

Impact case study

Institution: The University of Hong Kong (HKU)
Cost Centre: Law
Title of case study: Review of Animal Welfare Legislation in Hong Kong
1. Summary of the impact (indicative maximum 100 words) <p>This research provided the first and, to date, only empirical study of the adequacy of animal protection legislation in Hong Kong. The study generated widespread public discussion and impetus for law reform and was used by the Agricultural Fisheries and Conservation Department (AFCD) to introduce new legislation controlling the breeding and sale of companion animals in Hong Kong with the enactment of the <i>Public Health (Animals and Birds) (Animal Traders) Regulations</i> 2016. The study also resulted in significant policy change in stray-animal management and introduction of specialised training for police and prosecutors in presenting animal cruelty cases at court.</p>
2. Underpinning research (indicative maximum 500 words) <p>In 2008, Amanda Whitfort and Dr Fiona Woodhouse were awarded a Public Policy Research grant by the Research Grants Council to conduct a comparative study evaluating animal protection legislation (HKU 7010-PPR-5). As Hong Kong's animal welfare laws were drafted in the 1930's, the review was timely. Whitfort and Woodhouse empirically investigated local laws protecting animals kept for companionship, food, entertainment and laboratory use, and controlling wild and feral animals. They evaluated Hong Kong's laws against those enacted in other common law jurisdictions and provided a series of recommendations for law reform. The study was successfully completed in 2010 with the release of a comprehensive 180 page report: <i>Review of Animal Welfare Legislation in Hong Kong</i> [R1]. The report was disseminated to the public, interested NGOs and government.</p> <p>The study found that Hong Kong's anti-cruelty legislation lacked the necessary power to assist animals in danger of suffering and abuse. The current law is enforced only when an animal is the victim of an overtly cruel act. Criminal neglect of animals is not regarded as an offence. The study recommended significant reform to Hong Kong's laws through the introduction of a new Animal Welfare Ordinance, which would impose on owners a positive duty to care properly for their animals [R1, R4]. In regard to sentencing practices in animal cruelty cases, the study found that despite the maximum penalty for the offence having been raised in 2006, court sentences had remained lenient, even following convictions for sustained and serious abuse [R1, R2].</p> <p>The study also uncovered serious failures at local slaughterhouses and in live wet food markets to meet animal welfare standards prescribed by the OIE (World Organisation for Animal Health) Terrestrial Animal Health Code 2009 (Slaughter of Animals), to which China is a signatory [R1, R2, R4].</p> <p>In relation to the pet trade, the study found Hong Kong's lack of legislative control on animal trading had resulted in only two licensed dog breeders offering animals for sale in Hong Kong, with the remaining animals coming from unlicensed hobby breeders or import dealers. The study highlighted that the continued lack of legislation requiring the licensing of all dog breeders had allowed animals of dubious origin and health to be widely sold throughout the Territory, threatening public health and compromising animal welfare standards [R1, R2].</p> <p>The study also highlighted that licensing conditions for breeders and pet shops were seriously out of date with modern animal welfare laws, when compared with other jurisdictions, including Singapore. The study noted that animal traders in Hong Kong need not demonstrate any suitability for caring for animals, or provide animal welfare training to their staff and the government had no power to revoke an animal trader's licence, even after the trader had been convicted of an animal cruelty offence [R1, R2, R3].</p>

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In relation to stray dogs, the study investigated and rejected any legal impediments to the introduction of new government policy permitting a Trap-Neuter-Return programme for feral dogs in Hong Kong. Whitfort's research investigated and evaluated TNR programmes supported by the World Health Organization (WHO) data and the OIE, which are utilized effectively for managing feral or community dog populations in other countries [R1, R2].

Amanda Whitfort was appointed Assistant Professor in the Department of Professional Legal Education in 2001 and promoted to Associate Professor in 2005.

Dr Fiona Woodhouse was appointed Deputy Director (Welfare) Society for Prevention of Cruelty to Animals (HK) in 2003.

3. References to the research (indicative maximum of six references)

1. **Whitfort, A.S.** and Woodhouse, F.M. *Review of Animal Welfare Legislation in Hong Kong*, June 2010.
2. **Whitfort, A.S.** 'Advancing Animal Welfare Laws in Hong Kong', *Australian Animal Protection Law Journal*, 2009, v. 2: 65-78 (peer reviewed).
3. **Whitfort, A.S.** *Halsbury's Laws of Hong Kong*, 'Animals', Vol 1(2), 2008, v. 1 n. 2: 83-213 (reissued and updated by the author in 2013 and 2016).
4. **Whitfort, A.S.** 'Evaluating China's Draft Animal Protection Law', *The Sydney Law Review*, 2013, v. 34:347-370 (peer reviewed A* (top 5%) law journal in the Australian Research Council Ranking of Journals).

Selected external grant funding:

Review of Animal Welfare Legislation in Hong Kong (HKU 7010-PPR-5)

Funding Scheme: Public Policy Research
Principal Investigator: Ms Amanda Whitfort
Period: 2008-2010
Amount Awarded: HK\$497,000

4. Details of the impact (indicative maximum 750 words)

(1) Societal Awareness

The publication of Whitfort and Woodhouse's *Review of Animal Welfare Legislation in Hong Kong* raised a previously neglected field of study to a topic of widespread public debate and concern. Societal awareness of the poor state of Hong Kong's animal welfare laws has led to intense pressure on government to introduce law reform. Whitfort has given public lectures on the study, and has been invited to present her findings and recommendations to the AFCD, the Department of Food and Environmental Hygiene, the Department of Justice, the Hong Kong Police, Legislative Council members (LegCo) and other stakeholders, including veterinarians and animal welfare officers. Since 2010, Whitfort has provided input to numerous local and international news articles, radio talk back programmes and television exposes. Media publicity has focused on increasing public concern as to the adequacy of legislation available to address cases of cruelty to animals.

(2) Change in Legislation and Policy

In November 2010, Whitfort and Woodhouse's study was endorsed and adopted by six legislative parties sitting in LegCo who made a joint call on the government to implement the study's findings in new animal welfare policies for Hong Kong [1]. The study has been endorsed by the Administration in meetings of the LegCo Food and Environmental Hygiene Panel (chaired by Alan

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Leong SC and Dr Helena Wong) and both the former and current Secretary for Food and Health have committed to studying Whitfort and Woodhouse's findings further [2, 3].

In 2010, Whitfort and Woodhouse were invited to join the AFCD's Animal Welfare Advisory Group's Legal Sub-committee, as expert advisors. The Sub-committee is charged with developing animal welfare initiatives in law and policy for the AFCD. In 2011, in response to one of the key recommendations made in the Whitfort and Woodhouse study, the AFCD announced the introduction of a trial "Trap-Neuter-Return" programme (in conjunction with the SPCA) for managing the welfare of feral dogs and improved policies for the management of abandoned animals which allow easier adoption access for the public [4, 5].

In 2016, the study's key recommendations for reform of the pet trade were passed into law by the *Public Health (Animals and Birds) (Animal Traders) Regulations* [6, 7]. Alongside the new regulations, legally enforceable *Licensing Conditions* and *Codes of Practice* for the care of companion animals in Hong Kong were also drafted by the Sub-committee, on the basis of Whitfort and Woodhouse's findings. These will come into effect in 2017 (initially for dogs and later for cats and exotic pets). The new laws not only combat animal cruelty by improving the welfare conditions of animals bred and sold in Hong Kong but close a legal loophole which had allowed the majority of dogs sold to be sourced from unlicensed breeders and puppy mills, which is a serious risk to public health. [8].

The Sub-committee continues to examine the study's findings to support further law reform initiatives including Hong Kong's need to update its legislation to comply with OIE requirements for pre-slaughter stunning of food animals in wet markets and the modernisation of cruelty laws to recognise criminal negligence as a basis for liability for prosecution.

(3) Support for NGOs in effecting law reform

The study has provided critical support to NGO's working in the field. In 2011, the former Executive Director of SPCA (HK) made the following comments on the importance and impact of the study [9]:

This is the first review of its kind conducted in Hong Kong and its publication has been of immense value to society. It has created an excellent platform for positive change and much needed reform. We are currently utilising the Review's findings as a basis for dialogue with government and other animal welfare stakeholders. We have also disseminated the results of the Review to our members and are using the findings as a means to marshal support for law reform.

In a 2014 video, the former Secretary to the Hong Kong Law Reform Commission made the following observation on the study:

Professor Whitfort's research on animal welfare legislation is extremely important. It puts forward the case, very strongly, for reform of Hong Kong's legislation and it informs and encourages debate within government and the wider community. It is extremely difficult to have legislation changed. Virtually any government is conservative and resistant to change, but the process of change is hugely helped if you have, supporting your arguments, the kind of empirical, comparative research that Professor Whitfort has produced.

(4) Improved prosecutions of animal related offences

Responding to the findings of the study, the AFCD is now meeting regularly with the police and SPCA (HK) to discuss animal welfare cases and the Department of Justice is proactively reviewing sentences for animal cruelty convictions. Whitfort has participated in training senior prosecutors and police to present animal prosecutions more effectively at court [10].

5. **Sources to corroborate the impact** (indicative maximum of 10 references)

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1. Hansard Report of 3 November 2010, showing all major political parties calling on Government to introduce animal welfare friendly policies, and citing Whitfort and Woodhouse's *Review of Hong Kong's Animal Welfare Legislation*, pp1603- 1672 at 1611 and 1637.
<http://www.legco.gov.hk/yr10-11/english/counmtg/hansard/cm1103-translate-e.pdf>
2. LegCo Panel on Food Safety and Environmental Hygiene Meeting, 13 Nov 2012, Dr Alan Leong SC Chairman referred the Food and Health Bureau to Whitfort's *Review on Animal Welfare Legislation on Hong Kong* on the need for all dog traders in Hong Kong to be licensed in order to close puppy mills, LC Paper No CB (2) 408/12-13 at para 29.
<http://www.legco.gov.hk/yr12-13/english/panels/fseh/minutes/fe20121113.pdf>
3. LegCo Panel on Food Safety and Environmental Hygiene, 14 January 2014, Dr Hon Helena Wong Pik-wan, Chairman, referred the Food and Health Bureau to Whitfort's *Review on Animal Welfare Legislation on Hong Kong* on the need to introduce a duty of care for animals in Hong Kong, LC Paper No CB (2) 1459-13-14, at para 31.
<http://www.legco.gov.hk/yr13-14/english/panels/fseh/minutes/fe20140114.pdf>
4. Report of LegCo Finance Committee July 2011, establishing \$1.7 million funding for the Introduction of a new policy implementing a "Trap Neuter Return" Trial Programme for Stray Dogs in Hong Kong. The report cites Whitfort's *Review of Hong Kong's Animal Welfare Legislation* in regard to the legal liabilities of a stray dog pilot scheme at paragraph 20.27-20.30.
http://www.legco.gov.hk/yr10-11/english/fc/fc/minutes/sfc_rpt.pdf
5. LegCo Panel on Food and Safety and Environmental Hygiene Meeting "Trap-Neuter-Return trial scheme for stray dogs and handling of animal cases", 14 January 2014, Paper updating Members on progress of "Trap Neuter Return" Trial Programme for Stray Dogs and Handling of Animal Welfare Cases, LC Paper No CB (2) 621/13-14(03)
<http://www.legco.gov.hk/yr13-14/english/panels/fseh/papers/fe0114cb2-621-3-e.pdf>
6. Agriculture, Fisheries and Conservation Department has provided a confirmation letter documenting the contribution of research from Whitfort to the Public Health (Animals and Birds) (Animal Traders) Regulations 2016, new Licence Conditions and Codes of Practice for dog traders and breeders and the AFCD's continuing animal welfare initiatives in Hong Kong.
7. Amendments to Cap 139B to close legal loophole permitting puppy mills in Hong Kong: *Public Health (Animals and Birds) (Animal Traders) Amendment Regulation 2016*, LN 64 of 2016.
<http://www.legco.gov.hk/yr15-16/english/subleg/negative/ln064-2016-e.pdf>
8. South China Morning Post Report, 20 August 2016, No more puppy mills: Tighter animal welfare laws will clamp down on unscrupulous breeders.
<http://www.scmp.com/print/news/hong-kong/law-crime/article/2006612/no-more-puppy-mills-tighter-animal-welfare-laws-will-clamp>
9. The former Executive Director of the Society for the Prevention of Cruelty to Animals (HK) has provided a confirmation letter documenting the contribution of Whitfort's research to the Society's efforts to initiate law reform benefitting animals.
10. Invited Seminar by Amanda Whitfort to Senior Public Prosecutors in 2013, cited in Department of Justice, Prosecution Division 2015 Report at page 61.
http://www.doj.gov.hk/publications/doj2015/eng/pdf/07_prosecutions_e.pdf