

## THE UNIVERSITY OF HONG KONG

### IMPACT CASE HISTORY

#### **Paving the Way for Policy Changes and New Legislation for Animal Welfare in Hong Kong**

#### 1. Summary

Research done by Ms Amanda Whitfort of The University of Hong Kong has brought to light the serious inadequacies in Hong Kong's laws for the protection of animals. Hong Kong laws in this area, enacted in 1935, are seriously outdated: they are concerned with prevention of cruelty rather than the promotion of a duty of care, and typically cruelty cannot be proven until harm to the animal has already been done.



Her review on this previously neglected area has generated a lot of public discussions and more importantly, has sparked off policy changes and new legislation. It is the first review of its kind in Hong Kong and has profound policy implications and clear impact on society. It also involves very active knowledge exchange with the professions and the community.

#### 2. Underpinning Research

Ms Amanda Whitfort, Associate Professor in the Department of Professional Legal Education, Faculty of Law, is the leading authority on Animal Welfare Law in Hong Kong. In 2008 she was awarded a Public Policy Research (PPR) grant by the Research Grants Council to provide a comparative review of the animal welfare laws of Hong Kong. Hong Kong's animal welfare laws were drafted in the 1930's and a review of current law was timely. She successfully completed this review in 2010, in collaboration with Dr Fiona M Woodhouse, Deputy Director (Welfare) of the Society for Prevention of Cruelty to Animals (Hong Kong) [SPCA (HK)].

The review found Hong Kong's anti-cruelty legislation lacks the necessary power to

assist animals in danger of suffering and abuse. The law, as it now stands, was enacted in 1935, and can only be enforced against an owner where an animal has already been the victim of an overt act of cruelty. Currently, nothing can be done under the law to protect animals in serious danger of suffering, unless or until they are seriously harmed. The authors recommended significant reform to the anti-cruelty laws, through the introduction of a new Animal Welfare Ordinance, which would impose on owners a positive duty to care properly for their animals. Such a law would not only protect animals which have already been harmed but also protect those animals in serious danger of harm, if the circumstances in which they are being kept do not change.

The review also found that licensing conditions for pet shops are seriously out of date with modern welfare science, when compared with those imposed in other common law jurisdictions, including Singapore. Animal traders need not demonstrate any suitability for caring for animals, or provide animal welfare training to their staff. The Agricultural, Fisheries and Conservation Department (AFCD) has no power to revoke an animal trader's licence even if a trader has been convicted of an animal cruelty offence.

The review noted that there are currently only two licensed breeders in Hong Kong, with the remaining animals offered for sale coming from hobby breeders or from import dealers. The continued lack of legislation controlling hobby breeders allows animals of dubious origin and health to be widely sold throughout the territory.

The review rejected any legal impediments to a government approved Trap-Neuter-Return programme (TNR) for feral dogs in Hong Kong and recommended this method as the only humane way to deal with the problem. TNR programmes are supported by World Health Organization (WHO) data and the OIE (World Organisation for Animal Health), and are utilized effectively for managing feral or community dog populations in other countries.

The authors also uncovered serious failures, at local slaughterhouses, on farms and in live food wet markets to meet animal welfare standards prescribed by the OIE Terrestrial Animal Health Code 2009 (Slaughter of Animals), to which China is a signatory.

The report showed that sentences had not changed since the maximum penalty was increased in 2006 to three years in prison and a HK\$200,000 fine, from the old standard of six months in prison and a HK\$5,000 fine.

Throughout the 180-page review, the authors provided recommendations for extensive amendment to laws, regulations and codes of practice affecting the welfare of animals kept as pets, sold for food, used for experimentation in laboratories and living wild in Hong Kong.

### 3. References to the Research

#### **Key publications:**

**Whitfort, A.S.** *Halsbury's Laws of Hong Kong*, 'Animals', Vol 1(2), 2008, v. 1 n. 2: 83-213 (re-issued and updated by author in 2013).

**Whitfort, A.S.** 'Advancing Animal Welfare Laws in Hong Kong', *Australian Animal Protection Law Journal*, 2009, v. 2: 65-78 (peer reviewed).

**Whitfort, A.S.**, and Woodhouse, F.M. *Review of Animal Welfare Legislation in Hong Kong*, June 2010.

**Whitfort, A.S.** Evaluating China's Draft Animal Protection Law, *The Sydney Law Review*, 2013, v. 34:347-370 (peer reviewed).

#### **Selected external grant funding:**

1. 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 or Benefit

Ms Whitfort's project on animal welfare has a strong focus in humanity, a previously ignored area which requires not only advanced research but also public education. Since publication of the review report in June 2010, Ms Whitfort has made continuous effort to transfer animal welfare related legal knowledge to the professions, the Hong Kong Government and the general public.

Ms Whitfort has presented the review findings and recommendations to the Agricultural, Fisheries and Conservation Department (AFCD), the Department of Justice (DoJ), the Hong Kong Police, Legislative Council (LegCo) members and other stakeholders including veterinary staff and animal welfare officers, and at public lectures.

The Executive Director of SPCA (HK) has made the following comments on the importance and impact of Ms Whitfort's review of animal welfare legislation in

## Hong Kong:

*“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.”*

Since the press conference held by Ms Whitfort in July 2010, this previously neglected topic has attracted intense public interest. Ms 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, and the Government is currently under pressure to update legislation. Ms Whitfort’s recommendations in relation to the pet trade have been adopted by the AFCD in their amendment to animal trader licensing conditions (due to be passed by LegCo into legislation later this year).

The review report was circulated to all LegCo members, and had been endorsed and adopted by six legislative parties who made a joint call to the Government (recorded in Hansard, November 3, 2010) to implement the HKU review’s findings in a new animal welfare policy for Hong Kong. Both the former and current Secretary for Food and Health have stated that the Government is committed to studying the HKU project’s findings further. The report has been extensively referred to in meetings of the LegCo Food and Environmental Hygiene Panel (chaired by Alan Leong SC).

In response to one of the key recommendations made in the review, the AFCD has announced the introduction of a trial “Trap-Neuter-Return” programme for managing the welfare of feral dogs and improved policies for the management of abandoned animals which allow easier adoption access for the public. In line with Ms Whitfort’s recommendations, the AFCD has begun to develop codes of practice for the care of companion animals, and is now meeting regularly with the police and SPCA (HK) to discuss animal welfare cases. The review report continues to serve as reference material for the Animal Welfare Advisory Group’s Legal Working Group of AFCD and LegCo.

The Department of Justice is proactively reviewing sentences for animal cruelty convictions, and Ms Whitfort has participated in training senior prosecutors to present animal prosecutions more effectively.

Ms Whitfort has also integrated her research into teaching and learning. She has developed and began teaching a Masters in Law course in Animal Law and Rights at the University in 2008, which is the first internationally focused Animal Law course in Asia.

Ms Whitfort's pioneering work for Hong Kong has not only increased public awareness in the poor state of Hong Kong's animal welfare but also sparked off policy changes and new legislation. It has profound policy implications and clear impact on society.

## 5. References to the Corroboration of Impact or Benefit

- **Statement of support** from the Executive Director of the Society for Prevention of Cruelty to Animals (Hong Kong) [SPCA (HK)] is available for corroboration purpose.

- **Media Coverage:**

- The review findings and recommendations were extensively covered in local newspapers and online news media.
- Facebook support pages have since been set up by members of the public to campaign for the recommendations.

- **Membership of External Bodies:**

- Ms Whitfort was invited to serve on the Hong Kong Government's Legal Advisory Group to the Agriculture Fisheries and Conservation Department.
- Ms Whitfort is elected chair of Hong Kong Lawyers for Animals (a pro bono legal advisory service).
- Ms Whitfort was invited to chair the SPCA (HK) Legal Working Party.

- **Invited Presentations to External Groups:**

Ms Whitfort has given invited presentations to the AFCD Animal Welfare Advisory Group, the Department of Justice Senior Prosecutors, the Hong Kong Police, the City University of Hong Kong School of Biological Science (via a public workshop for Laboratory Animal Researchers), SPCA veterinary surgeons, nursing staff and Inspectorate, as well as public lectures at The University of Hong Kong and the SPCA (HK).