

Research Assessment Exercise 2020
Impact Case Study

University: The University of Hong Kong (HKU)

Unit of Assessment (UoA): 19 Law

Title of case study: Hong Kong University's Review of Animal Welfare Legislation in Hong Kong

(1) Summary of the impact

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 provided the underpinning research for 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 *Public Health (Animals and Birds) (Animal Traders) Regulations 2016*. The study also resulted in significant policy change in stray-animal management and the introduction of specialised training for police and prosecutors in presenting animal cruelty cases at court. Improved animal welfare in Hong Kong has benefitted both public health and public order.

(2) Underpinning research

In 2008, **Amanda Whitfort** and **Dr Fiona Woodhouse** competed for, and 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). The Public Policy Research Grant was partially funded by the Central Policy Unit of the Hong Kong Government. 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 for the Hong Kong Administration's Central Policy Unit: *Review of Animal Welfare Legislation in Hong Kong* [R1]. The report was also disseminated to the public, interested NGOs and Legislative Council members and was cited widely in Chinese and English media. Whitfort published a chapter on Animals in Halsbury's Laws of Hong Kong [R3] along with two international journal articles based on the study [R2, R4].

The study found that Hong Kong's anti-cruelty legislation, Cap 169, 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 duty of care imposed on owners requiring them to care properly for their animals [R1, R4].

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 Hong Kong, threatening public health and compromising animal welfare standards [R1, R2].

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].

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 (TNR) for feral dogs in Hong Kong. Whitfort's research investigated and evaluated overseas TNR programmes supported by the World Health Organization (WHO) data and the World Organisation for Animal Health (OIE), which are utilized effectively for managing feral or community dog populations in other countries [R1, R2].

Amanda Whitfort was appointed Assistant Professor in HKU's 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

- R1. Whitfort, A.S.** and Woodhouse, F.M. *Review of Animal Welfare Legislation in Hong Kong*, June 2010, Funded by the Hong Kong Research Grants Council and Central Policy Unit Grant and published by The University of Hong Kong; 1-183.
- R2. Whitfort, A.S.** 'Advancing Animal Welfare Laws in Hong Kong', *Australian Animal Protection Law Journal*, 2009, v.2:65-78 (peer reviewed).
<https://heinonline.org/HOL/LandingPage?handle=hein.journals/ausanplj2&div=9&id=&page>
- R3. Whitfort, A.S.** *Halsbury's Laws of Hong Kong*, 'Animals', Vol 2, 2016, 198-348 (first issued by the author in 2008 and reissued and updated by the author in 2013 and 2016).
- R4. Whitfort, A.S.** 'Evaluating China's Draft Animal Protection Law', *The Sydney Law Review*, 2012, v. 34(2):347-370 (peer reviewed A* (top 5%) law journal in the Australian Research Council Ranking of Journals).
https://sydney.edu.au/law/slr/slr_34/slr34_2/SLRv34no2Whitfort.pdf

Selected external grant funding:

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

Funding Scheme: Public Policy Research (RGC competitive research grant)

Principal Investigator: Ms Amanda Whitfort

Period: 2008-2010

Amount Awarded: HK\$497,000

(4) Details of the impact

4.1) Societal Awareness and Support to NGOs

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. Hong Kong's public broadcaster, Radio Television Hong Kong (RTHK), acknowledges Whitfort's role in raising awareness of animal welfare issues, stating: *In recent years our channel has witnessed a noticeable increase in public awareness of animal-related issues...this is without doubt due in no small part to Whitfort's research into animal protection law in Hong Kong.* [5.1]. The review is also acknowledged as providing critical support to NGOs working in the field. The former Executive Director of Society for the Prevention of Cruelty to Animals (SPCA (HK)) stated: *This is the first Review of its kind...and its publication has been of immense value to society. We are currently utilising the Review's findings as a basis for dialogue with government and other animal welfare stakeholders...and are using the findings as a means to marshal support for law reform* [5.2]. Increased societal awareness of the poor state of Hong Kong's animal welfare laws placed pressure on government to introduce law reform. To this end, the former Secretary to the Hong Kong Law

Reform Commission observed in a video prepared by HKU's Knowledge Exchange Office in 2012: *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.*

On publication, Whitfort and Woodhouse's study was endorsed and adopted by six legislative parties sitting in Legislative Council (LegCo) who made a joint call on the government to implement the study's findings in new animal welfare policies for Hong Kong for the benefit of animal welfare and public health. [5.3]. The study was endorsed by the Administration in meetings of the LegCo Food and Environmental Hygiene Panel (chaired by legislators, Alan Leong SC and Dr Helena Wong) and both the former and current Secretary for Food and Health committed to studying Whitfort and Woodhouse's findings further [5.4,5.5].

4.2) Licensing of Hong Kong's Dog Breeders

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* [5.6]. Alongside the new regulations, legally enforceable *Licensing Conditions* and *Codes of Practice* for the care of companion animals were also drafted, on the basis of the study's findings. These changes have had a positive impact on public order and public health. The new laws have not only combated animal cruelty, by improving the welfare conditions of animals bred and sold in Hong Kong, but have closed 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. Before the law changed, only 15 persons held licences to breed dogs in Hong Kong. As a result of the new law, 698 traders were required to apply for licences in 2017 and 2018, and comply with the updated licensing conditions designed to better combat cruelty [5.7]. New Licensing Conditions and Codes of Practice are also in preparation for cats and exotic species.

In a 2016 letter to Whitfort acknowledging her role in highlighting the need for law reform and passing legislation to amend the pet trade laws of Hong Kong, the Principal Veterinary Officer for the Director of AFCD wrote: *I would like to acknowledge your support and assistance during the preparation of the Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 which has recently been enacted. The recommendations made in the 'Review of Animal Welfare Legislation in Hong Kong' (2010) which you co-authored helped to highlight the areas for improvement of the above mentioned legislation. ...In short, your constructive advice and support have greatly benefitted the work of the sub-committee and the progress of animal welfare in general* [5.8].

4.3) Policy on Trap Neuter Return for Feral Dogs

In response to another of the key recommendations made in the Whitfort and Woodhouse study, the AFCD changed its feral dog management policy from one of catch and kill, to the promotion of NGO assisted Trap-Neuter-Return (TNR). Working in conjunction with the SPCA and the Society for Abandoned Animals, two districts with large feral dog populations were chosen by AFCD for trial Trap-Neuter-Return programmes [5.9]. Under the new policy, the number of feral dogs caught and euthanised by the AFCD across Hong Kong decreased from 5,353 in 2013 to 1,478 in 2017 [5.10].

4.4) Duty of Care

In her Policy Agenda announced in October 2017, the Chief Executive of Hong Kong announced that the AFCD would review Hong Kong's primary animal cruelty law, Cap 169 with reference to international legislation and explore the introduction of a new positive duty to care for animals to promote public order [5.10]. This was a key recommendation in the Whitfort and Woodhouse study [5.3, 5.5]. A review of the necessary legislative amendments to Cap 169 is currently being conducted

by the AFCD's Animal Welfare Advisory Group's Legal Sub-committee, on which Whitfort and Woodhouse have sat as expert advising members, since 2010.

(5) Sources to corroborate the impact

- 5.1 RTHK, Head of Radio 3's confirmation letter documenting the impact of Whitfort's study on societal awareness of animal welfare issues in Hong Kong.
- 5.2 The former Executive Director of the Society for the Prevention of Cruelty to Animals (HK) confirmation letter documenting the contribution of Whitfort's study to the Society's efforts to initiate law reform benefitting animals.
- 5.3 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. <http://www.legco.gov.hk/yr10-11/english/counmtg/hansard/cm1103-translate-e.pdf>
- 5.4 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>
- 5.5 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, to promote public order , LC Paper No CB (2) 1459-13-14, at para 31. <http://www.legco.gov.hk/yr13-14/english/panels/fseh/minutes/fe20140114.pdf>
- 5.6 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>
- 5.7 Director of AFCD reply to LegCo members regarding number of animal trader licences applied for under the amended Cap 139B, Reply Serial No. FHB (FE) 029 at page 61. https://www.legco.gov.hk/yr18-19/english/fc/fc/w_q/fhb-fe-e.pdf
- 5.8 Agriculture, Fisheries and Conservation Department letter documenting the significant 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.
- 5.9 Report of LegCo Finance Committee July 2011, establishing \$1.7 million funding for the Introduction of a new policy implementing a Trap-Neuter-Return (TNR) 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 potential 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
- 5.10 Director of AFCD reply to LegCo members regarding implementation of the TNR scheme for feral dogs, number of dogs euthanised, and duty of care. Reply Serial No. FHB (FE) 90, at 208-212. https://www.legco.gov.hk/yr17-18/english/fc/fc/w_q/fhb-fe-e.pdf