontario Government is strongly encouraged to address this gap through regulations under the Ontario Provincial Animal Welfare Services Act. It is very promising that the new legislation allows the Lieutenant Governor in Council to establish regulations to prohibit animals that pose an undue risk to human safety or cannot be kept humanely in captivity (Section 18).

⁵⁹ https://www2.gnb.ca/content/gnb/en/departments/erd/news/news_release.2017.10.1400.html

⁶⁰ https://www.nfacc.ca/pdfs/codes/Farmed_Fox_Code.pdf

⁶¹ https://www.nfacc.ca/pdfs/codes/mink_code_of_practice.pdf

⁶² <https://www.nationalobserver.com/2015/11/18/behind-bars-canadas-fur-farmed-mink-and-fox>



Other provinces, such as British Columbia and Alberta, have a licensing system to phase out the possession of certain wild animals as pets.

With regards to wild animal kept as pets, there is a patchwork of federal, provincial, and municipal laws and regulations governing the trade and ownership of wild animals.⁶³ While laws and regulations do exist, they vary greatly across the country and leave many gaps and loopholes. Definitions of common terms, such as 'exotic animal', may differ from area to area; some kinds of animals may be prohibited in one jurisdiction but allowed in another; and few municipalities have robust criteria or processes for adding or removing species from their lists. Most municipalities also lack sufficient internal expertise and resources to provide oversight or to meaningfully enforce their own regulations. In addition, the fact that many bylaws are not proactive and preventative but instead are reactive, responding to complaints, incidents or situations only after they have occurred, compounds an already problematic situation. World Animal Protection's report published in October 2019, highlights that there are over 1.4 million exotic animals kept as pets in Canada.⁶⁴ Furthermore, Canada's permit application to obtain and keep a wild animal process has been described as a 'box ticking' exercise; if you apply for one - you usually get one.

In relation to improving the regulation of wild animals as pets, there is heavy opposition from the pet industry and a lack of interest from Governments in reforming their laws.⁶⁵ There is a desperate need for comprehensive, coordinated laws and regulations addressing the wide range of issues and problems inherent in the trade and keeping of wild animals as pets, including animal welfare, human health and safety and threats to native wildlife and natural ecosystems.

There exist various methods for implementing and enforcing the provincial legislations. Some regions put responsibility on a Minister, as in Quebec, some have SPCA officers with powers to make inspections and seize animals, such as Ontario, whilst others have committees, boards and animal protection officers as is the case in Manitoba, whereas some put the responsibility on local police or peace officers, such as Alberta. It is positive that provincial governments have acknowledged, albeit to differing extents, that captive animals have particular welfare challenges and needs. As such, different levels of legal protection have been established throughout the Canadian provinces for this category of animals. It would be beneficial to have harmonized provincial and territorial zoo regulations, and for the Federal Government to play a more proactive role to protect wildlife impact by inter-provincial and international trade. The Federal Government could encourage provinces and territories to establish an effective licensing system to prohibit the keeping of wildlife as pets and stop the proliferation of roadside zoos⁶⁶ and to require licensed facilities to meet higher, harmonised animal welfare standards that are informed by the science of animal welfare.

⁶³ <https://www.worldanimalprotection.ca/our-work/animals-wild/wildlife-not-pets>

⁶⁴ https://www.worldanimalprotection.ca/sites/default/files/ca_-_en_files/wap_exotic_pets_in_canada_report_final_forweb_oct_3_2019.pdf

⁶⁵ <https://pijaccanada.com/welcome-to-pijac-canada/about-us/history/>

⁶⁶ <http://kimberlymoynahan.com/2011/09/the-shameful-case-of-ontarios-roadside-zoos/>



Fur farming is inherently cruel and causes pain, distress and suffering to animals. Hence, the Code of Practice developed by NFACC will not protect animals raised for fur from suffering. The current legislative framework surrounding fur production in Canada varies across provinces and is inconsistent. Only a full ban on fur farming will effectively protect animals. In 2017, there were over 2.3 million mink and fox raised on fur farms in Canada, generating approximately CA\$800 million.^{67,68} There were over 200 mink and fox fur farms across the country, which produced over 2 million pelts.⁶⁹ While mislabelling fur is an offence, it is rampant with little attempt to rein this in, which means that products may contain fur without indication, and items advertised as 'faux' fur may actually contain real fur.

Enforcement mechanisms

Contravention of the relevant provisions of the Criminal Code is punishable with fines and/or imprisonment.

Those provinces that have regulations relating to animals in captivity or which include them in general animal welfare legislation have enforcement mechanisms.

With regards to fur farming, the Codes of Practice developed by NFACC and industry associations contain voluntary requirements. There is a lack of legislation to protect the welfare of wild animals raised or trapped for fur. As such, there is a lack of enforcement mechanisms for animals used in fur farming.

Key recommendations

- The Government of Canada is strongly urged to encourage provinces and territories to improve and harmonize legislation with regards to keeping wild animals in captivity. Notably, with regards to zoos, the governments are encouraged to establish an effective licensing system to prohibit the keeping of captive wildlife as pets and the proliferation of roadside zoos. Only facilities meeting science-informed, harmonized animal welfare standards should be granted a license to operate. Zoos should also be regularly inspected, and the results of such inspections should be made public.
- Recognising that wild animals cannot have their needs entirely met when kept as pets, the Provincial Governments of Canada are strongly encouraged to follow the example of New Brunswick and develop a Positive List of species, specifying which can be kept as companion animals, based on clear criteria including animal welfare and other relevant concerns. The Federal Government has an important role to play in addressing the regulatory gaps and restricting the import and export of wild animals destined for the pet trade. In addition to being difficult to keep humanely, many popular exotic pets carry zoonotic diseases.

⁶⁷ <https://fur.ca/fur-farming/a-look-at-the-fur-farming-industry/>

⁶⁸ <https://www.nationalobserver.com/2015/11/18/behind-bars-canadas-fur-farmed-mink-and-fox>

⁶⁹ <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3210011601>



- **The** Federal and Provincial Governments are urged to fully ban fur farming, which constitutes an inherently cruel practice.

5. There are laws that apply to companion animals

Analysis of the legislation	
Ranking	D
<p><u>Care of companion animals</u></p> <p>Section 445 of the Criminal Code provides that it is an offence to wilfully kill, maim, wound, poison or injure dogs, birds or animals other than cattle without lawful excuse. It is also an offence to leave poison somewhere that it could easily be consumed by these animals. Section 445.1 provides that owners of animals must not cause or allow their animal to be subjected to unnecessary suffering and that domestic animals must not be given any poisonous drug. Section 446 provides that it is a crime for an owner to wilfully neglect or abandon a domestic animal or fail to provide adequate care for the animal.</p> <p>All provinces and territories have laws providing some degree of protection to companion animals and many have specific provisions pertaining to commercial breeding and retail facilities, kennels and catteries, tethering, cosmetic surgeries (e.g. ear cropping, tail docking, declawing), abandoned animals, inspection, removal and rehoming and general standards of care.</p> <p>In particular, Manitoba has detailed stipulations in its 1996 Animal Care Act⁷⁰ regarding companion animals and uses this term specifically to describe non-commercial animals. Cosmetic mutilations such as tail-docking for horses or ear-cropping for dogs are prohibited under Newfoundland and Labrador's 2010 Animal Health and Protection Act.⁷¹ Some provinces have laws relating to companion animal welfare, such as the Nunavut Dog Act⁷² and the New Brunswick Pet Establishment Regulation made pursuant to the Society for the Prevention of Cruelty to Animals Act. Newfoundland and Labrador also have enforceable standards on kennels, catteries, pet retail stores, dogs and sled dogs. In October 2018, Nova Scotia became the first province to ban cat declawing.⁷³ It also outlawed other cosmetic mutilations of companion animals such as tail docking, ear cropping (both also banned in PEI), and devocalizing dogs.</p> <p><u>Stray animals</u></p>	

⁷⁰ <http://web2.gov.mb.ca/laws/statutes/ccsm/a084ei.php>

⁷¹ <https://www.assembly.nl.ca/Legislation/sr/statutes/a09-1.htm>

⁷² <https://www.animallaw.info/statute/canada-northwest-territories-statutesnunavut-dog-act>

⁷³ <https://www.cbc.ca/news/canada/nova-scotia/nova-scotia-becomes-1st-province-to-ban-cat-declawing-1.4577216#:~:targetText=Nova%20Scotia%20has%20officially%20become%20the%20first%20province%20in%20Canada,before%20it%20took%20effect%20today.&targetText=Declawing%20involves%20the%20amputation%20of%20bones%20in%20the%20cat's%20paws.>



No legislation has been found specifically relating to stray animals. Section 445.1 of the Criminal Code outlaws to kill, maim, wound, poison or injure dogs who are 'kept for a lawful purpose'. This provision therefore does not apply to stray animals.

Analysis

It is positive that the Criminal Code establishes a duty of care onto animal owners and prohibits the neglect and abandonment of companion animals. However, the protection given under the Criminal Code arises from classification of animals as property and, therefore, animals who are owned (rather than stray) are given priority. Stray animals are not protected with the anti-cruelty provision of Section 445.1 of the Criminal Code. Furthermore, if stray animals are not explicitly excluded from provincial animal welfare laws, they would not benefit from a duty of care, which is owed only to owned animals.

Stray and feral dog populations are a cause of concern in the country and fatal incidents have been reported,⁷⁴ as a result of a lack of resources and co-ordination regarding humane solutions.⁷⁵ It is noted that some NGOs and municipalities, such as Toronto⁷⁶ and Calgary,⁷⁷ have implemented trap-spay-neuter-release programs for stray cats and dogs and the Government is encouraged to develop this further.⁷⁸

National legislation would be beneficial to promote good welfare for companion animals. Currently, the individuals responsible for implementing provincial animal welfare laws differ between provinces and some provinces may have better implementation and enforcement than others. Lack of financial resources may be a barrier to improvement in this area, as provincial SPCA branches are relied on by provincial governments for enforcement but may suffer from budget constraints. A lack of financial and veterinary resources has been reported to be a barrier to introduction of humane population control of stray and feral dogs, as well as education on responsible pet ownership, for example, in the Northern Territories.⁷⁹

Enforcement mechanisms

Contravention of relevant parts of the Criminal Code is punishable by fines and/or imprisonment.

Provincial legislation addressing the welfare of companion animals contains enforcement mechanisms such as fines, imprisonment and prohibitions on owning animals. Failure to comply with the Newfoundland and Labrador standards can result in fines, and in default of payment, to imprisonment.

Key recommendations

⁷⁴ <http://www.ctvnews.ca/canada/stray-dog-solution-sought-after-manitoba-girl-fatally-mauled-1.1781791>

⁷⁵ <http://www.castanet.net/news/Canada/116734/Battle-to-control-stray-dogs>

⁷⁶ <https://www.toronto.ca/community-people/animals-pets/spay-neuter-services/>

⁷⁷ <https://www.calgary.ca/CSPS/ABS/Pages/Animal-Services/No-cost-spay-neuter-program.aspx>

⁷⁸ <http://www.ctvnews.ca/canada/first-nations-communities-fight-to-control-stray-dog-population-1.1858539>

⁷⁹ <http://www.castanet.net/news/Canada/116734/Battle-to-control-stray-dog>



- **The** Federal and Provincial Governments of Canada are urged to ban cosmetic mutilations on companion animals including tail docking and declawing.
- **The Government of Canada is** strongly encouraged to enact federal legislation mandating the humane treatment of companion animals. The Government should encourage humane animal population management. At minimum, stray animal populations should be protected from cruel acts.
- The Federal and Provincial Governments of Canada should promote responsible pet ownership, including encouraging citizens to adopt companion animals rather than buying them, to address the problem of unwanted animals overburdening animal shelters, and animals being abandoned outdoors.
- **The Government of Canada should** also play a role to restrict the keeping of wild animals as pets, for instance through adopting a Positive List, which would specify which animals can be kept as companion animals, based on clear criteria including animal welfare concerns. While some provinces have regulations, the Federal Government could assist by restricting international and inter-provincial trade to reduce animal welfare, public health and safety and environmental risks and collect better data on the number of wild animals kept as pets. Currently there are no government records on the vast majority of exotic wild animals kept privately as pets (including tigers, monkeys, and snakes).

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

Analysis of the legislation	
Ranking	E
<p><u>Animals used for entertainment</u></p> <p>The federal and provincial general anti-cruelty provisions apply to this category of animals.</p> <p>In October 2018, The Minister of Justice and Attorney General of Canada introduced Bill C-84 to strengthen laws on animal fighting under Section 445.1 and 447 of the Criminal Code. It received Royal Assent in June 2019 and prohibits promoting, arranging, assisting, taking part in, or receiving money for the fighting or baiting of animals; breeding, training or transporting an animal to fight another animal and building or maintaining any arena for animal fighting.</p> <p>Some provincial animal cruelty laws have specific provisions to protect service animals and sled dogs. Since 2012, British Columbia has had legislation to protect sled dogs with provisions to protect their</p>	



psychological welfare.⁸⁰ This Sled Dog Code of Practice was developed by a working group, comprised of sled dog industry representatives, veterinarians, the BC SPCA, academics and Ministry of Agriculture's staff but no government resources have been allocated for regular inspection or enforcement. Newfoundland and Labrador also have specific regulations to protect the welfare of sled dogs.

Wild animals are permitted to be used in circuses at national level, although there are local bans on the use of animals in circuses in 38 jurisdictions as of January 2018.⁸¹

A major rodeo event takes place annually at Calgary Stampede.⁸² Horse and greyhound racing are also practiced in Canada. Greyhound racing is not banned in law, but 'unlegislated', which means that greyhound races can be organised, though it is forbidden to bet on them.⁸³

First introduced in 2015, Bill S-203, a private members bill originating in the Senate, was the subject of much debate since it aimed to outlaw keeping cetaceans in captivity at the federal level.⁸⁴ It became law in June 2019. The new Ending the Captivity of Whales and Dolphins Act 2019⁸⁵ effectively bans keeping and breeding of cetaceans through amendments to the Criminal Code. In addition, this Act also amends the Fisheries Act to prohibit the taking of a cetacean into captivity and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act to require a permit for the import of a cetacean into Canada and the export of a cetacean from Canada. The Act concerns two facilities in Canada: the Vancouver Aquarium in Vancouver, British Columbia and Marineland in Niagara Falls, Ontario.

In June 2019, Bill C-84 amended the Criminal Code to close loopholes to fully ban animal fighting and bestiality. It is now prohibited for anyone to take part of, promote, receive money for animal fights.

Draught animals

No federal legislation exists specifically relating to animals used for draught. However, the city of Montreal has banned horse-drawn carriage rides.⁸⁶

Analysis

It is positive that the Criminal Code clearly forbids the cruel practice of animal fights. However, there is little detail specific to the welfare of animals used for other recreational purposes at the federal level. There are more details at the provincial level, but this is not harmonised across the country.

Canada appears to be a leader in marine mammal welfare with the passage of Bill S-203. The

⁸⁰ http://www.gov.bc.ca/agri/down/sled_dog_code_of_practice.pdf

⁸¹ http://www.pawsweb.org/documents/PAWS_bans_exotic_animals_1_17_2018.pdf

⁸² <https://www.animaljustice.ca/media-releases/animal-justice-demands-cruelty-investigation-into-horse-death-at-calgary-stampede>

⁸³ <http://canadaguidetodogs.com/dog-clubs/dog-sports-activities/greyhound-racing/>

⁸⁴ <https://openparliament.ca/bills/42-1/S-203/>

⁸⁵ <https://www.parl.ca/DocumentViewer/en/42-1/bill/S-203/royal-assent>

⁸⁶ <https://www.ctvnews.ca/canada/montreal-announces-new-animal-bylaw-moves-to-ban-horse-drawn-carriages-1.3973641>



grandfathering principle of the Bill makes the animals currently in captivity the last generation in Canada. Animals can still be exported abroad upon obtention of a permit for scientific research or if it is deemed to be in the best interest of the animals. This was the case when in September 2019, the Canadian Government approved Marineland's permit to export two belugas to Spain.⁸⁷ It is yet not clear which conditions must be met for such a permit to be issued. However, then Minister of Fisheries and Oceans, Jonathan Wilkinson stated that the venue's confirmation that they will not breed the whales was important in deciding to approve the permit. It is unclear how the government will determine what is in the best interest of the cetaceans or deemed worthy scientific research, but this is at the Minister's discretion.

With regards to sled dogs, it is positive that British Columbia has enacted welfare standards through its Sled Dog Code of Practice. This was in response to the cruel culling of 56 sled dogs after the Olympic Games in 2010. However, BC's standards still permit the animals to be tethered for long periods of time. Welfare problems remain for sled dogs in other provinces of Canada, which have even weaker regulations.⁸⁸

Budgetary constraints and the reliance on non-governmental provincial organizations for enforcement may provide a barrier to improvement in this area. It is not stated whether there are particular peace officers who are given training in enforcing this, and other areas of the Criminal Code relating to animal welfare, or whether there is money budgeted for funding this work. Socio-cultural attitudes towards the use of animals may also present barriers to improving animal welfare.

The rejection of the use of wild animals in circuses in some parts of the country suggests that some improvement may be possible in relation to the use of animals for recreational purposes.

Enforcement mechanisms

Contravention of the relevant parts of the *Criminal Code* is punishable with fines and/or imprisonment.

The recent Ending the Captivity of Whales and Dolphins Act lays out that fines up to CA\$200,000 could be imposed on marine parks not in compliance with the law.

Since no legislation has been found on draught animals, there are no enforcement mechanisms associated to this category of animals.

Key recommendations

- **The** Government of Canada should be commended for having adopted Bill S-203 in June 2019, which effectively bans the breeding, keeping and trade in cetaceans from and to Canada for public entertainment. This sends a powerful signal that Canada agrees with the scientific evidence showing that marine mammals cannot thrive in captivity. Therefore, Canada represents an example for other countries to follow by enacting similar bans. While a

⁸⁷ <https://www.cbc.ca/news/canada/hamilton/two-marineland-belugas-moving-to-spain-after-ottawa-issues-permits-1.5273901>

⁸⁸ <https://www.thestar.com/opinion/contributors/2019/07/28/its-time-to-end-mistreatment-of-sled-dogs.html>



challenging solution, the government should be supporting efforts to try to move at least some of the animals currently captive to large seaside sanctuaries, which allow for an increased range of natural behaviours.

- **Building upon the** *Ending the Captivity of Whales and Dolphins Act*, the Federal and Provincial Governments of Canada are urged to ban the use of all animals in circuses and other forms of entertainment. Animals should not be used for entertainment.
- **Moreover, the** Federal and Provincial Governments of Canada are urged to prohibit other entertainment events causing animal suffering, such as horse races, greyhound races and rodeos. Welfare concerns for such activities include housing, diet, transport, management, training, the use of the whip and risk of injury and death. Due to these serious animal welfare concerns and the Five Freedoms of animals being compromised, the Government of Canada is strongly encouraged to ban the breeding, training and racing of horses and greyhounds for races or other forms of entertainment.

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

Analysis of the legislation	
Ranking	E
<p>Animals used in research are covered by the general stipulations in the <i>Criminal Code</i> regarding suffering, but there are no specific regulations at federal level regarding this use of animals and the <i>Criminal Code</i> refers only to 'unnecessary' pain, suffering and injury.</p> <p>The Canadian Council on Animal Care (CCAC) is an autonomous and independent body, which was created to oversee the ethical use of animals in science in Canada; it is an organization made up of industry representatives that publishes standards in the form of guidelines and policy statements regarding the treatment and care of animals used in research, in academic and related institutional settings.⁸⁹ It is a non-profit organization financed primarily by the Canadian Institutes of Health Research (CIHR) and the Natural Sciences and Engineering Research Council of Canada (NSERC), with additional contributions from federal science-based departments and agencies and private institutions participating in its programmes. It is governed by a Council of representatives from 22 national organizations and up to three limited term member organizations. The CCAC sets voluntary standards and produces information and reports for public dissemination. The CCAC also develops and makes available educational opportunities and reference materials to support the training and educational needs of animal users.</p>	

⁸⁹ <https://www.ccac.ca/en/about-the-ccac/>



The CCAC has various fundamental principles⁹⁰ and guidelines; compliance with CCAC guidelines and policies is a requirement to receive a certificate of Good Animal Practice.⁹¹ In the 'Ethics of animal investigation', the CCAC acknowledges the importance of the Three Rs principles in research – Replacement, Reduction, Refinement.⁹² Namely, animals should be used only if the researcher's best efforts to find an alternative have failed (Replacement). Those using animals should employ the most humane methods (Refinement) on the smallest number of appropriate animals required to obtain valid information (Reduction). Eight Canadian provinces – Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Quebec and Saskatchewan – have amended their regulations to refer to CCAC standards, either in their animal protection legislation or separate animal research regulations. Ontario has specific legislation called the *Animals for Research Act*.⁹³

Since the API was first published in 2014, Canada has progressed towards banning animal testing for cosmetics, since the *Cruelty Free Cosmetics Act* (Bill S-214)⁹⁴ was approved by the Senate in June 2018.⁹⁵ This Bill would amend the *Food and Drugs Act* by prohibiting both domestic animal testing for cosmetics as well as the sale of cosmetics that have undergone any form of new animal testing after the ban comes into effect. The Senate amended the Bill to include a phase-in period to allow industry time to comply with the legislation. However, the Bill did not pass in time before Parliament ended before the federal election in 2019.⁹⁶

Analysis

Guidance for animal care and use is important to regulate the conduct of appropriate animal-based science and to protect the welfare of animals used in science. However, the CCAC is not an official regulatory body or part of the Government. This area relies on industry to self-regulate and the CCAC standards are not proactively enforced by any legislated enforcement body. Notably, institutions which experiment on animals can choose to not participate in the CCAC programmes and not to have an animal care committee. The only legal implication of the CCAC standards is that the Federal Government must withhold federal funding from institutions that are non-compliant. However, this seems to have never happened. Private research institutions, on the other hand, have no incentive to submit themselves to the CCAC standards.

Although it is practical to refer to a specific body of industry standards, the references of provincial legislation to these standards leaves little room for the establishment of effective policy and legislation that exclusively focuses on animal welfare issues for this category of animals. The Government is therefore encouraged to introduce specific regulation and to refer to the existing industry standards as a complementary measure of protection.

⁹⁰ <https://www.ccac.ca/en/standards/fundamental-principles.html>

⁹¹ <https://www.ccac.ca/en/standards/guidelines/>

⁹² https://www.ccac.ca/Documents/Standards/Policies/Ethics_of_animal_investigation.pdf

⁹³ <http://www.omafr.gov.on.ca/english/food/inspection/ahw/ara-index.htm>

⁹⁴ <https://www.parl.ca/DocumentViewer/en/42-1/bill/S-214/third-reading>

⁹⁵ <https://www.plantbasednews.org/post/canada-cosmetics-animal-testing-ban-closer>

⁹⁶ <https://www.nationalobserver.com/2019/06/12/news/liberal-mp-wants-know-why-ban-animal-testing-cosmetics-still-isnt-law>



Animal Care Committees, which are set up in each participating institution, are responsible for ensuring that the CCAC standards are adhered to. The Animal Care Committee membership is varied but does not contain a representative from any animal welfare organization. Membership of this kind could provide another perspective on animal welfare of research animals which current members may not have.

Bill S-214 intended to ban the use of animal testing for cosmetics is a positive development for animal welfare, which should bring Canada in line with the many other countries having already banned animal testing for cosmetics.⁹⁷ In addition, this ban is in accordance with a 2012 public opinion survey finding that 88% of Canadians agree that testing new cosmetic products is not worth the animals' pain and suffering.⁹⁸

Enforcement mechanisms

The Canadian Council on Animal Care (CCAC) does not have the power to enforce any of its standards by legal measure. Administrators, veterinarians and researchers in the institutions where experiments with animals take place are responsible for ensuring compliance with the guidelines and senior administrators must report any non-compliance, but the voluntary element makes it difficult for researchers to be held accountable. Post-approval monitoring mechanisms should in place once the relevant Animal Care Committee approves research through assessment visits and follow-ups, and through training and discussion sessions on post-approval monitoring at CCAC workshops. However, even under this voluntary system, inspections are pre-announced and take place every two years. If a laboratory is in compliance, inspections may occur once every five years.

Where the use of animals extends beyond causing 'necessary' pain, suffering or injury, this could be enforced under the Criminal Code.

Key recommendations

- **At present, there is no legally enforceable legislation that promotes the humane treatment** of animals used in scientific experiments. At the very least, the Government of Canada is strongly encouraged to include CCAC standards with regards to animal testing in legally binding regulations and standards, applicable at the federal level. Moreover, such federal legislation should enshrine the Three Rs principles – Replacement, Reduction, Refinement – so that Canada is in line with international standards.

- **The Government of Canada is urged to** pass legislation similar to the former Bill S-214, the Cruelty Free Cosmetics Act would effectively ban animal testing for cosmetics at the federal level. This legislation would bring Canada closer to international animal welfare standards.

⁹⁷ http://www.hsi.org/world/canada/work/endanimaltesting/qa/cosmetics_qa_canada.html

⁹⁸ https://www.huffingtonpost.ca/rebecca-aldworth/animal-testing-canada_b_4987771.html?ec_carp=8339330065519444101#



8. There are laws that apply to wild animals

Analysis of the legislation	
Ranking	C
<p>There are no provisions giving specific detail on non-captive wild animals in the Criminal Code.</p> <p>The 1985 Canada Wildlife Act⁹⁹ applies to all animals wild by nature and their habitats and allows ministers to make regulations to protect them. Section 8 provides that the Minister may establish measures to protect endangered wildlife, with the cooperation from provincial governments. Funding to implement the Act and human resources to undertake the work are both mentioned in the Act. Part 11 states that wildlife officers and analysts may be appointed by the Minister for the purposes of the Act, who have the same powers as peace officers.</p> <p>The 1992 Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act¹⁰⁰ protects wild animals and prohibits the trade in them or their parts unless a permit is granted for this by the Minister. This Act gives peace officers and specially designated officers the power to implement and enforce the provisions laid out in this Act. This Act is designed to meet Canada's obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).</p> <p>The Canadian Food Inspection Agency has also enacted specific rules about importing wild animals to Canada.¹⁰¹ If the animal species in question is not endangered, then it is not covered in the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act, and the Health of Animals Regulations¹⁰² apply.</p> <p>The 2002 Species at Risk Act¹⁰³ exists to protect wildlife species at risk in Canada and recover struggling populations. This Act protects listed wildlife species and creates the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) that assesses species at risk and identifies threats to them. It also creates the Canadian Endangered Species Conservation Council which consists of the Minister of the Environment, the Minister of Fisheries and Oceans, the Minister responsible for the Parks Canada Agency, and the ministers of the government of a province or a territory who are responsible for the conservation and management of a wildlife species in that province or territory. This Council provides general direction on the activities of COSEWIC, the preparation of recovery strategies and the preparation and implementation of action plans; and coordinate the activities of the various governments represented on the Council relating to the protection of species at risk. This puts wildlife protection at the highest government level and demonstrates that this is an issue of importance.</p> <p>At provincial level, the main protections in most provincial animal cruelty laws apply to wild animals,</p>	

⁹⁹ <https://laws-lois.justice.gc.ca/eng/acts/W-9/>

¹⁰⁰ <https://lois-laws.justice.gc.ca/eng/acts/W-8.5/FullText.html>

¹⁰¹ <https://www.inspection.gc.ca/animals/terrestrial-animals/imports/policies/live-animals/eng/1320833881215/1320833972327>

¹⁰² https://laws-lois.justice.gc.ca/eng/regulations/c.r.c.,_c._296/

¹⁰³ <https://laws-lois.justice.gc.ca/eng/acts/s-15.3/>



but exempt activities such as hunting, trapping and fishing as these are considered 'acceptable' practices so long as they are carried out in accordance with the applicable regulations. Most provinces and territories have separate legislation to protect wildlife, but the primary purpose is to conserve species populations rather than protect the welfare of individuals. However, some aspects of the legislation and regulations arose out of animal welfare concerns, such as provincial bans on hunting bears in the spring to prevent orphan cubs, restrictions on the use of bait and dogs when hunting, bans on penned hunts and bans on inhumane traps such as snares. Provincial governments are required to work with the Minister in implementing the Canada Wildlife Act where this is relevant to their territory.

The Canadian Government still allows commercial seal hunting, which is different than subsistence sealing by Indigenous communities. The Government requires sealers to go through a humane killing practices training, before being granted a hunting licence.¹⁰⁴ To ensure that seals die quickly, the Government's guidelines require that sealers target a seal's head with a firearm, a club or a hakapik – a wooden club, with a hammer head (used to crush a seal's skull) and a hook (used to drag away the carcass). The sealer is then required to make sure that the animals are dead and to sever their arteries before skinning them. Canada sets the highest annual quota for seal hunting (including harp, hooded and grey seals) in the world, namely 400,000 in 2016.¹⁰⁵

Analysis

The Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act is designed so that Canada abides by CITES; the Act is limited since it only applies to wild animals listed under CITES, rather than all wild animals. Furthermore, CITES does not prohibit all trade in listed species.

The Species at Risk Act is furthermore highly problematic since, although COSEWIC recommends listing species, the decision is left up to the Minister. Scientific evidence is therefore placed on a lower level of importance than political considerations. For instance, the listing of polar bears as a species of 'special concern' under Schedule 1 of the Act took over a decade. COSEWIC had assessed polar bears as worthy of 'special concern' already in 2002, when noting a numerous human threats to the species.¹⁰⁶ Since the enactment of the Species at Risk Act, the Federal Government has postponed a listing decision for the polar bear, explaining there was insufficient information.¹⁰⁷ In 2009, the Federal Government conducted a National Roundtable on Polar Bears.¹⁰⁸ Eventually, the species was listed in Schedule 1 of the Act in 2011.¹⁰⁹

There is substantial legislation and government activity protecting various species of wild animals from a conservation point of view, through three main legislations – the Canada Wildlife Act, the Wild Animals and Plant Protection and Regulation of International and Interprovincial Trade Act and the Species at Risk Act. However, these legislations do not specifically address the welfare of individual

¹⁰⁵ <http://www.dfo-mpo.gc.ca/decisions/fm-2016-gp/atl-03-eng.htm>

¹⁰⁶ <http://publications.gc.ca/collections/Collection/CW69-14-351-2004E.pdf>

¹⁰⁷ http://www.sararegistry.gc.ca/virtual_sara/files/orders/g2-13902i_e.pdf

¹⁰⁸ http://www.sararegistry.gc.ca/virtual_sara/files/ri_polar_bear_0209_e.pdf

¹⁰⁹ https://wildlife-species.canada.ca/species-risk-registry/species/speciesDetails_e.cfm?sid=167



wild animals beyond the prohibition on cruelty in the Criminal Code.

It is positive that there are governmental bodies specifically responsible for the implementation and enforcement of conservation legislation; so, if this could be extended to include protecting the welfare of individual animals, this could form part of the remit of those bodies. However, there are significant barriers to the issue of animal welfare with respect to wild animals. For example, the government has opposed international animal protection measures such as the European Union ban on the leghold trap¹¹⁰ and the European Union import ban on seal products.¹¹¹

The Canada Wildlife Act assigns power at a high level to the Minister and the provincial government to create protection measures for wild animals and gives the Minister the power to make regulations. However, the Act appears to be concerned with conservation rather than animal welfare as it states that animals that are in danger of extinction may be protected and describes measures to encourage wildlife conservation rather than those to protect wild animal welfare.

The Canadian Government justified the commercial seal hunt for cultural and economic reasons.¹¹² In 2016, however, the seal hunt generated only CA\$1.6 million in sales, compared to CA\$34 million in 2006, according to Canada's Department of Fisheries and Oceans. The sale of seal fur products is hindered by a 2009 European Union ban on this trade, due to animal welfare concerns.¹¹³ Canada appealed the ban to the World Trade Organization, but lost in 2014.¹¹⁴ In addition, the Government of Newfoundland and Labrador also states that the hunt is justifiable for conservation purposes, to 'bring balance to the marine ecosystems'.¹¹⁵ The Federal Government allocates CA\$2.5 million per year to monitor seal hunts that occur in the North-East of the country.¹¹⁶ It appears clear that commercial seal hunting is still very much a controversial issue in Canada and that animal welfare considerations are hampered by political interests. The seal hunt no longer generates much economic benefits and it is subsidized. Every federal political party except the Green Party has refused to take a stand against it out of fear of losing votes in important ridings where sealing is important for livelihoods or otherwise supported.

Enforcement mechanisms

Contravening the Wild Animals and Plant Protection and Regulation of International and Interprovincial Trade Act is punishable with fines and/or imprisonment.

Wildlife officers and analysts under the Canada Wildlife Act have the power to carry out inspections of premises where they believe there are any activities that are against the Act, with offences punishable with fines and/or imprisonment.

¹¹⁰ http://ec.europa.eu/environment/biodiversity/animal_welfare/hts/index_en.htm

¹¹¹ <http://www.ctvnews.ca/canada/canada-loses-wto-appeal-eu-seal-products-ban-upheld-1.1833331>

¹¹² <https://news.nationalgeographic.com/2017/04/wildlife-watch-canada-harp-seal-hunt/>

¹¹³ http://ec.europa.eu/environment/biodiversity/animal_welfare/seals/seal_hunting.htm

¹¹⁴ https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds400_e.htm

¹¹⁵ https://www.fishaq.gov.nl.ca/sealing/pdf/humaness_environmental_significance.pdf

¹¹⁶ <https://www.theguardian.com/environment/2016/mar/09/canada-seal-hunting-ban-animal-rights-activists-justin-trudeau>



The Species at Risk Act contains a stewardship action plan, which the Minister may establish to create incentives and other measures to support voluntary stewardship actions taken by any Government in Canada, organization or person. A copy of the stewardship action plan must be included in the public registry. The Act also gives a competent minister the power to designate any person to act as an enforcement officer for the purposes of the Act, with the power to carry out inspections. Offences are punishable with fines and/or imprisonment.

Enforcement of the anti-cruelty provisions of the Criminal Code is detailed in Goal 1.

Key recommendations

- The Federal and Provincial Governments of Canada are encouraged to ban any form of hunting that does not directly support subsistence **i.e. for feeding oneself and one’s family and** not for commercial gain. Subsistence hunting operations must employ the least cruel methods of hunting and slaughter, and all possible efforts should be made to reduce the time to death of animals killed in these hunts. At the very least, the Government is strongly encouraged to forbid the use of the cruellest hunting methods.
- **Seeing the cruel methods** used in the seal hunt and the challenges of enforcing a humane hunt, the Government of Canada is urged to ban commercial seal hunting.

Goal 3: Establishment of supportive government bodies

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

Analysis of the legislation

Ranking	D
<p>At the federal level, there is no specific body with responsibility for development of policy on animal welfare. The Federal Government relies on implementation and more detailed regulation and enforcement taking place at the provincial level.</p> <p>Most of provincial legislation is the responsibility of a provincial minister who usually has the power to make or recommend regulations and powers of enforcement are typically given to the various provincial Societies for the Prevention of Cruelty to Animals (SPCAs), which are primarily funded by public donations. Police officers or special constable positions created by the legislation can also enforce provincial laws pertaining to animal welfare.</p> <p>In 2019 the Ontario SPCA, Edmonton Humane Society and Saskatchewan SPCA surrendered their enforcement role, leaving local governments to find solutions. This resulted in the Ontario government</p>	



passing the Provincial Animal Services Act which creates a publicly funded and accountable animal protection enforcement system. Under this new Act, the Minister appoints the Chief Animal Welfare Inspectors, who can then appoint further animal welfare inspectors.

The Federal/Provincial Animal Welfare Working Group (FPAW) is a forum that consists of representatives from the federal, provincial and territorial governments who have the responsibility for aspects of animal welfare in their respective jurisdictions.¹¹⁷ Members of FPAW are technical specialists in some aspects of animal welfare.¹¹⁸ The group meets informally, mostly by monthly calls, to help improve communications about animal welfare within and between governments. This sharing of information allows governments to build awareness and response-capacity for animal welfare issues.

At the national level, two main organizations have specific animal welfare mandates and are responsible for various aspects of animal welfare. The National Farm Animal Care Council, to which World Animal Protection is now a member, produces Codes of Practice for the care and handling of farm animals, which detail the minimum requirements as well as set out recommended practices for good animal welfare. In addition, the Canadian Council on Animal Care (CCAC) is an organization made up of industry representatives that publishes standards in the form of guidelines and policy statements regarding the treatment and care of animals used in research, in academic and related institutional settings.

Analysis

At present, animal welfare issues are mostly dealt with at the provincial level, since there is no federal body responsible for animal protection. It would be beneficial for the Federal Government to coordinate animal welfare legislation at a central level, with a team of people working with the provinces to improve animal welfare protection across the board, with reporting requirements and resources allocated. This would harmonise legislation and would make provincial governments accountable for maintaining animal protection in their jurisdiction.

Currently, only some legislation such as the Species at Risk Act requires provincial governments to work with the federal Minister on issues related to endangered species. Most regulated animal welfare issues such as animal husbandry practices, zoos, circuses, hunting, trapping, fishing, pet stores and dog breeding fall under the remit of the provincial and territorial governments. While provincial and territorial governments have taken some responsibility for these animal welfare issues, this is not due to a lack of federal jurisdiction on the matter but rather an abdication of federal leadership and responsibility. Both federal and provincial levels of government can regulate activities that cause animal suffering and should. There is, however, no obvious national method for tracking progress and accountability on animal welfare improvement.

Enforcement of the relevant legislation in the provinces and federally is often the responsibility of law

¹¹⁷http://www.oie.int/fileadmin/Home/eng/Support_to_OIE_Members/docs/pdf/201804_09_final_OIE_PVS_Evaluation_report_Canada_Eng.pdf

¹¹⁸ <http://www.ahwcouncil.ca/pdfs/forum-2013/final%20FPAW%20presentation%20to%20NFAHW%20National%20aa%20input.pdf>



enforcement officers who may or may not have special training in the field of animal welfare, including the ability to recognize whether animals are suffering or in distress. One of the biggest issues in animal welfare law is the division of the enforcement authority: animal welfare laws are enforced through the SPCAs, the police or the Canadian Food Inspection Agency (CFIA). Since all these bodies have jurisdiction in some way over animal welfare, there is a lot of inconsistency in the training of these officers. The extent to which officers receive training in this area as part of their curriculum is not clear.

Furthermore, funding for non-governmental animal protection law enforcement is variable across the provinces. Most provincial SPCAs receive some government funding, but it is usually far less than what is necessary for effective enforcement and means organizations must rely on fundraising to this end; provincial SPCAs have expressed concern about the lack of resources for their role in enforcement.¹¹⁹

In January 2019, an Ontario court declared that the province's enforcement system, which delegates enforcement power to the Ontario SPCA, is unconstitutional because the charity was not sufficiently accountable or transparent.¹²⁰ The Ontario's SPCA CEO Kate MacDonald explained that the SPCA will shift into a support role in animal cruelty investigations, providing animal shelter, forensic evidence collection and veterinary services.¹²¹ Shortly after this decision, a report by the animal welfare organisations Zoocheck and Animal Alliance of Canada suggested launching a new government commission which would oversee the enforcement of animal welfare law, rather than having a charity such as the SPCA entrusted with enforcement powers.¹²² In November 2019, the Ontario Court of Appeal overturned the Supreme Court ruling which declared that the enforcement powers of the Ontario SPCA were unconstitutional.¹²³

Enforcement mechanisms

Responsibility of provincial Ministers is mandated by legislation.

Key recommendations

- **The Federal Government is strongly encouraged to coordinate with the** Provincial Governments to harmonise animal welfare legislation and enforcement powers. At present, various authorities such as provincial SPCAs or public bodies have enforcement powers. The Federal Government is encouraged to improve enforcement powers through providing more resources to support the creation and training of dedicated public bodies to enforce animal cruelty laws. Moreover, a working group specifically dedicated to animal welfare could be constituted at the national level, working in cooperation with provincial governments.

¹¹⁹ <https://www.cbc.ca/news/canada/newfoundland-labrador/spca-hopes-for-more-government-funding-following-survey-1.1225924>

¹²⁰ <https://www.thetcanada.com/2019/01/03/ontario-spcas-police-powers-are-unconstitutional-judge-rules/>

¹²¹ <https://www.ctvnews.ca/canada/ospca-tells-ontario-government-it-will-no-longer-enforce-animal-cruelty-laws-1.4321416>

¹²² <https://www.zoocheck.com/wp-content/uploads/2019/01/New-Directions-Report-2017-rev.pdf>

¹²³ <https://www.animaljustice.ca/media-releases/court-of-appeal-reverses-ruling-that-ospca-law-enforcement-powers-are-unconstitutional>



Goal 4: Support for international animal welfare standards

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

Analysis of the legislation	
Ranking	E
<p>The OIE Animal Welfare Standards focus on transport, slaughter, production systems (beef cattle, broiler chickens, dairy cattle, pigs), stray dog population control, the use of animals in research and education, and working equids.¹²⁴</p> <p>All Codes of Practice in Canada 'should meet or exceed OIE standards.'¹²⁵ However, there is much disparity across the provinces in terms of what the animal welfare legislation contains. The current federal level legislation does not incorporate the OIE standards on animals used for scientific research, since the OIE promotes the Three Rs principles,¹²⁶ which are not enshrined in legislation across the country. At present, the use of animals for scientific research is regulated through the CCAC, which is not an official regulatory body or part of the Government. The use of animals in research relies on industry to self-regulate, and the CCAC standards are not proactively enforced by any legislated enforcement body.</p> <p>Analysis <i>Laws across Canada's provinces vary; a first step to mainstream the OIE's standards into policy and legislation across the country could be to work on harmonised application of the standards and guiding principles at national level.</i></p>	
Enforcement mechanisms	
<p>There are enforcement mechanisms for those of the OIE's standards that are covered by provincial legislation.</p>	
Key recommendations	
<ul style="list-style-type: none"> • The Federal and Provincial Governments of Canada are strongly encouraged to at minimum comply but eventually exceed OIE standards when it comes to animal transport, slaughter, stray dog population control etc. 	

¹²⁴ <http://www.oie.int/infographic/StandardsAW/index.html>

¹²⁵ <https://www.nfacc.ca/code-development-process>

¹²⁶ https://www.oie.int/index.php?id=169&L=0&htmfile=chapitre_aw_research_education.htm



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

Analysis of the legislation

On 6 November 2009, the House of Commons of Canada **agreed** to a motion raised under Private Members' Business 'that, in the opinion of the House, the government should support, in principle, the development of a Universal Declaration on Animal Welfare at all relevant international organizations and forums'.¹²⁷ In May 2010 the Minister of Foreign Affairs confirmed that the Government of Canada is supportive, in principle, of the UDAW.

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

Analysis

Recognition of the UDAW shows the Government's assimilation in policy of high international standards and objectives about animal protection, which is a powerful agent to include animal welfare considerations in decision-making processes. However, although the government supports UDAW, the national regulations protecting animals are not as comprehensive as they could be.

Enforcement mechanisms

There are no enforcement mechanisms relevant to this indicator.

Key recommendations

- The Government of Canada has pledged full government support in principle to UDAW. As such, Canada is an example for other countries to follow to champion UDAW at the national **and international levels. All levels of government should fulfil Canada's commitment to a UDAW** by passing stronger animal welfare laws.

Last edited: 3 March 2020

Publication: March 2020

¹²⁷ <https://openparliament.ca/debates/2009/11/6/don-davies-5/>