



FORUM

How Long Will China's Animal Cruelty Laws Have to Wait?

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Background

In April 2020, a university student in China's Shandong Province was expelled from school after videos of him mercilessly torturing and murdering over 80 stray cats surfaced on the Chinese internet; in October of the same year, a man from Shanxi Province poured boiling water over a pregnant cat, killing her and four un-born kittens; in November 2021, a pet dog was brutally killed by health workers while its owner was in quarantine for COVID-19. Numerous incidents of animal cruelty like these have surfaced in China in recent years. In response, more and more Chinese citizens are calling for stricter protection of animals and the promulgation of robust animal cruelty laws. Though animal welfare legislation is still a somewhat controversial subject in the country, a 2020 vote launched by CCTV News (a Chinese state-owned broadcaster) on Weibo (a Chinese social media platform) shows that the demand for a national anti-cruelty law is overwhelmingly strong: on the question of whether China should pass legislation against animal cruelty as soon as possible, among the 299,000 participants, more than 280,000 voted yes.

However, despite popular support for animal cruelty laws, certain procedural obstacles in China's legislative system make it implausible that China will introduce comprehensive legislation on animal protection in the near future.

Currently, there exists only one nationwide law on animal protection in China: the Wild Animal Protection Law. Adopted in 1988, it only provides protective measures for certain precious or endangered species of wildlife such as pandas, pangolins, and snub-nosed monkeys. Though some efforts have been made toward guaranteeing animal welfare (e.g., the 2005 Livestock Law, which regulates the treatment of livestock during breeding, trade, and transportation), there still exists a large gap in animal protection legislation.

In late 2009, a team of legal scholars published an expert draft of an Animal Cruelty Law of China. The first of its kind in China, the draft law mainly included specific anti-abuse protections for wild, economic, companion, lab, and other types of work animals. It defines “abuse” as “intentionally inflicting unnecessary pain and injury on animals, or killing animals, by cruel means or methods,” and those who violate the law could be sentenced to a fixed term of imprisonment for up to three years. If the law were enacted, it would mark a great advancement for the animal welfare cause in China. But twelve years after the publishing of the draft proposal, there is still no word of it being made law. Why is this so?

I. Legislative Process and Procedural Obstacles

To understand the obstacles facing animal cruelty legislation, a rudimentary grasp of the legislative process in China is necessary. National laws are promulgated by the National People’s Congress (NPC, the national legislature of China) or its Standing Committee. In general, most legislation goes through a basic agenda-setting process: a proposal for legislation is first drafted, usually by ministry staff or NPC delegates, and then formally submitted to the State Council or NPC. After reviewing the hundreds of proposals submitted, the Legislative Affairs Office (LAO, now a part of the Ministry of Justice) and the Legislative Affairs Commission (LAC, a bureau under the Standing Committee), together lay out government policy priorities with respect to the proposed laws. Once these priorities are approved by the State Council, the LAO and LAC publish an annual legislative plan. A regulation or law on the plan is then finalized and promulgated, and finally forwarded to the President of China for signing into law. The amount of time it takes a law or regulation to pass through China’s legislative process can vary enormously, ranging from six months for the Food Safety Law to 15 years for the Antimonopoly Law to pass. Essentially, delays can occur in any part of the process, as a legislative item can stall if it is not yet a priority, if it is controversial, if the political mood changes, or if the involvement of various interest groups increases or decreases.

In the case of animal cruelty legislation, the problem currently lies at the second stage— the laying out of government priorities by the bureaus under the NPC and the State Council. The expert draft of the Animal Cruelty Law was sent to the Chinese Central Committee and the Standing Committee of the NPC well back in 2010, but it has still yet to be included in the legislation plan of the NPC.

In March of this year, during The Fifth Session of the Thirteenth National People's Congress, Deputy Zhu Lieyu once again submitted a proposal for an animal cruelty law, the fifth time he has done so during his tenure as a delegate. He believes that “the lack of relevant laws and regulations on animal cruelty and punishment in [his] country” makes it extremely difficult for “actions of animal cruelty to receive due punishment.” Zhu Lieyu's most recent proposal has prompted renewed attention to the problem of animal cruelty in China, and his priorities reflect the wishes of many Chinese citizens. Even so, due to the reluctance of officials in the State Council and LAC to prioritize animal anti-abuse laws, we are left still waiting for the legislative process to start.

II. Reasons and Possible Procedures

Many people might wonder why legislators have failed to make animal protection a legislative priority. I believe the answer is a combination of considerations regarding the necessity of animal protection laws and cultural differences between China and Western countries.

In a reply to NPC deputies' request for anti-cruelty laws in 2020, the Ministry of Agriculture and Rural Affairs explicitly stated that “at present, most acts of cruelty to animals can be adjusted through existing laws and regulations, and many departments such as public security are cracking down on related illegal and criminal acts. Cruelty to animals in social life is only a rare phenomenon [...] It is not necessary to formulate a special law for this rare violation of morality.” They cited that, for instance, the Livestock Law of 2005 guarantees the welfare of livestock, and the revision of Article 26 of the Wild Animal Protection Law in 2016 regulates practices in the artificial breeding of wild animals.

However, some experts still argue for a more systematic and comprehensive set of regulations. Though modifying existing laws such as the Criminal Law might be faster and more efficient than procuring a new animal cruelty law, the current regulations on the treatment of companion animals and stray animals are still relatively vague. Yet, there are still others who believe other legislations are of higher importance and that the protection of animals should wait. While the answer to this debate on priority is not yet clear, the only thing we know for sure is that the debate

itself will delay the legislative process and stall hopes for a new animal cruelty law anytime soon.

Of course, one must also take into account China's unique social and cultural environment. China has a long history of animal utilization, and there are many industries engaged in animal production, processing, and utilization. Due to huge demands and limited land resources, improving the welfare of farmed animals would incur considerable costs for running animal farms and would raise meat prices significantly. Cultural differences within China regarding the treatment of animals could also be difficult to eliminate. For instance, many parts of China still have the tradition of eating dog meat, and dogs only became common household pets beginning in the late 20th century. Every year the notorious Yulin Dog Meat Festival takes place in Guangxi province, where people kill and eat tens of thousands of dogs to celebrate the summer solstice. Though this might seem appalling to most people, a considerable number of Chinese people still adhere fiercely to this tradition. Comprehensively improving the level of animal protection will surely be an arduous systematic task that requires the joint efforts of the whole Chinese society. This task is complicated by Chinese society's lack of uniformity regarding the proper treatment of animals.

Conclusion

In short, though the animal protection cause has garnered increased attention and support over the past decade, it is unlikely that China will enact animal cruelty legislation in the near future. However, there is hope that anti-cruelty stipulations will be added to existing legislation, and thus gradually increase the welfare of animals in China. As China's level of social and economic development improves and anti-cruelty becomes a social consensus, we should remain optimistic that the prospects for a robust animal protection law will also improve in the coming years.