

Animal Welfare Concerns and Policy in the Agricultural Industry

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Abstract

The contemporary welfare situation for farm animals is shaped by a history of legal and societal attitudes, which view animals as property. While such views have evolved, and have given rise to animal cruelty laws, many of these laws do not apply to farm animals, particularly chickens and sea life. Thus, it is useful to examine policy avenues to protect the welfare of farm animals. This is especially crucial today, with dramatic increases in meat consumptions throughout the latter half of the twentieth century. This study focuses on farm animal welfare policy in the United States and Europe. In order to provide legal context, this study compares the relative strength of companion animal protection laws, farm animal welfare laws, and human healthcare laws in the United States and Western Europe, to find correlations. The study finds that there is a significant correlation between nations with relatively strong laws in the aforementioned categories. In-depth analysis of government and economic processes is also essential; thus, I explore Proposition 2 in California and European Union Council Directive 1999/74/EC, both of which ban certain forms of intensive confinement on factory farms.

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Background & History

The legal situation of animals today, particularly those in the agricultural sector, is influenced by a long history of animal agriculture and domestication. This comes with a history of legal views of animals as property, and a history of instrumental attitudes, which view farmed animals primarily in terms of their economic value. When animals are viewed as “property” or “resources,” then the primary purposes of the animals are for “means to ends,” which makes it difficult to view the animals as “sentient beings.” It is difficult, then, to enforce anti-cruelty legislation, as the animals’ property purposes supercede the animals’ interests as “sentient” beings. For example, legislation that prohibits inflicting “unnecessary” suffering on animals is difficult to enforce or even define, as any suffering that seems to serve a purpose of human “ends” may be deemed necessary (Francione 2007, 17-18). Economics and profit are influential in a sector as major as agriculture; for example, in the United States, the government spent an estimated 135.7 billion dollars on food and agriculture in 2015 (National Priorities Project 2015). Profit is a particularly hard driver of policy in a capitalist economy, in which each person or company strives to make profit for oneself. Government support, including legislation and economic policy, provide and remove legal and economic incentives to enact meaningful animal welfare policies. This relates to government structure as well, because the ways in which the government decides policy goes a long way to determine enacted policy, along with regulation and oversight.

Ancient History

The history of animal agriculture and domestication dates back to ancient human civilization. Animal agriculture generally began around Western Asia, along with parts of Eastern Europe and Central Asia; dogs, sheep, and cattle, were among the first animals to be domesticated (University of Missouri Extension n.d.). Cattle were domesticated in the Fertile Crescent, China and Pakistan, and potentially in Africa; they were traded into Europe and other places. They were put to a variety of uses, including meat, milk, leather, and beasts of burden (Hirst 2018).

“Wild chickens originated in India and East Asia ... and appear to have been domesticated around 7000 B.C., ... in China and India. Chickens spread to West Asia

around 2500 B.C., and on to Africa and Egypt thereafter” (Mercola 2012). Ancient Egyptians developed “incubation” for eggs. Ancient Greeks and Romans “sacrificed” chickens in “rituals” (Mercola).

Modern History

The industrial revolution gave way to increases in intensive raising of livestock. Robert Bakewell (1725-95) was the first major “stock breeder” of farm animals. Bakewell bred animals with characteristics that allowed him to breed far greater numbers of animals, and kept careful notes of the genealogy of the animals (The Industrial Revolution 2003).

In the early 20th century, chickens were raised “for fun.” After World War I, chicken farms shifted from backyard to industrial factory farms. Between the 1920s and 1940s, sizes of chicken farms exploded. Midwest farmers depended on chicken farming for their economy. “By the early 1990s, chicken had surpassed beef as Americans' most popular meat (measured by consumption ... not opinion polls)” (Mercola).

World War II had a significant impact on the development of factory farms. Prior to World War II, most farms were family farms. However, during the war, there was a significant demand to feed the soldiers, and meat was a sought-after food resource to acquire energy quickly. Thus, significantly higher quantities of meat than usual were demanded, and the demand for quick production of meat was higher than usual. To keep up with this demand, the government provided heavy subsidies to large-scale farms. These large scale factory farms, or Concentrated Animal Feeding Operations (CAFOs) largely replaced family farms. After the war, the demand decreased, and the government ended its large subsidies on large agricultural corporations. However, these corporations wanted to remain in business. Therefore, prices of meat decreased substantially, because consumers were typically not willing to pay higher costs for meat products. Lower costs in turn drove up consumption rates (Runkle and Stone 2017).

An explosion in meat consumption has occurred over the past 60 years. In 1950 and 1955, 0.1 billion land animals were killed per year for human consumption in the United States; in 1960, this number was 1.8 billion, in 1995, this number was 8 billion, and in 2007, this number was 9.5 billion (HSUS 2016). The increase in consumption, and the increase in factory farming practices, fuel one another, and foster an increasingly dire situation for animals on farms. By 2006, over 99 percent of chicken

sold in the United States came from “factory-farm production” (Singer and Mason 2006, 21).

This history leads us to the current situation, in which industrial animal agriculture is standard practice in virtually all industrialized societies. As a result, society is increasingly detached from its food sources, which impedes development of welfare standards for animals on farms. The current legal system echoes this, and animals on farms have virtually no rights in many cases. Animal cruelty laws have been enacted, but contain numerous exemptions based on categories of animals. Typically, companion animals are given full or near full protection from animal cruelty laws, but animals in laboratories, wild animals, “pests,” and animals on farms may be denied many or all of these protections, and in some cases, they may even be excluded from the legal definition of “animal” (Tomaselli 2003). For example, a pet chicken may have “companion animal” status, and thus afforded legal protections given to companion animals, but if the *same chicken* were on a factory farm, this chicken may be stripped of any legal protections (at the discretion of the state and local governments). However, in some jurisdictions, minimal protections for animals on farms have recently emerged. Therefore, it is essential to examine the legal system and government structure, to provide the foundation to protect animals in various settings, particularly on farms.

Ethical theorists have examined the issue of animal agriculture from both animal rights and animal welfare standpoints. Animal rights or animal liberation perspectives typically advocate against usage of animals for instrumental purposes, and suggest that such uses are rooted in speciesism, while animal welfare and animal protection perspectives typically advocate for improvements in the treatment of animals, but do not necessarily suggest an “abolitionist” approach (Li 2006, 113). In their book, *The Ethics of What We Eat: Why Our Food Choices Matter*, Peter Singer and Jim Mason examine the history of animal agriculture. They theorize that the advent of animal agriculture gave rise to the notion that it is acceptable to use animals instrumentally. Jim Mason states that he was shocked at the advent of factory farming. They also note that, unlike Buddhism (Singer and Mason 2006, 263) and Socrates (3), Christianity does not offer guidelines on what to eat. They go on to examine recent history, in which awareness of factory farming increased. They make note that Europe has made more progress for treatment of farm animals, and that eggs sold in the United Kingdom are dramatically more likely to be free range than are eggs sold in the United States (6). This makes way

for exploration of animal ethics, as well as agricultural ethics, from a political or cultural perspective.

Varied Concerning Elements in Animal Agriculture

Issues of animal agriculture intersect with related issues, including land use, water use, water contamination, air pollution, species extinction and other social justice issues, including workers' rights and consumer health. Animal agriculture has been estimated responsible for 51 percent of all greenhouse gas emissions across the world (Goodland and Anhang 2009, 11). A report from Oxfam details abuses of farmworkers in chicken producing farms, particularly slaughter facilities and meatpacking facilities (Oxfam America 2015).

Framing question & Justification

What are the best ways to improve the welfare of animals on farms?

It is useful to examine differences in laws between countries, and how such laws have come about, because if we want to create a more just society for animals, we must know how to go about it. Part of this relates to the law, and it is useful to examine how the law relates to government structure, societal differences, etc. Animals on farms compose approximately 98 percent of all domesticated animals across the globe (Animal Welfare Institute n.d.). Thus, the most effective and encompassing solution to problems that affect farm animals can have the greatest impact, because it protects or improves the lives of 98 percent of domesticated animals. It is also useful to examine the best tactics to pass legislation, and the importance of the law versus societal norms, so that we can most effectively address these problems moving forward.

Thesis statement

When there is dissent, in the European Union, governments still pass laws by a majority rule, while in the United States, this often leads to gridlock. This is largely due to governmental ties to corporations in the United States, as corporate opinions can sway decisions, even if they are in the minority. Under an effective government structure, educational, scientific, and governmental institutions can work together to ensure that human society is holistically informed about issues that impact the greater

world. This will then lead people to think more critically about how our actions affect animals, and will lead people to advocate for stronger protections for animals. Awareness is particularly important in the realm of farm animal welfare, because human society is not typically exposed to issues impacting farm animals on a daily basis. The proper government structure involves correct relations between states, along with effective political and economic systems. Societal values, education, and political relations all work hand in hand.

Situated Context

I situate this study in the United States and Europe. These contexts are broad; however, I situate it further in the following respects: I focus primarily on chicken farms; I situate in terms of institution, in viewing specific legal entities and agricultural corporations; and I situate around passage of specific animal protection laws.

I choose the United States and Europe for two reasons. First, both the United States and Europe are largely Western, in terms of culture. Thus, I hypothesize that the differences between agricultural policies are not primarily due to cultural differences (though one should not assume this), and are instead due mainly to differences in government structure. Furthermore, with the advent of Western dominance and colonialism, the United States and Europe set an example which nations in the Global South are likely to follow, because the global economy makes it difficult to thrive economically without emulating many of these systems. (Note: The term, “Global South,” is used to describe countries or areas that are struggling more in terms of the well-being of the people. It is important to be culturally sensitive in descriptions, and while there is no perfect term, this seems the most politically correct of the terms that I know. I would also like to clarify that I do not, in any way, condone the advent of Western dominance, as I recognize the racist, and at times genocidal, tendencies of colonialism. While it is beyond the scope of this study to explore this issue in depth, I firmly believe that this needs a solution). Second, the European Union has a list of welfare guides for animals on farms during their lives (Stevenson 2012, 5-20), while the United States has no such standards at the federal level except for the Twenty-Eight Hour Law (first passed in 1873, last amended in 1994), which stipulates that farmed mammals may not be transported for longer than 28 hours at a time without five hours of rest (USC 80502); and the Humane Methods of Slaughter Act (1958; passed in its

current form in 1978), which stipulates that farmed mammals must be rendered unconscious prior to slaughter (9 CFR 313). However, even these laws provide no protection to farmed poultry animals (usually chickens and turkeys) (Roybal 2006) or fish, and they do not provide farmed animals any protection during their lives on farms. Further, many states have no humane standards of their own. As of 2016, nine states have banned gestation crates for pigs, five states “ban” or “restrict” battery cages for chickens, and eight states have banned crates for veal calves (Farm Sanctuary 2017). On the other hand, the European Union has EU-wide protections for animals on farms; for example, farms must comply with minimum cage size requirements, and may not transport animals for longer than eight (as opposed to 28) consecutive hours without providing them with 24 hours of rest outside the truck (though there are exceptions to this) (Stevenson 2012, 19). I focus on chickens for three reasons. First, as detailed above, chickens on farms have no United States federal protections from inhumane treatment. Second, chickens comprise 88 percent of the land animals slaughtered for human consumption in the United States (88% Campaign n.d.), and the majority worldwide (Animal Liberation Front n.d.). Third, many people eat less red meat and more chicken (Spiegel 2014); this kills more animals, because it takes more than 200 chickens to produce the same quantity of meat as from one cow (Espinosa et. al. 2018).

Finally, in terms of institution, I view governmental entities, including Congress and the Supreme Court of the United States and various states, along with equivalent entities in certain European nations. I also examine agencies, such as the United States Department of Agriculture, and various agricultural companies, such as Tyson. Thus, this project discusses animal welfare concerns on chicken farms in the United States and the European Union, and the legal and corporate bodies that influence their welfare policies (or lack thereof).

Key Actors and Processes

Politics, economics, values, education, and science all play integral roles in creating a just system for animals.

Political Actors

The Supreme Court, Congress, state governments, and lower courts all play important roles in the United States. Equivalent entities in Europe also play integral roles. Laws have been passed, struck down, and interpreted by the courts; legislatures, presidents, and governors have passed and vetoed laws. While governmental actors are important, these do not tell the full story of the true protections afforded (or not afforded) to animals, particularly those on farms. As evidenced later, agencies, corporations, and organizations--both governmental and non-governmental--are heavily influential in both the passage (or lack thereof) and enforcement of such laws. Even those not directly affiliated with any governmental entity play can key roles in influencing governmental decisions, because many of them monetarily support political parties and donate money to political campaigns or government agencies. Moreover, this can even suppress activism, particularly with the advent of "ag-gag" laws, which aim to silence whistleblowers by prohibiting protest actions that negatively affect businesses that use animals. Monetary support from agricultural corporations also gives the government incentives to silence whistleblowers, because if these companies lose money, they are less likely to fund the government. This economic policy intersects with mainstream contemporary political issues: "Get money out of politics!" This policy is another key element to the geographic situated contexts, because various forms of capitalist and socialist governments in the United States and Europe each function somewhat differently, in manners that encourage and discourage passage of relevant laws.

Economic Actors

Corporations interact with governmental forces, and are significantly important in influencing the system. Agricultural corporations play the largest role; for example, the majority (60 percent) of chicken meat in the United States comes from four companies: Tyson Foods, Pilgrim's, Perdue, and Sanderson Farms (Oxfam America 2015). Thus, the two main goals are as follows: First, understand how corporations intersect with government policy and enforcement (as discussed above). Second, understand how corporations are able to come to power, and why some are more successful than others, and how it is or is not in their best interest to abide by animal welfare regulations.

Scientific Actors

Both animal and human psychology are essential to understanding how to best create a just system for our non-human companions. Animal psychology is essential, because we must understand how animals think, feel, and perceive the world. More importantly, we must understand how animals experience pleasure and suffering. Human psychology is essential, because we must understand why humans do or do not take action to help non-human animals via both activism and lifestyle changes. Moreover, people majorly involved in the movement and those peripherally involved in the movement all have important roles to play in furthering the success of the movement, because those majorly involved coordinate most of the activism, and those peripherally involved will speak to others about the cause, and both paint the cause in a positive or negative light.

Science also intersects with policy. However, all institutions carry biases, including those which put out various scientific theories, such as healthcare organizations. Uncovering these biases, such as corporate interests, will help to shed light on both animal welfare policies and the aforementioned increases in meat and dairy consumption in Western nations. For example, many healthcare companies are, ultimately, corporations that must make money in order to continue to function. This means they have incentives to accept money from corporations, including agricultural corporations. Therefore, healthcare businesses are less likely to speak out against agricultural corporations for their animal abuses, pollution emanating from their farms, or for the danger of their products to consumer health. For example, hospitals and healthcare companies are still, ultimately, corporations that wish to make profit. In order to run, these companies receive funding from other businesses, which may include agricultural corporations that use animals. Thus, if healthcare companies want to continue to receive funding from agricultural corporations, they have a disincentive against speaking out against these companies, either for animal welfare abuses or for consumer health risks in these companies' products.

Education System

Humane education, both inside and outside schools, is of seminal importance in encouraging young generations to become involved in animal rights and animal welfare movements. Recruiting youth activists, and allowing the youth a voice in the movements, are both instrumental in ensuring that these movements will flourish in the coming years. Key factors in schools include the curriculum, the educational setting, and relationships between students, parents or guardians, teachers and professors, school or college administrators, and policymakers at the school district and regional or national levels. Key factors outside schools include parents, communities, museums, and any other agencies by which children typically learn about animals and animal-related issues.

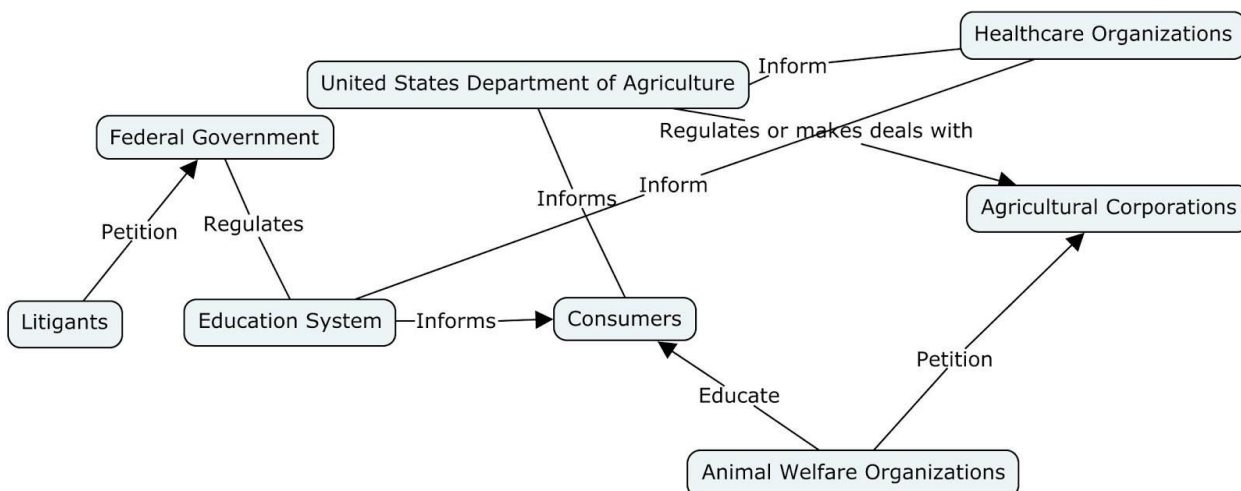
Consumers

Consumers are important actors as well, because consumers dictate to corporations whether it is in their best interest to develop meaningful farm animal welfare policies, or to serve more animal- or plant-based products. Ultimately, corporations are driven by consumer money, so when consumers decide to give their money to companies that improve their welfare policies, or serve higher or lower quantities of animal products, more corporations will adopt policies and practices that they believe will make them higher profit.

Public Activism

Public activism includes petitions sent to governmental agencies or corporations. It also includes grassroots-level activism. I will discuss these various forms of activism, and the benefits and limitations of each. I will also discuss the accessibility of these forms of advocacy to various communities. On one hand, one must ultimately engage with or reach the governmental agencies and corporations that make the policies. On the other hand, in order to influence such agencies, it is useful to have a strong base of public support.

Concept Map



Focus questions

How and why has the European Union been able to pass farm animal welfare laws that the United States has not been able to pass? What are some limitations or obstacles in both contexts (e.g. economic policy) that block passage and enforcement of animal welfare laws?

Justification

The European Union has EU-wide welfare requirements for farmed animals, while the United States has no such nation-wide requirements, and such protections are left to the states, many of which have not enacted any such laws. This capstone covers potential reasons behind such differences, including public ethics and other societal differences, and government transparency and structure. For example, the United States is more prone to gridlock than is Europe, because when there is a lack of consensus in the European Union, governments still pass laws by a majority rule, while in the United States, this frequently leads to gridlock. This is largely due to governmental ties to corporations in the United States, particularly in the realm of agricultural policy, as corporate opinions can sway decisions, even if they are in the minority. For example, the United States government works hand in hand with agricultural corporations, because governmental officials gain support from lobbyists and donors, who are frequently parts of large corporations. On the other hand, Sweden has implemented an environmental tax on meat and dairy products. Studies found that this tax reduced greenhouse gas emissions from livestock by "up to 12%" (Sall and

Gren 2015). Hypothesis: the differences between agricultural policies in the United States and Europe are primarily due to differences in government structure, along with relationships between regulating and overseeing entities. This study covers the passage of and failure to pass specific relevant laws in each context, along with court cases that provide evidence of the reasons for success and failure.

Methodology

I answer this focus question in three main components. First, I conduct a comparative legal analysis of companion animal protection laws, healthcare laws, and farm animal welfare laws. Second, I conduct an economic analysis, and look for economic incentives and disincentives to pass animal welfare legislation. Third, I conduct an interview, which focuses on limitations and barriers to passage of various animal welfare legislation in the United States.

Comparative Legal Analysis

My first methodological component entails a comparative legal analysis of farm animal welfare laws across nations and states. I make comparisons to other types of laws: First, I explore jurisdictions with relatively strong companion animal protection laws, and ask whether these jurisdictions also have relatively strong farm animal welfare laws. Second, I explore jurisdictions with relatively strong farm animal welfare laws, and ask whether these jurisdictions also have relatively strong human healthcare laws. I ponder these questions, because it is useful to know whether the legal processes used to achieve these various types of regulations are similar. If there are correlations, then this will suggest that the legal processes are similar, and if there are no significant correlations, this will suggest that the legal processes are substantially different.

Hypothesis: There are statistically significant correlations in both of the aforementioned comparisons; that is, either strong companion animal protection laws or strong healthcare laws in a given jurisdiction will suggest relatively strong farm animal welfare laws. To confirm or disprove my hypothesis (based on correlations or lack thereof), I will examine laws in each category, along with various legal cases that have been decided one way or another.

I make a comparison with companion animal protection laws, because empathy toward animals frequently begins with life experiences with animals, and early childhood

experiences with animals are frequently with companion animals; thus, it is useful to examine human relations with and perceptions of companion animals. Societal opinion can also have a significant influence over policy; thus, it is useful to compare jurisdictions with relatively strong companion and farm animal protection laws, to look for correlations.

I make a comparison with human healthcare laws, because consumer health protections are integral to various food policies, and are particularly important with regards to meat and other animal products. For example, salmonella has been commonly detected in chicken, and a study found hens raised in a “conventional” manner were almost seven times as likely to have Salmonella as organic farms (Polis 2011). Thus, it is useful to compare nations with stronger and weaker consumer health legislation, and look for correlations with nations with stronger and weaker farm animal welfare legislation.

A follow-up to these broader comparisons entails a more in-depth study of major animal protection laws passed in the United States and Europe. While the previous section surveys countries in a more “quick sample” and macro fashion, this next section covers the development, passage, and enforcement of specific laws.

Economic Analysis

A second research component deals with economic analyses of meat, dairy, and other food products. Spatial analysis deals with prices of chicken, beef, dairy, eggs, and plant-based products in various nations, and involves both direct price-per-product comparisons and relative prices of animal- versus plant-based foods in each country. Temporal analysis will follow, and explore these prices and relative prices throughout recent history, from pre-World War I to present day. This will culminate in present-day policies, such as government subsidies and taxes, and how these affect consumption patterns and interact with other policies.

Interviews

Methodology also entails an interview with a legal expert. I interview Rajesh Reddy, PhD., J.D. '17 of Lewis & Clark Law School. Questions include: How are these issues brought to the government's attention? How do governments prioritize these issues

against other issues? What are the most effective tactics to convince governments that they should prioritize these issues? What are the primary limitations to enforcement of these laws? What are lacking in the statutes? Are there any notable court cases that have led to or resulted from these laws? The interview focuses primarily on California Proposition 2 and California Assembly Bill 1437, both of which I discuss below. A legal perspective allows more in-depth unpacking of legal systems, including legal concepts such as standing, and effectiveness of policies. This adds another essential component to the legal analysis, because it views government structure at state and national levels, and roadblocks to animal cruelty laws at both of these levels.

Procedure

Categorical Legal Comparisons

First, I conduct an analysis of nations based on their levels of protection of certain categories of animals, as determined by the Animal Protection Index. The Animal Protection Index assigns countries grades A through G (A best, G worst), for levels of protections of various categories of animals, such as companion animals and farm animals. In conducting their analysis, World Animal Protection examined animal protection laws, governance “structures” and “systems,” engagement with the “World Organization for Animal Health,” “humane” education systems, and “[p]romoting communication” and “awareness” for each of 50 countries (World Animal Protection 2014). Their data come from the “Food and Agriculture Organisation of the United Nations in their Statistical Yearbook for World and Agriculture 2012” (World Animal Protection 2014). Their methodology for grading nations on farm animal protection are as follows:

- “Protection of animals’ welfare needs during rearing, such as freedom of movement and freedom to express natural behaviours
- “Protection of animals’ welfare needs during transport
- “Protection of animals’ welfare needs at slaughter, including avoiding unnecessary suffering” (WAP 2014)

For companion animal protection grades, the methodology is as follows:

- “Protection of pet companion animals, such as a duty of care on owners, responsible ownership provisions, rules on breeding and sale, and rules on cosmetic mutilations
- “Protection of stray or feral companion animals, including humane stray population management” (WAP 2014)

In order to determine a correlation, or lack thereof, between countries with stronger companion animal protection laws, government accountability, education, and farm animal protection laws in the United States and Western-to-Central Europe, I conduct an analysis of the following nations: the United States, the United Kingdom, Germany, Sweden, Austria, Switzerland, Italy, Spain, France, Denmark, and Poland.

Development of Specific Laws

Following the comparative legal analysis, I conduct an in-depth examination of specific laws in the United States and Europe, and their development, passage, phase-in, and enforcement. These laws are Proposition 2 and Assembly Bill 1437 in California, and European Union Council Directive 1999/74/EC.

California Proposition 2: Development

In 2008, Proposition 2 was placed on the California ballot to create minimum standards for the welfare of animals on farms. This bill Supporters of Prop 2 included the Humane Society of the United States, the California Veterinary Medical Association, Sierra Club California, Union of Concerned Scientists, and Consumer Federation of California (McKinley 2008; Mosley et. al. 2008). The text of Prop 2 reads “[a] person shall not tether or confine any covered animal, on a farm, for all or the majority of any day, in a manner that prevents such animal from: (a) Lying down, standing up, and fully extending his or her limbs; and (b) Turning around freely.’ The measure applies to breeding pigs, egg laying hens, and veal calves ... strength lies in its modest but powerful goals” (Lovvorn and Perry 14). It is noteworthy that the statute specifies

“covered animal,” and “on a farm,” because Prop 2 was “principally sponsored by The Humane Society of the United States (HSUS) and Farm Sanctuary” and passed by a large majority of California voters (8). This is added to Division 20, titled “Miscellaneous Health and Safety Provisions,” of the California Health and Safety Code (California Legislative Information 2008).

Assembly Bill 1437

Prop 2 and Assembly Bill 1437 have both been enacted in California, and both govern the production of eggs. Thus, Prop 2 must be read in conjunction with AB 1437, and an examination of Prop 2 is therefore more complete and well-rounded if it includes an analysis of AB 1437. The text of the AB 1437 proposal introduces it as “Shelled eggs: sale for human consumption: compliance with animal care standards (California Legislative Information 2010).” This initially appears to be an enforcement clause for Prop 2, but the general spirit seems different, because it focuses on the “sale for human consumption.” This language suggests a more consumer-based focus. A more detailed overview of this bill reads, “This bill would, commencing January 1, 2015, prohibit the sale of a shelled egg for human consumption if it is the product of an egg-laying hen that was confined on a farm or place that is not in compliance with those animal care standards and would make violations of these provisions a crime. This bill would declare that its provisions are severable. By creating a new crime, this bill would impose a state-mandated local program (California Legislative Information 2010).”

There are four noteworthy points about this bill that sound somewhat different from Prop 2, or from a statute or proposal of a state law. First, Prop 2 seemed more comprehensive, as it included chickens, pigs, and cows, while AB 1437 focuses on “shell eggs.” Thus, a continuation of this study will look for enforcement clauses for production or raising of broiler chickens, chickens who produce non-shell eggs, pigs, and cows. Because chickens are smaller, there are far more in numbers than mammals; thus, an Assembly Bill may prioritize this particular aspect. Historically, chickens have also lacked protection from the United States Federal “Twenty-Eight Hour Law”; thus, this legislation is likely the only protection for chickens on California farms. The egg industry also a significantly larger industry in California than are pork and veal (McKinley 2008). Second, this bill states that it is “severable,” so we must now ask how it may be “severed” (e.g. by location [city or county] or by aspects of the law [different

requirements or different prohibited behaviors or different methods of enforcement]). Third, it creates a “state-mandated local program,” which suggests that the enforcement is more fragmented into localities rather than through the state government. This follows from the implication from HSUS, that the “best enforcement” is through retailers, because it suggests enforcement “programs” at sub-state levels. It also follows from the implication of the previous statement of AB 1437, that these provisions are “severable.” (Note: “Severable” means “capable of being separated from other things to which it is joined and maintaining nonetheless a complete and independent existence,” and is “used to describe a contract that can be divided and apportioned into two or more parts that are not necessarily dependent upon each other” (West’s Encyclopedia of American Law 2008).

Section 25995 of AB 1437 continues, and emphasizes the human health implications of better or worse conditions on farms. It states that eggs from hens who have been “treated well” are better for consumer health, and that hens exposed to higher levels of “stress” are more likely to contain “pathogens.”

Economic Comparisons

Numbeo is a data collection website that presents data on costs of living, healthcare, food, and other resources. I use information from Numbeo to compare prices of meat products in various countries. First, I note down the prices in my countries of focus, and order them from most to least expensive, surrounding each product (beef, chicken, dairy, and eggs). Second, I compare prices of certain plant-based food products in each of these countries. Third, I then order the animal product list and plant-based product list each from most to least expensive for each country. Finally, for each country, I make a direct comparison between their prices for animal products and plant-based products. This last segment is likely the most telling, because it provides additional evidence that meat is more or less expensive in the context of this country’s economy. It does this, because if we only know the prices of meat products in each country, then it is possible that meat is simply more expensive in countries with higher costs of living. To provide additional control for this variable, it may be useful to examine rent prices, prices of non-food goods, and average salaries in each country. While I generally focus on the same countries as in my prior comparative legal analysis, I make special note of the countries in which meat and dairy prices are

most expensive. For example, meat prices in Iceland and Norway are among the highest, and the Animal Protection Index does not provide data for Iceland and Norway. Thus, while I make direct comparisons to countries with stronger healthcare laws and systems to those with with farm animal welfare laws, I cannot compare every single listed nation to the grades on the Animal Protection Index.

Results

Comparative Legal Analysis

World Animal Protection assigns animal protection grades as follows: For companion animal protection, the UK, Austria, Germany, Sweden, and Italy are graded A; Denmark, Switzerland, France, and Spain are graded B; and Poland and the USA are graded C. For farm animal protection, the UK, Germany, Switzerland, Sweden, Denmark, Austria, are graded A; France, Spain, Italy, and Poland are graded B, and the USA is graded D (World Animal Protection 2014). The table below lists the grades of the countries of focus for farm animal protection, companion animal protection, and healthcare.

For each A-G grade, we assign a numerical value between 1 and 7, such that A gets a 7 (best) and G gets a 1 (worst). With this scale, applied to the countries of focus, those graded A (7) for companion animal protection average a grade of 6.8 for farm animal welfare laws. Those graded B (6) for companion animal protection average 6.5 for farm animal welfare laws. Those graded C (5) for companion animal protection average 5.0 for farm animal welfare laws.

From the key findings, the countries of focus that grade A for farm animal protection laws average 74.6 grades for healthcare; the countries that grade B for farm animal protection average 70.9 for healthcare; and the (only) country that grades D for farm animal protection grades 68.5 for healthcare.

Country	Farm Animal Protection Grade	Companion Animal Protection Grade	Healthcare Grade
Austria	A	A	79.5

Germany	A	A	76.0
UK	A	A	74.3
Sweden	A	A	70.6
Denmark	A	B	76.2
Switzerland	A	B	71.7
Italy	B	A	66.7
France	B	B	78.4
Spain	B	B	76.3
Poland	B	C	62.3
USA	D	C	68.5

Passage of Proposition 2

Proposition 2 passed with a 63.5 percent majority of California voters (Institute of Governmental Studies 2017). Once Prop 2 passed, farmers were given until January 2015 to phase out battery cage operations; after January 2015, all farmers in California were required to comply with the provisions. Many businesses already met the requirements. However, many others attempted to lessen the requirements or even “nullify” Prop 2; these attempts were all unsuccessful as of February 10, 2014 (HSUS 2014).

Enforcement

Now that Proposition 2 has passed, the next step is to ensure that it is effectively carried out, so that it accomplishes its intended purposes. Enforcement and implementation of Prop 2 take a variety of forms, including law enforcement, company compliance and enforcement, and consumer demand and pressure.

Interpretation of Prop 2 has led to disagreement. The Humane Society of the United States believes that Prop 2 bans cages, while J.S. West & Co. believes that it does not. The precise wording of Prop 2 does not necessarily ban cages completely,

provided that the requirements are met. On the website of The Humane Society of the United States, the article, “In the Wake of Proposition 2 and AB1437 Implementation, Starbucks Announces Breakthrough Animal Welfare Policy,” states that the “best enforcement of Prop 2 will come from retailers who decide not to purchase eggs from hens in any kind of cage” (West 2014). If this is the case, then “enforcement” may exceed the standards of the law itself, if companies choose “not to purchase eggs from hens in any kind of cage” (West). However, in another case, J.S. West & Co. filed a lawsuit against Prop 2, on the basis that it did not specify the amounts of space required for animal housing, to accommodate the behaviors the act specified (e.g. lying down). In response, The Humane Society of the United States stated that this measure banned cages for hens. This disagreement between J.S. West & Co. and HSUS had originated earlier, when J.S. West & Co. planned to build an enclosure that it believed would satisfy the requirements of Prop 2. J.S. West & Co. had believed it would satisfy the requirements of the European Union, and thus argued that it should also satisfy the requirements of Prop 2. HSUS stated that it would not fulfill the requirements of Prop 2 (Ballotpedia).

If Prop 2 does ban cages, yet the primary enforcement is accomplished through companies and retailers, then this seems contrary to the definition of a law, because a law is a governmental function. One way to reconcile this is to claim that the Humane Society merely stated “best enforcement” on the basis of effectiveness, not official enforcement. This raises another question: If the “best enforcement” is, in fact, through companies and retailers, then how thoroughly does the government enforce this law? Many schools, colleges, and businesses did, in fact, adopt more humane standards following passage of Prop 2, so perhaps Prop 2 serves as inspiration for businesses to “beat the law.”

Relationship to Health and Safety Code

Given the placement of Prop 2 in the Health and Safety Code, it seems that this law is categorized with other healthcare laws. This supports the idea that farm animal welfare laws are driven in part because of concern for consumer health.

Similar Laws Across the United States

It will now be useful to examine farm animal protection laws that were enacted in the United States prior to Prop 2. In 2002, Florida banned gestation crates for pigs by a majority of voters, making it the first state to do so. Thus far, the following states have created farm animal welfare laws. Arizona (2006), California (2008), Colorado (2008), Florida (2002), Maine (2009), Massachusetts (2016), Michigan (2009), Ohio (2010), Oregon (2007), Rhode Island (2012), and Washington (2011) (). These were accomplished by a variety of means, including ballot measure, legislation, and regulation. However, this leads us to another sobering fact: 39 U.S. states have enacted no protections for the welfare of farm animals.

European Union Council Directive 1999/74/EC

In 1999, the European Union passed a law which effectively outlaws battery cages, with a phase-out period until 2012. This law requires that all cages be at least 750 square centimeters. The Council of Europe was majorly involved in its passage. Research into alternatives to battery cages for hens was underway in the 1970s and 1980s; much of this research was supported by national governments in northern Europe. Researchers in the United Kingdom, Germany, Denmark, and the Netherlands explored non-cage alternatives, but this posed another welfare problem: Because the chickens were kept in larger groups, and were still kept in crowded conditions, risks of cannibalism became higher, unless these chickens were debeaked, which also has serious welfare implications. Therefore, researchers began to focus more on development of larger cages that would give the chickens more space but would keep them in smaller groups (Appleby 2003, 159-162).

While such improvements were notable, there were still problems that arose. First, labeling was not always clear; for example, chickens who laid eggs labeled “free range” may only have room to “range” inside a barn. In response, the European Union devised minimum requirements that any product labeled “free range,” “deep litter,” “perchery,” “barn,” etc. had to meet. Further, unless labeled otherwise, the eggs are assumed to come from hens kept in cages. Thus, even when a farm’s welfare standards do not violate the law, the farm has additional incentives to exceed the minimum legal standards, because if it does not, its products cannot be labeled as humane. For example, while there are no EU-wide maximum floor crowding requirements, “deep litter” standards do have such requirements (Appleby 2003, 162-163).

From an economic standpoint, it is still cheapest to house chickens in battery cages. While the exact price differences are unknown, the estimated prices for non-cage eggs are approximately 10 percent higher than for battery-caged eggs. However, consumers in various northern European nations are willing to pay extra money for non-cage eggs, either out of concern for the “welfare of the hens,” or for perceived health and taste benefits. One limitation is still present here: The labels do not differentiate between battery cages and larger cages. Therefore, farmers have little incentive to switch from battery cages to larger or “enriched” cages unless they are legally required to make the switch. Some countries require caged eggs to be labeled as such; the European Union was taking steps toward making this a requirement in 2002 (163).

We will now examine the development of animal welfare laws in four specific European nations: Denmark, the United Kingdom, Sweden, and Switzerland. In Denmark in the 20th century, cages were prohibited for awhile. However, Danish farmers began to place farms with cages in neighboring Germany, and subsequently in Denmark. The government even began to fund caged operations. In 1979, a compromise was made, in which cages were allowed, but had a minimum requirement of “600 square centimeters per bird” (163-164).

Economic

Meat prices are as follows: One pound of beef costs \$47.40 in Switzerland, \$29.79 in Iceland, and \$28.01 in Norway, while only \$11.52 in the United States. One kg of chicken breast costs \$24.86 in Switzerland, \$20.08 in Iceland, and \$13.45 in Norway, while only \$8.55 in the United States (Numbeo). Thus, the same three nations are consistently most expensive.

The reasons for these discrepancies may include, but are not limited to, employee wages, farm subsidies, and taxes.

Government subsidies in the United States between 1995 and 2009 were as follows: “commodity crops” received 246 billion dollars, “specialty crops” received no subsidies, and dairy received 4.8 billion dollars (Physicians Committee for Responsible Medicine). Putting it into perspective, between 1995 and 2005, 73.80 percent of subsidies went to meat and dairy, grains received 13.23 percent, while fruits and vegetables received 0.37 percent (Price of Meat 2009).

Labor differences also explain many low meat costs. Estimates for caged and free-range eggs are 3.5 cents and 16.6 cents, respectively, per dozen (Bell 2006).

Interview with Rajesh Reddy

In order to better understand barriers to passage and enforcement of anti-cruelty laws, it is useful to acquire the perspective of a legal expert. On Friday, February 16, 2018, I interviewed Rajesh Reddy, J.D., PhD., of Lewis & Clark Law School. Reddy stated that the proposed King Amendment (named after Steve King), also known as the Protect Interstate Commerce Act, would have a negative impact on farm animal welfare advancements if it were to pass. Under this act, no state would be legally allowed to require any other state to abide by animal welfare standards that meet another (e.g. the former) state's higher standards. AB 1437 is a state law, and mandates that hens not be enclosed in too close proximity, because such close proximity increases risks of salmonella. Thus, this is an issue of interstate commerce, because products sold in California are subject to these standards, even if they were shipped from another state. When Arnold Schwarzenegger, Governor of California from 2003-2011, signed AB 1437, he stated that this would protect California farmers. The Commerce Clause (under which the federal government regulates interstate commerce) has been subject to the following interpretation: A state cannot put tax on out of state imports. Five states argued that California attempted to benefit local commerce; the court held that the state has an interest in protecting consumers from health issues, so it is consumer protection, not economic. The court also held that these states did not have standing, because they were not "injured"; thus, only a person or entity (e.g. an egg producer) who actually suffered recognizable harm would have standing. AB 1437, thus, served to improve welfare standards despite interstate commerce laws, so producers, sellers, etc. who abide by more humane standards get an advantage. Any local seller of eggs can criminally violate AB 1437, even if the eggs come from another municipality or outside California. Prop 2 primarily applies to "growers," and AB 1437 primarily applies to "sellers." Courts have to listen to all cases presented to them, except when cases are dismissed for procedural issue or plaintiff has no standing. For example, if a witness trespasses or falsely reports intent, they may be prosecuted (for example, under various "ag-gag" laws); but the video may still come out. When discussing other limits to enforcing farm animal welfare laws, Reddy stated that there are too few inspectors for

the numbers of animals present, and that various right to privacy laws can prevent exposure of inhumane practices. Loopholes in anti-cruelty statutes, and exemptions for “common” practices, are also common. As an example of a court-based success, New Jersey has a farm animal welfare committee, and they said that they would do whatever the animal agriculture industry wants, but the appellate court stated that they cannot do that under statutory obligation (Reddy 2018).

Summary of Focus Question in Contexts

It seems that the European Union has had success in passing various farm animal welfare laws for the entire European Union, and the Council of Europe has had success in moderating the process while encouraging member states to adopt welfare policies, while the United States has only had success in passing similar laws at the sub-national (e.g. state) level. It seems that this is primarily due to a better established system of cooperation in Europe.

Further analysis of methods and procedure

There appears to be a strong correlation between relatively strong companion animal protection and farm animal protection laws. This suggests consistency in governmental progress in increasing recognition of animal protection across the board. However, this has limitations, because nations are presumably graded "on a curve," and standards for companion animal treatment are drastically higher than standards for farm animal treatment. This study also focuses primarily on developed Western nations, and does not explore non-Western nations or developing nations. An exploration of other regions, particularly regions more culturally and economically diverse, will shed light on more potential variables that encourage or impede the development of effective animal protection law and policy. While conducting such a study, the researcher must take care to be sensitive to cultural and economic diversity, and remain open to revising the study to make it more culturally sensitive.

There also appears to be a strong correlation between relatively strong health care systems and relatively strong farm animal welfare laws. This suggests that the motivation behind farm animal welfare policy stems partly from concern regarding consumer health. However, it is important to acknowledge that correlation does not

imply causation; thus, a more in-depth analysis will explore specific legal cases relating to farm animal welfare and consumer health, to find whether these cases coincided in other ways.

Political Processes and Government Structure

The Council of Europe was created to improve relations and “cooperation” between European nations, and has created many “conventions.” The Council of Europe has given various directives, including “Convention on the Protection of Animals kept for Farming Purposes,” which is not “legally binding” on all European nations, but engenders a sense of “responsibility” on member states to comply (Appleby 2003). Thus, in addition to regulation by law enforcement and consumer pressure, an overarching agreement between nations can encourage a culture of cooperation and respect for ethical standards.

The Council of Ministers makes decisions for the European Union. For agricultural decisions, each country sends one representative, and each country has presidency for rotating periods of six months. When the European Union enacts “regulations,” these are “binding” for all member states, and override any “contradictory” nationwide legislation. When the EU enacts “directives,” these ask member states to enact their own legislation on the matter. This still carries some requirements, because each state generally must meet a certain “standard” through legislation. (Appleby 2003).

Specific Companion Animal Protection Laws

Having done an examination of jurisdictional policy development regarding farm animal welfare, it may be useful to conduct a more in-depth analysis of jurisdictions with stronger companion animal protections. Cities that have banned declawing are West Hollywood, Los Angeles, Santa Monica, San Francisco, Berkeley, and Beverly Hills. Countries that have banned shock collars are Germany, Austria, Switzerland, Denmark, Norway, Sweden, Finland, Slovenia, and Wales. Countries that have banned prong collars are Austria, Switzerland, and New Zealand. Three Australian states and Quebec have also banned shock collars. Interestingly, however, while Quebec has banned both shock collars and prong collars, Quebec does not make the top third of the Animal Legal Defense Fund's list for best provinces for animal protection. As a matter of fact,

before 2016, it was consistently in the bottom tier, and it is now in the "middle tier," ranking sixth from the top out of thirteen provinces and territories. In the Animal Legal Defense Fund's report, one of Quebec's strengths is that it provides "Definitions/standards of basic care for dogs and cats," while one of its potential improvements would be "Definitions/standards of basic care for wider range of species, not just dogs and cats." The use of shock and prong collars is generally regarded as a companion animal issue, and dogs and cats are the most common companion animals. Thus, the ALDF's report seems at least potentially consistent with the general spirit of such a law.

Education

If educational and governmental institutions work together to ensure that human society is holistically informed about issues that impact the greater world and our non-human companions (especially farmed animals), then this will lead people to think more critically about how our actions affect animals and will lead to stronger protections for animals, particularly farmed animals.

Many colleges and universities have adopted degree programs that focus on animal rights and animal welfare. This includes major programs, minor programs, certificate programs, and law programs. Minor programs are frequently titled "Human-Animal Studies," similar to "Gender Studies" or "Ethnic Studies." Lewis & Clark Law School offers both J.D. and LLM degrees in Animal Law, and has specific classes that explore the issue of animals in agriculture in greater depth.

Differing Ethics: Type of Animal, or Geographic Location

In their article, "California Proposition 2: A Watershed Movement for Animal Law," Jonathan R. Lovvorn and Nancy V. Perry state that this enactment "marks a seismic shift in public attitudes toward animals raised for food--animals whose interests have long been ignored or overlooked while the public's concern has been overwhelmingly focused on dogs and cats, and on charismatic wildlife like whales, elephants, and pandas" (Lovvorn and Perry 9). This illustrates one of the primary differences between companion animals and farm animals in the eyes of mainstream society. Companion animals and farm animals are all utilized to better the satisfaction of

humans in certain respects, but in vastly different respects. Companion animals are intended to live alongside humans, and the well-being of companion animals will thus benefit humans, because human owners would like the animals to last (i.e. to live) for as long as possible. On the other hand, farm animals exist for human consumption, and thus, their welfare typically does not directly matter to humans in the same manner. This relates to a common historical point in the history of animal law, because until relatively recently, animals could scarcely be afforded their own rights under the law, and therefore, animal cruelty could rarely be prosecuted unless it best served “public interest” or an equivalent standard. The quotation above illustrates this point as well, in speaking of “charismatic wildlife”; the word, “charismatic,” signifies behavior that humans enjoy; thus, a follow-up study will compare nations and jurisdictions with stronger and weaker protections for wild animals.

Ethical attitudes toward animals vary throughout Europe, and studies have generally found stronger ethical concerns in Northern Europe than in Southern Europe. Suspected reasons include climate, religion, and most importantly, societal interactions (or lack thereof) with animals. (Appleby 2003).

Proposition 2: Contemporary Expansion

While Proposition 2 has created minimum standards for farm animal welfare within California, these regulations do not cover the welfare of all animals raised for meat, dairy or egg products sold in California, as many animal products sold in California are imported from outside California. Prevent Cruelty California seeks to expand the requirements of Proposition 2 to any product sold in California, regardless of where it was grown. The goal was to acquire 600,000 signatures on a ballot initiative before April 20, 2018; if accomplished, this bill would be on the California ballot. The results recently came in, and the goal has been achieved; thus, this coming November, California voters will likely vote on this issue.

Next Steps

The next steps with Prop 2 will be to generate awareness to ensure that the aforementioned expansion bill passes. Animal welfare groups will need to work together to ensure this. Between animal rights and animal welfare groups, there can be tension, because each group has a differing philosophy. For example, some groups are more

abolitionist (e.g. they advocate for veganism), while others are more reformist (e.g. they advocate for farm animal welfare policies). Thus, for this campaign, it will be important for animal rights and welfare groups to work together on this common short-term goal, regardless of their end goals.

The next steps with other animal cruelty laws, both in the United States and Europe, will be to consider both government structure and economics, and how they interact to encourage or discourage animal welfare policies. The above analysis mainly covers each component separately; however, they clearly work together. For example, how do we make it more profitable to create stronger animal welfare laws and for companies to adopt animal welfare policies? Another innovation is lab-grown meat; while it used to cost hundreds of thousands of dollars, it may soon be as cheap as conventionally grown meat.

Further Research

Study Specific to Chickens and Sea Life

As detailed above, chickens compose 88 percent of land animals killed for human consumption in the United States, and the majority worldwide. The rates of chicken consumption have increased more dramatically than have increases in many other types of meat consumption. In order to save the greatest numbers of animals, a focus on chickens would be useful. It will also be useful to understand why chickens are excluded from both United States Federal laws that protect the welfare of farm animals. Perhaps this exclusion and the high rates of chicken consumption are related, because if one can transport chickens for longer periods of time without stopping, and slaughter them without worrying about anesthesia, then they may produce chickens for food more quickly. Human psychology also plays an integral role, because humans may feel a stronger connection with fellow mammals than with birds.

Most studies of farm animal welfare and meat consumption have focused on land animals. However, marine animals are estimated to compose 90 billion or more of the animals killed per year for human consumption (Vegan Souls n.d.); for land animals, the estimate is approximately 70 billion per year (Humane Society International 2012).

Avenues for Change

This study focused on policy initiatives. However, there are a plethora of other avenues by which one can make change. These include, but are not limited to, grassroots activism and lifestyle changes. In addition to the best known animal protection groups, such as the Humane Society and People for the Ethical Treatment of Animals (PETA), numerous grassroots-level animal charities are abounding. Animal Charity Evaluators

rates the effectiveness of each charity, and assesses the impact of a donation to each group. Meat reduction and veganism are both on the rise, as the meat consumption level in the United States was projected to be “12.2 percent less in 2012 than it was in 2007” (Bittman 2012), and veganism in the USA increased by 600 percent between 2014 and 2017, from one to six percent of the population (Loria 2017). One should be somewhat skeptical of such a claim, because these surveys are based on self-identification (i.e. 6 percent of Americans identified as vegan). However, this points to two important trends. First, veganism is quickly becoming more popular and widespread. Second, it is more socially acceptable to identify as “vegan” than it was even in recent years.

Conclusion

Overall, it is clear that large-scale systems make large differences in the welfare of animals. This is evidenced by the Council of Europe and European Union, along with California and the United States at large. This includes both positive and negative differences; as stated earlier, legislation and economic policy can both incentivize and disincentivize stronger animal welfare policies. A follow-up study may examine policy and activism at the grassroots and local levels, and compare the effectiveness to that of large-scale policy. Small-scale and large-scale activism are not mutually exclusive, as they fuel each other; for example, community activism can lead to policies such as Prop 2. This study focuses primarily on the United States and Europe; thus, a follow-up study may examine other regions of the world. Throughout the world, the primary concerns regarding animal agriculture industries are likely different. Thus, it is important to acknowledge that the best solutions may differ by geographic context.

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Note: All sections about Proposition 2, along with the section titled "Specific Companion Animal Protection Laws," are also found in a paper I wrote for Law 449A in Fall 2017.