港大研究指虐畜懲罰太輕

港大研究指出，現行的《防止殘酷對待動物條例》過時，只能保障已遭受到殘酷對待的動物，對動物主人處罰較輕；監管寵物店發牌條件的法例亦嚴重不足。報告建議政府立法賦予愛護動物協會、警察、漁護署有保護動物免受傷害的權力。

是次研究由研究資助局及中央政府政策組組織资助。報告指出，本港仍沿用一九三五年頒布的《防止殘酷對待動物條例》，根據條例，主人殘酷對待寵物時，只能被起訴，對動物保護不夠，建議政府仿效英美，立法賦予主人照顧、保護動物的責任。

港屠豬電壓太低

負責此項調查的港大法律系副教授Amanda Whiford（見圖）指出，本港對殘酷對待動物的動物主人處罰較輕：「過去三年，香港共發生十九宗因殘酷對待動物被起訴案例，其中九宗處以罰款，金額平均為一千二百元；十個被判坐監，時間一般均少於兩周，最長的也少於兩個月。」

報告指出，本港缺少規條監管寵物店的發牌條件。她表示，研究過程中，曾在寵物店見到，狗籠裏的狗與籠一樣高，狗蹲不到身；禽鳥一隻疊一隻地放在水槽裏；蜥蜴被放在一個飯盒裏，這些情況在新加坡、英國是不允許的。她建議政府立法讓愛護動物協會、警察、漁護署有保護動物免受傷害的權力。

另外，本港屠宰廠用來電擊動物的電壓不合國際標準，Amanda Whiford說：「英國一項調查顯示，利用二百五十伏或以上電壓電擊動物，效果較好，但香港大部分的豬都是用一百八十伏的電壓電三秒，屠宰時，它們可能還是有知覺的。」
研究：應收緊發牌 賦愛護動物協會檢控權

【本報訊】僵化不變的條例被指是虐待動物的真兇。港大法律系與愛護動物協會報告指，現時本港採用的防止殘酷對待動物條例嚴重過時。就算動物面對缺水缺糧、酷熱暴曬，仍然無法入罪。團體建議政府引入全新的動物權益條例，包括收緊寵物店發牌制度、容許愛護動物協會擁有檢控權等。

記者：夏志雄

對報告獲研究贊助局及中央政策組撥款 50 萬元資助，為期兩年走訪本港多間寵物店、農場及上水屠房，檢查現行動物權益法例應用情況。

「始於1935年不合時宜」

港大法律系副教授 Amanda Whitfort 表示，以執行普通法如英國等國家作比較，香港的動物權益法例相對很落後，「條例由 1935 年應用至今，肯定不合時宜。當一個動物受傷滿受護後，警方才介入調查及檢控，太遲了，在外國已經判決已作警告了」。

據指出，政府於 06 年通過提高虐待動物最高罰則至罰款 20 萬元及監禁 3 年，但實際阻嚇力不大。調查過去 4 年紀錄，從未有人被判處超過兩個月。平均只需監禁 6 星期即可出獄，罰款者平均只需付出 1,200 元即可「甩身」，《始於1935年不合時宜」。

當協統計，逾九成小狗於寵物店賣出後一週必定生病，顯示個別店舖照顧動物明顯存有問題。

「小狗隔內轉身都不能」

愛護動物協會助理總監侯安達表示，早前查訪無牌店發現，因動物條例約束力不夠，間接造成虐待動物情況。17 隻手足大小的蜥蜴被放在一個面飯盒大小的盒內；小狗在玻璃間隔內連轉身也不能，水也不給一滴，但你卻無法檢控店舖，而有前科的店舖又可繼續經營。

Whitfort 建議政府應成立全新的動物權益條例，並仿效英美執法，禁止虐待動物的寵物店繼續營業，並收緊寵物店發牌制度，要求店舖列明員工需接受相關訓練等，同時亦賦予愛護動物協會高級調查員檢控及警告權力。
港大报告列五宗罪
港保護動物法例落後

【明報專稿】港大法律系與愛護動物協會進行的研究報告
發現，目前香港防止虐待動物的相關法例嚴重落後於英美甚至
至新加坡及台灣，存在殘忍動物「五宗罪」，未能有效保護
動物權益，政府有必要大幅改革目前法例。

報導由香港大學法學系助理教授
Amanda Whittam 和愛護動物協會助理
總監及執行董事 Fiona M. Woodhouse 以兩年時間
研究，研究目的以英國動物保護法為準，結論
直指現行香港的動物保護法例未達國際標準。

Whittam 表示，香港現行的《防止試
驗動物用途條例》，其目的是英國 1911
年的動物保護法（Protection of Animals
Act 1911）下附議（條例法）為基礎，
近年亦接觸過高等法院，未有作有效修改。
她表示，這些英國法例至今已經不合時宜，而英國法例至 2006
年有新的法例取代，例如「動物福利（香港）法例」，從而為
香港的動物首席官提供一個更健全的框架。這條例把家禽
等生物也包括在內，而衝擊的是，展出的動物沒有給予書
寫的義務，也沒有把個體的權利考慮在內。

Whittam 認為，英國的法例雖然未有效
約束私人商業的動物遊樂，但個別家禽等動物的待遇
卻遠遠不及英國。而《防止試驗動物用途條例》亦
未有有效監管商業繁殖動物。

報導指，目前法例未能有效監管
私人商人的繁殖體育的行為，有個
研發商於動物上沒有任何影響，
讓業者在購用未受任何監管的動物
時，令動物過著悲慘的生活，而動物的空間
也未有適當的安排。Whittam 指出，英國的法例雖然未有效
約束私人商人的繁殖體育的行為，但個別家禽等動物的
待遇卻遠遠不及英國。而《防止試驗動物用途條例》亦
未有有效監管商業繁殖動物。

只保護羊牛 驢熊驢不公平

報導指出，國家對保護紅皮書的瀕危
動物的罰款從高達 500000 令吉至 1000000 令吉
達 3 年，但高級法院的力度卻相距甚遠。
報導指出，國家在 1998 年修改的條例中，有
10 項是罰款名額，其中罰款高達 100000 令吉。香港法例
只罰款不夠和太不夠公平，而對馬熊和一
些動物則獲稍寬容。研究人員指出，面對報告
中的一些法律缺失，需要政府及社會
的共同努力，才能解決這些問題。
防虐畜條例過時
港大學者促檢討

【本報訊】（記者 羅敏文）香港大學聯同愛護動物協會合作的研究發現，香港現行法例已嚴重過時，未能保障動物免受虐待，即使港府近年修例提高罰則，但警方在新例實施後首18個月提出19宗檢控，當中的半數被判監，刑期平均2個月，遠低於3年的最高刑罰，有學者認為局勢應全面檢討有關動物權益的法例。

新例實施後 刑期多輕判

港大法律學系副教授Amanda Whitford昨稱，警方在新例實施後首18個月提出19宗檢控，當中的9宗被判監，平均刑期2個月，多數個案被判監少於6周，有關刑期難起警惕作用。她又稱，現行法例要寵物承受實際傷害時，纔會有才介入調查，建議局勢應制訂新例，確保當局能及早介入，避免寵物受到傷害。

愛護動物協會福利部副總監侯安娜表示，現有法例未有規定獸養寵物的環境，適合曾有四隻被安置在陰暗環境而出現疾病，但因舉證困難未能以養意及虐待罪起訴其主人。Amanda Whitford表示，香港人喜愛繁殖寵物，使動物病毒容易散播，要求當局加強監管。

愛護動物會促修訂防虐例

【商報訊】愛護動物協會建議港大法律學係進行研究後，認為現行法例的防止虐待動物措施，早於1935年通過後生效至今超過70年，嚴重過時。協會建議政府修訂相關法例，包括收緊寵物店發牌制度，及立法禁止在售前審核的寵物店經營。

建議收緊寵物店發牌制

動物權益近年備受關注，不少人士關注動物虐待情況。該報告由研究资助局和中央政策組撰寫，獲經兩年完成。報告指，現行有關防護動物條例已嚴重過時，未能保障動物免受虐待。

08 JUL 2010  H.K. Commercial Daily
動物例落後 縱容寵物店虐畜

【本報記者蔡浩浩報道】不少港人視寵物為子女，但本港有關動物福利法例落後的同時，更縱容虐畜的情況。

港大考察發現，寵物店狗隻困於小籠內難以轉身，蛻蝊和蝸被擠在發泡膠盒內仍然合法；屠場家禽因電擊用具甚高，動物慘叫此起彼落。學者呼籲當局，參考外國改善本港動物法例。

狗因小籠 屠場屠具過時

香港大學法律系受中央政策組及大學教育資助委員會研究资助局資助，進行有關動物福利法例研究，包括檢討1935年通過的防止殘酷對待動物條例，發現本港法例不但較英、美、澳紐落後，亦趕不上新加坡等亞洲地區。

研究人員曾到寵物店考察，發現狗隻困於狹窄的小籠內難以轉身，又見鴨禽堆在水桶內層疊，難以走動；但根據現行法例，商店只需將牠們安置於「自由地走動和舒適地站立、坐下、臥臥與棲息」的地方，以上情況仍屬合法。

法律系副教授Amanda Whitfort形容，條例定義模糊：「所謂舒適的環境其實很主觀，只要剛好能安置動物，我們便束手無策！」她促請政府，為不同動物設立圍欄範圍，確保牠們有足夠的活動空間。

學者顧參考外國法例改善

繁殖場方面，政府雖為動物圍欄範圍設限，但不代表保障充足，30公斤或以上狗隻，圍欄範圍只足1.4平方米，遠低於澳洲維多利亞州為40公分以下小狗訂立的7平方米；此外，寵物店內其他環境要求本港亦欠奉，例如新加坡規定玩具的玩具和飼料等，即使寵物店未被發現違規照顧動物，政府亦無權立即終止其牌照。

寵物居住環境狹窄，屠宰禽畜的情況更慘不忍睹，報告指出，屠場屠宰禽畜前會先

把禽隻電暈，免牠受皮肉之苦，然而本港屠房使用只有180伏特的儀器輸入（英國建議用250伏特以上），電流往往不足以令禽羽昏迷，結果牠們被屠宰時仍有知覺；另外，屠場工人亦常不必要地電暈禽畜，令牠們服從，導致禽羽慘叫連連。

Amanda Whitfort促請政府參考外國法例，盡快改善有關的動物福利法例。漁農自然護理署回應表示，會與動物及衛生局研究報告內容，再作適當跟進。

駱佳增罰則 判刑仍過輕

【報道除批評法例過時外，亦質疑本港判刑阻礙性】政府曾於06年，增加虐畜最高判刑至3萬元及入獄3年，但年半以來，法院判刑仍依舊過輕。

19宗成罪 僅9判囚

報告指加刑後年半期間，共有19宗虐畜罪名成立個案，但只有9宗被判入獄，大部分判刑低於6星期，所有案件平均罰款只有1,200元。

「我們明白法官有千思之考慮，但在我們眼中，現時判刑阻礙性很低！」愛護動物協會檢核部總監何子榮說，07年錦華花園一戶戶養的4隻狗，一隻遭高壓水槍、一隻遭毆龍鼠、一隻喚子和狼狗，但最後主人僅被判3,000元，及120小時社會服務令。

港大法律系副教授Amanda Whitfort建議政府仿效英國做法，立法制定主人照顧動物責任，並給予執法人員更大權力：「若警方案，漁護署人員和愛護動物會高級督察發覺寵物有被處罰，法律應賦予他們時暫時將動物搬到安全地方。」

Amanda指英國06年曾推行以上做法，19年虐畜罪個案減少99%，成效顯著。愛護動物協會讚揚該做法能令阻止寵物被虐惡劣，促進政府全面提升動物福利。
防虐待動物例被評為時

- 本報訊 虐待動物個案不時發生，港府四年前便提高虐待動物的罰則，但過去三年，每年接獲近二百宗報案中，成功檢控平均僅十五宗，去年更減至九宗。港大法律系教授愛護動物協會進行研究兩年的研究發現，由六年至今，大部分因虐待被判入獄的個案，刑期僅六周內，罰款平均約一千多元，相對於最高罰款罰款二十萬元及監禁三年，相當輕微。研究又比較本地及新加坡等地的動物福利法例，批評本地的防止虐待動物條例嚴重過時，動物受虐待後才檢控，保護不足。

刑罰太輕 保護不足

港大法律系副教授Amanda S Whitfort昨表示，本地約有七條有關動物福利的條例，包括《防止虐待動物條例》，僵於一九三五年通過，四年前雖提高罰則，但內容大致一樣，顯已嚴重過時。條例僅保障動物受虐待後，當局可採取法律行動，對動物保護不足，建議本地仿效英國等地，加入主人對待寵物應有義務等條文。

Whitfort指相關條例眾多，執法人員易生混亂，即便罰則已提高，但法庭實際判處的刑罰與之相若。六年至今，因虐待被判入獄的刑期不過兩個月，罰款平均約一千二百元。她認為執法人員不足，建議加入關注動物組織的協會代表任執法人員，加強執法。

她亦舉出近十項其他相關法例的不足之處，包括寵物店發牌條件，不包括店內職員需受訓等，促請收紧寵物店發牌制度。她估計若要進行一系列改善建議，至少需兩、三年時間。
學者斥虐畜條例過時
對寵物保護不足

【新報報料】過去3年，漁護署和警方共接獲534宗虐待動物的舉報，當中只有45案成功被檢控，比率只有8%。

促禁虐畜寵物店經營

香港大學法律系副教授AmandaWhiford表示，早前與愛護動物協會合作進行一項研究，在比較香港、台灣及新加坡等其他地區的「防止殘酷對待動物條例」後發現，香港有關條例嚴重過時，只有主人殘酷虐待寵物時，才可對主人採取法律行動，條例對寵物的保護明顯不足。

調查又發現，寵物店現行的發牌制度有不足之處，發牌條件中未有列明員工需接受相關訓練，例如為動物治療等，發牌條件有需要作檢討。同時，現行法例亦未有規管業餘人士繁殖動物出售，未能保障動物的健康狀況。

他建議政府修訂有關法例已有75年的法例，賦予警方、漁護署及愛護動物協會權力，採取適當的行動保護動物；而業主和寵物店亦有責任提供適當保護，避免寵物受到傷害。

此外，他又建議仿效英美的做法，立例禁止有虐畜前科的寵物店繼續經營。

採訪：實習記者沈佩瑤
動物權益法例過時
團體促賦警權保護

生命無分貴賤，動物亦應受人道對待和法律保護。愛護動物協會聯同港大法律系，過去兩年就動物權益法例進行研究，研究報告指出現時有關動物權益法例過時，如寵物店狗籠太細小等，建議改善法律漏洞，並賦予警方和漁農署適當權力保護動物。

香港大學法律系副教授Amanda S Whitford表示，現行的「防止殘酷對待動物條例」於一九三五年頒布，已經嚴重過時，根據條例，只有當主人殘酷虐待動物時才可對主人作出檢控，未能有效阻撓主人。

而漁農署亦沒有權力對虐待動物的寵物店懲罰牌照。Amanda指出，有狗隻被主人遺留於密封的汽車中，亦有寵物店狗籠太細小，動物完全没有活動空間。

報告建議政府賦予警方和漁農署適當權力保護動物，而且修訂法例規定主人亦有責任適當保護動物，確保動物受到適當的照顧和保護。

漁農署沒權吊牌

吉之寶寵物店負責人黃先生表示，業界經常出現虐待動物情況，通常打罵，對魚則懲罰以減少動物的活動能力，以方便打理，他贊成修訂條例保護動物。
Animal welfare laws 'seriously outdated'

Study finds 75-year-old anti-cruelty legislation leaves pets without adequate protection
animal cruelty urged to fight
Tighter laws
The Standard 8 Jul 2010
A CANINE CRISIS

Beyond their pampered lives of prams, designer clothes and doggie spas lies a far more gruesome truth for many Hong Kong puppies. Patrick Brzeski investigates the reality of our pet trade and how atrocities are allowed to occur right under our noses.

THE PRIZE POODLE

Esther the toy poodle is perched nervously atop a tall grooming table, her small pointy face alternating between happy-tongued smiles and paroxysms of desperate-eyed doggie terror. A short leash attaches Esther's Gucci dog collar to an aluminium rod suspended above the table, holding her in place, as Ms Mak, her groomer, methodically snips, clips and vacuums Esther's white coat into the fluffy balls and gassy bare zones of the poodle's classic Continental show cut. As the grooming session comes to a close, Ms Mak2

Soho Pet Bakery at prices competitive with human meals, dons the latest season's designer dog wear, and is just generally showered with cuddles and kisses and coos throughout all her waking hours.

But while such treatment is fairly typical for spoiled pets in big cities everywhere, Esther and many Hong Kong dogs like her harbour a dreadful secret history. For, despite all the love and luxury of her present day lifestyle, before her purchase from the pet shop, Esther likely lived through a puppyhood of indescribable horror and suffering.

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A canine crisis

“Most of these breeding grounds are worse than refugee camps and this is where a lot of puppies sold at Hong Kong pet stores come from” William Tung, animal welfare activist

THE PUPPY FACTORY

Purebred golden retrievers, bulldogs, terriers, basset hounds, poodles, and other unrecognizable breeds are all cramped in cages so small they can hardly turn around, their skin covered in sores, teats sagging, nails overgrown—nearly all visibly malnourished. “Most of these breeding grounds are worse than refugee camps,” says William Tung, as he shows me the photos he has taken at the underground puppy farms he has discovered throughout the New Territories over the years. “And this is where a lot of the puppies sold at Hong Kong pet stores come from.”

Since retiring from his manufacturing management job six years ago, Tung, 51 years old and a lifelong animal lover, has devoted nearly all of his free time to rescuing neglected and abused animals. He maintains a diffuse network of contacts of like-minded animal lovers throughout Kowloon and the New Territories who come to him when they hear of abused or unwanted animals in their neighbourhoods.

“For the most part, the puppy breeding farms are very well hidden,” Tung explains. “The owners treat the dogs like money machines. They keep them in small cages, sometimes on balconies, where they aren’t protected from the rain, or in small dark shacks.” Many breeders have told him they feed the dogs leftover scraps collected from bakeries and restaurants to save on expenses. “They breed them over and over, so that they can sell as many puppies as possible.”

Last fortnight, Hong Kong Dog Rescue, a well known dog rehabilitation and re-homing charity based in Tai Po, made news by adopting 18 British Bulldogs from an anonymous breeder based in Sheung Shui. One of the dogs died in transport, and two of the three puppies collected died the day after arrival at the kennel; nearly all of the surviving dogs were female, overweight, heavily fatigued and suffering from serious skin rashes, having been kept in small cages, denied exercise and presumably bred without respect for years. As various news outlets reported, the donation to Hong Kong Dog Rescue was brokered by an unidentified middleman who approached the owner after learning that the dogs were to be killed or sold to another breeder if no one intervened. That middle man was William Tung.

“One of my friends in the area told me about a breeder who was looking to get rid of a bunch of dogs because the guy was going bankrupt from gambling debts,” he explains. “We knew that if we didn’t get the dogs out of there, they probably would end up killed or sold to someone else who would keep breeding them in miserable conditions. This is how it usually happens; we hear about some dogs and we do whatever it takes to get them out of there. Sometimes we have to raise money in the community to buy them ourselves.”

Although Tung estimates that he’s helped rescue and re-home between 400 and 500 dogs over the years, there are notable cases that still haunt him, instances where the animal abuse was nightmarishly grotesque and there was nothing he could do to stop it. “One of my friends once got into a breeding facility in Yuen Long, where they were keeping hundreds of purebred dogs in a dark warehouse,” he remembers, growing quiet. “They had cut the mothers’ throats in a way so they couldn’t bark, and they had knocked out most of their teeth, because sometimes the mothers go crazy being kept in those small cages in the dark all the time, and they’ll bite the babies.” Tung says his friend was unwilling to go to the police with what he had seen and insisted on not discussing it further. “The guys behind that facility were the type of guys who are involved in other illegal activities. He didn’t think it was safe to talk about.”

We mentioned such stories to Hong Kong
University Associate Professor of Law Amanda Whitfort, author of a two-year comprehensive legal review of Hong Kong's animal welfare and animal cruelty laws. "Yes, we know pets are coming off puppy farms and kitten farms," she says. "If you buy a pet shop puppy, you're asking for a world of trouble. You will be very lucky if that animal's not sick or infirm."

A scholar and leading domestic expert on animal welfare, Whitfort is not the sort to make extemporaneous assertions. In 2006, working with local veterinarians and animal clinics, the Society for the Prevention of Cruelty to Animals launched a survey investigating the health of puppies purchased from Hong Kong pet shops. Earlier that year they released their findings, which were included in Professor Whitfort's report. Of the 202 puppies studied, 10 per cent were sick on the day of purchase, 72 per cent of them became sick within a week, and a staggering 30 per cent died shortly after. "So what does that tell you about where these animals come from," asks Whitfort. "It's disgusting, that's what it is."

THE PET SHOP WINDOW

How - you're now probably wondering - is such a state of affairs possible in an international city like Hong Kong? Surely there are animal cruelty laws and enforcement bodies charged with preventing such egregious and grotesque abuse of animals within the SAR.

Indeed, there are. In order to breed animals commercially in Hong Kong, one must obtain an Animal Trading licence from the Agricultural and Fisheries Control Department. While the requirements concerning the size of enclosures, feeding and exercise regimens, and other asserted criteria concerning the care of the animals are embarrassingly behind international animal welfare standards (on which, more later), the AFCD are actually quite scrupulous in enforcing Hong Kong's limited laws and only grant licences to those who painstakingly prove that they are meeting the basic legal standards. None of the conditions described above would be permissible under Hong Kong's Animal Trader licence requirements. But the licenced breeders aren't the problem, because in fact, there are only two of them in all of Hong Kong, and both of them sell animals direct to customers, circumventing the pet shop industry entirely.

Regulated imports are a second legal source of puppies and kittens in Hong Kong, explains Whitfort, but in recent years the AFCD has reported a considerable decline in dog and cat import numbers. From 2005 to 2006, 1,970 dogs were imported to Hong Kong for sales each year, while from 2007 to 2009, an average of 1,033 dogs were brought in. A similar downward trend is observed in cat imports.

So if the licenced breeders don't sell to pet shops, and legal import numbers are on the decline, where do Hong Kong's hundreds of pet shops get the tens of thousands of animals they sell annually?

LOOPOLES AND SMUGGLERS

The third and final legal source for pet shop puppies and kittens is a "private pet owner." If your dog happens to have puppies, you are legally entitled to sell the pups to a licenced Hong Kong pet store. And surely such an allowance makes sense, as a means of preventing unwanted puppies from going abandoned. Yet there is currently no cap on how many puppies a so-called "private pet owner" can sell to a pet store, and therein lies the loophole through which untold thousands of puppies and kittens are channelled into the Hong Kong pet market with little to no regulation. "This loophole allows people to sell their animals to pet shops without licences, because they say they are selling their own pets," explains Whitfort. "And if they are unlicenced, then of course there is no welfare check, no requirement that you let anybody from AFCD onto your premises, no requirement that you provide your animals with a certain amount of space, that you vaccinate them, that you care for them. There's just nothing. You can have your thousands of animals, and nobody can control what you're doing."

Cross-border smuggling is also believed to be a major source of pet shop animals, although confirming the extent of the activity is notoriously difficult to determine. "We've heard about all different ways in which puppies are being smuggled over - in trucks and boats," says Tony Ho, who joined the SPCA as Chief Inspectorate three years ago, after 35 years of service on the Hong Kong Police Department as a Chief Superintendent. Tung also reports hearing stories from community members about puppies pulled from container trucks in chicken crates, apparently drugged into a stupor so that they don't bark during passage. "It's something that is very difficult to trace back. You can try to tighten the border, but you can't just rely on enforcement action," says Ho.

Pigs to the slaughter

For most people the phrase "animal welfare" evokes images of abandoned puppies. Yet few of us think of food animals - pigs, cattle, chicken, etc. - and the abuse they suffer on their way from the farm to the dinner table.

In fact, 90 per cent of all animals in Hong Kong are food animals, but there are few laws to ensure their humane treatment.

For instance, in contrast to basic international animal welfare standards, Hong Kong has no laws requiring pigs to be anesthetised prior to castration. Sick and dying pigs are also commonly dumped at rubbish collection sites alive, instead of being euthanised. There are no laws to ensure that the 1.3 million chickens produced annually by local chicken farms have adequate food and water, and these birds are routinely killed through bloodletting, a practice banned in the UK, Australia, and New Zealand.

At the Sheung Shui slaughterhouse, which handles 1.5 million pigs every year, CCTV cameras are often turned off or pointed away from the slaughter areas, rendering them useless for inspection purposes. HKU Professor Amanda Whitfort discovered that workers use electric goads to strike the pigs, and force pigs with fractured pelvises to struggle up ramps with their legs tied together.

The underlying problem is that Hong Kong's laws concerning slaughterhouses are both outdated and irrelevant. Not only do regulations fall short of the standards set by the World Organization for Animal Health, but the existing laws were also written for the wrong animals. "We are stuck with archaic laws that relate to what the colony considered likely to be farmed here - cattle, goat and sheep, none of which we farm," explained Whitfort. "We have pigs and chicken, but we have no ordinances covering them."

But why should we care about the treatment of food animals, anyway? "Just because we eat them doesn't mean their suffering is any different from dogs', cats', or birds'," argues Whitfort. Even disregarding any interest in animal welfare, there are human health concerns to consider. The lack of regulations to ensure adequate disinfection and proper handling of sick or dying animals means that disease could easily spread in Hong Kong.

Perhaps we would rather be ignorant. But if the saying is true - that "we are what we eat" - then maybe we should take a minute to consider how our food arrived on our plate.

Caroline Chen

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Letter of the law

Our current animal welfare laws are based on British legislation enacted nearly 100 years ago and are considerably out of the line with international standards. In addition to identifying the breeding loophole (see Feature), HKU's recent Review into Animal Welfare Legislation in Hong Kong also highlights several other amendments that are required to achieve any sort of parity with these overseas regulations. Here are four of the most significant, Phyllis Lui

REQUIRE SOME CARE
Current cruelty laws remain based on 1911 standards. The UK has recently amended their laws to recognise that people have a duty to care for animals, which is imposed on people regardless of whether they were the legal owner of the animal. Such a change in Hong Kong would prevent people pleading ignorance in starvation and negligence cases.

GUILTY YOUR HONOUR
BUT I STILL GOT MY SHOP
Even in the event of a pet store owner's blatant breach of the animal welfare legislation, the AFCD lacks the power to revoke licences upon conviction. An amendment to allow such a stripping is fundamental to the protecting animals in danger.

EVERYTHING'S FINE
The penalty for animal cruelty may have been significantly increased in 2006, but the fines for breaching a licence condition ($1,000) and trading or breeding without a licence ($2,000) remain meanly. The AFCD is currently proposing to raise the penalties for these offences respectively to $50,000 and $100,000, a move that should act as a significant deterrent to flagrant breaches.

GIVE US SOME SPACE
When it comes to pet shop enclosures, the current law only requires that animals be able to “move about freely and stand, sit, lie and perch comfortably”, without specifically outlining a minimum cage size. In contrast, US states and Australia outline detailed regulations for enclosure sizes in relation to cats, dogs and rabbits. Such laws should be introduced to ensure that, while waiting for that perfect owner, animals are subject to a reasonable level of comfort.

ENFORCEMENT FAILURES
In February of this year, the AFCD introduced significant improvements to Hong Kong’s pet trader licensing requirements. Under the new regulations, all dogs for sale must be implanted with a microchip containing the animal’s ID number, which can then be scanned to access its official vaccination records and licensing data. All pet stores are also required to keep a record of every animal bought, sold or deceased on its premises; stores are additionally responsible for verifying that puppies bought from private breeders have the proper certificate verifying that they are the offspring of a particular licensed dog.

These requirements would presumably provide the AFCD with the data necessary for determining which so-called private pet sellers are breeding animals on an unregulated commercial scale – simply by collating the data to track which “private pet sellers” are producing puppies by the hundreds – yet, our inquiries suggest that the AFCD are in no way collecting and implementing this new data for tactical use. When we asked an information officer at the AFCD how they plan to use the new pet store info at their disposal, he politely corrected us, saying, “We do not keep this information, the pet stores do.” To what end that information is being kept is by no means clear.

LEGAL IMPOTENCE
Despite these presumed failures, to some extent the AFCD are in an untenable position, for which they alone cannot be blamed. “The AFCD patrols, but they only have eight staff allocated to this, patrolling pet shops and looking for unlicensed breeders and checking welfare generally,” explains Whitfort. “So you can imagine the level of care that’s being given to these. They can be doing their very best, but it’s impossible. It’s not enough for all of Hong Kong.” And even when the AFCD does discover underground breeding or savage animal cruelty, the lease tools at their disposal for punishment and deterrence are paltry. At present, the maximum penalty the AFCD can impose for unlicensed breeding is $2,000 – which is roughly equivalent to the profit of a single puppy sale. Likewise with animal cruelty laws and licencing standards. “Believe it or not, if a pet store owner is convicted of an act of animal cruelty – which is highly unlikely in Hong Kong, but still – the AFCD currently lacks the authority to withdraw the individual’s animal trading licence,” says Whitfort. “All they can do is wait for it to expire.”

As Whitfort laments in her legal review, Hong Kong’s Animal Cruelty Ordinance is based on a British Protection of Animals Act introduced in 1911. The Hong Kong Ordinance was enacted in 1935 and hasn’t been comprehensively updated since. “We followed an old UK law, they have changed it, and we are still sitting here with the old rubbish,” she says. “We haven’t done anything about the fact that the world has moved on.” Chief Inspectorate Ho concurs: “The AFCD works with the resources at their disposal, but the main area in need of improvement is the enhancement of the law.” [See Letter of the Law sidebar]

HONG KONG HEARTS ANIMALS
It’s a hot July Sunday in Shau Shui and hundreds of people from all walks of life have gathered in the concrete courtyard of the local AFCD outpost – local villagers, urban professionals, and countless university-aged kids, everyone sweaty, uncomfortable, and energised. One week prior, a neighbourhood animal lover caught two AFCD dog catchers on video as they brutally choked two stray dogs in the process of capturing them for disposal. The footage was quickly uploaded to Facebook, whereupon hundreds of outraged comments came pouring in and a protest was promptly organised. “I’ve never been a part of any activist group,” says Rembert Meyer-Rothchow, a German-born lawyer and 12-year resident of Hong Kong. “But I saw that horrible footage online and felt compelled to come out and check this out.” Meyer-Rothchow turns towards the front of the crowd and joins in the chants.

“Hong Kong people are showing that they care very significantly about animals,” says Professor Whitfort. “And I believe that the government itself recognises the public wants animal cruelty to be taken seriously.” While a legal overhaul is likely to be slow in coming, a great many Hong Kong individuals – out of nothing more than large-hearted personal conviction – are working independently to counter the system’s insufficiencies. “A lot of the time when I get dogs away from breeders and get them donated to different groups, no one even knows I’m the guy who made it happen,” says William Tung. “But I honestly don’t care. I just want to get them out and living in a better place.”

Turn the page to meet four of the leaders of Hong Kong’s animal welfare fight.
Abused and neglected animals need far more help from Hong Kong’s law and courts, writes Amanda Whitfort

In harm’s way

Hong Kong’s animal cruelty legislation is entirely unable to assist animals in danger or distress. The law 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.

Nothing proactive can be done for neglected animals in danger of suffering, unless or until they are seriously harmed. Authorities must stand by and wait for a neglected animal to have been cruelly harmed by its owner before the law allows them to do anything to help.

This is not the case in Europe, the United States, Australia and New Zealand. There, animals are not just protected from cruelty but are required to receive a minimum standard of care.

People who keep animals are required to provide them with a suitable diet, safe shelter, medical care and the opportunity to behave normally – for example, dogs must be exercised.

If people do not live up to their duties to provide adequate care, the law can intervene. Neglect, just like cruelty, is an actionable criminal offence.

In most cases of neglect in Britain, for example, police or the RSPCA will try to remedy the situation by explaining to the owner what the animal needs. If the animal is not in imminent danger of suffering, they will give the owner time to rectify the problem.

For example, an owner may need time to build a shelter to protect his animals from the sun. Meanwhile, the owner would be required to keep his animals inside.

This achieves a sustainable solution to the problem and protects the animals over the long term. If an animal is in imminent danger, then the solution must come more quickly.

It may be as simple as opening the door of a stiflingly hot car, or to the gate of an excessively confined area. The law gives police and officers from the Royal Society for the Prevention of Cruelty to Animals the power to enter private premises where an animal is at serious risk. Everyone wins under this kind of law. The danger to the animal is averted and, if they have cooperated and rectified the problem, the owner avoids being charged.

The state is not put to the inconvenience and expense of a prosecution at court. In most cases, the owner learns a valuable lesson about what they must do to provide care for their animal and the problem does not arise again.

This year, the RSPCA in Britain reported that, in the past years, 99 per cent of neglect cases investigated were satisfactorily resolved without the need to go to court.

Aside from the inconvenience of prosecution, taking animal abusers to court is hardly worth the effort in Hong Kong. In 2006, the maximum penalty for cruelty to animals was raised to three years’ imprisonment. Yet, since that time, statistics collected from the police and the Agriculture, Fisheries and Conservation Department have shown that the sentences being passed by magistrates have not changed at all.

Even in the worst cases of prolonged starving, violent beatings, poisoning and suffocation, the average sentence passed by the magistrates’ courts is only two months’ imprisonment. Of those sentenced to imprisonment, most are ordered to serve less than six weeks. Fewer than half of all defendants face any prison time at all. Not there has been a change in the average fine imposed. Despite an increase to a maximum of HK$200,000 in 2006, the average fine is only HK$1,200.

Clearly, the intention of the legislature is not being recognised by the courts.

Most complaints of animal abuse in Hong Kong involve owner negligence rather than overt cruelty. An owner will go out and leave their dog tied up in the sun or with insufficient water – often both.

In such cases, it is difficult for the police to prove an intention to be cruel. The owner may be warned, but there is nothing the law can do to protect the animal unless or until it shows overt signs of suffering. A neglected animal, in danger of serious harm, is not enough to attract the protection of the law.

It is high time for us to take animal welfare seriously and to bring a law that will actually deliver on its promise to protect our animals.

Amanda Whitfort is associate professor in the Faculty of Law at the University of Hong Kong.
A dog's life

BY DANIEL PORDES
Published: Dec 17 2010 11:00

Among the dogs at the Hong Kong Dog Rescue center, Whizz, the 2-year-old Chihuahua mix can't help but stand out. Spinning like a whirling dervish, growling and snapping, he repeatedly attempts to grab his tail in a rotating frenzy. It seems cute at first, until you notice his tail is no longer there. It had become so mutilated that it had to be cut off.

"That's what happens when you cage a dog," says Norma Mitrovich, a volunteer at the center. "It makes them go stir-crazy."

Whizz was kept in a cage prior to being abandoned by its owners and was driven mad by the lack of space. His close confines forced him to go round and round in circles, chasing and biting incessantly at the tail until it had to be surgically removed. An anxious twitch that kicks in on occasion, Whizz's behavior now is actually far improved from when he was first brought to the center as a nervous wreck. Meanwhile, curled up asleep in a basket nearby, away from all the commotion, is Turbo, a Shih Tzu, almost completely blind and partially deaf. At 10 years old, he has been a long-term resident here, and it's likely that he will see out his days at the center.

Turbo and Whizz, and 16 other dogs fill the small two-story building in the southern district of Ap Lei Chau. Another 300 larger dogs reside in their kennels in Tai Po. All of these former pets were first abandoned to the government's animal management centers run by the Agriculture, Fisheries and Conservation Department (AFCD) by owners who decided they were too old, too boisterous, required too much work or simply went out of fashion.

These dogs actually are the lucky ones, taken in by the dog charity. According to government statistics, 90 percent - a total of around 44,000 - of the dogs taken in by the AFCD from 2006 to 2009 were put down. This year it is estimated that 10,000 dogs (as well as several thousand cats) will have been given their four days' period of grace and then euthanized by the time the year is out.

Despite these numbers, the AFCD has reported gradually lower overall numbers of strays and abandoned dogs over the year. In an emailed statement the department stated: "The public has become more aware about responsible pet ownership; and hence fewer dogs are being turned out on the street as strays." While there are some developments, these numbers are considered misleading by animal welfare groups that claim the situation has not improved: government indifference, public ignorance, and pet shops' iniquity aid and abet continued canine mistreatment.

With Christmas coming, pet shops, like other businesses in Hong Kong, have gone into product-pitch over-drive; the front stall windows of pet-shops in Mong Kok are dominated by vast quantities of colourful doggy paraphernalia: coats, booties, hats and other anthropomorphic oddities. While some playful poodle pups delight the onlookers at the front window, inside the shops are fewer signs of life. Toward the rear of the store, an English bulldog lies mournfully on its side on the unprotected plastic grid floor, with eyes glazed over and his breathing heavy, his muzzle and hind legs are pressed up against each side of his cage, which although of Hong Kong regulation size, is far smaller than those delineated by other developed countries. His neighbour, a
Chow Chow, is equally squashed into his allotted space; neither are responsive to outside stimulation. Brightly colored price tags cut into Christmas shape tout their prices: here they are commodities, not animals, worth a combined HK$19,000.

A research paper that came out this summer, written by Amanda Whitfort, an Associate Professor of Law at the University of Hong Kong, and Dr Fiona Woodhouse, Deputy Director of Welfare Services, Society for the Prevention of Cruelty to Animal (HK), noted that "there are no legislated enclosure size requirements imposed on ordinary pet shops" and it further notes, "Hong Kong licensing conditions provide no requirement for the enrichment or active exercise of animals kept in pet shops for trade, or in breeding establishments." Such conditions cause psychological distress to the animals, such as in Whizz's case, as well as other physical problems. According to the SPCA, 78 percent of animals bought at pet stores become ill within one week of purchase, over 20 percent of those which fall sick eventually die.

Dr Woodhouse condemned the lack of transparency in pet shops: "Where do the puppies come from?" she asked. "The breeding here is not properly regulated, there are only two officially licensed breeders in Hong Kong - so where are all these dogs coming from?" Stories of unregulated puppy mills, "hobby breeders" and smuggling of animals from the mainland are all alleged to bolster pet shops that have increased in number throughout Hong Kong - now over 150 licensed stores. In July, a breeder dumped 17 bulldogs, which were found by Hong Kong Dog Rescue in appalling conditions: the older ones were reported by the organization's founder, Sally Andersen, as being "obese with huge teats like cows udders, having been made to have and feed litter after litter." One of the dogs died.

Some people who gaze at the toy poodles at the front of the pet stores may well join the ranks of Hongkongers who think a puppy will make a suitable Christmas gift, but just a month or two later when Chinese New Year comes round the animal centers are swamped by these same dogs, now abandoned.

"It's the big dog-dumping time of the year," Andersen said. "Many people go away over Chinese New Year and don't know what to do with the dog." Mitrovich suggested it might be to do with the culture in Hong Kong: "Chinese New Year is a time when it's out with the old and in with the new, and sometimes that also includes the dog!"

Not until the early 1990s was keeping pet dogs a popular habit in Hong Kong, just a few years before they were still seen as a food source in places like Kowloon Walled City, and people are still learning about responsible pet ownership.

Jen McCombie, vice-chairman of STOP!, an animal welfare organization, is only too well aware of the lengths Hongkongers still need to go. Her mix-breed dog, Cassie, who died a year ago this month was originally found by the SPCA tied up outside a petrol station beside another dog. Both had been covered in gasoline. And then set on fire. Cassie barely survived; the other dog, her sister, did not.

"There's still a general misunderstanding about dogs here," McCombie said. "When I take them for a walk people pull their children away, or tell me to muzzle the dogs." McCombie is also scathing toward others, when it comes to the pain's some people will take to accessorize their dogs: "I see dogs wearing little shoes, sometimes even with heels, they have paws on their feet for a reason! That or they are being pushed around in prams, it can be cute but it's not appropriate."

Welfare groups like Stop! are looking to government to lead public opinion, but so far have been frustrated. Five years of negotiations on issues such as solutions to the high kill-rate of abandoned animals have not seen any breakthrough. However there do seem to be recent grounds for optimism.

Following a large protest by Stop! and other animal rights groups in July, and continued campaigning in promotion of a trap-neuter-release scheme for stray animals, Chief Executive Donald Tsang acknowledged the criticism in his policy address in October, and promised to "tackle the problem of stray cats and dogs at the source." While this was dismissed by some as lacking substance, a meeting of the Animal Welfare Advisory Group on December 14, led to the agreement of the AFCD director to allow a trial of trap-neuter-release, a method relying on sterilization of street dogs or cats to reduce their populations. This will reportedly take place somewhere in the Sai Kung area in the next few months and the numbers of animals taken in and put down by the AFCD should be reduced dramatically.

Programs like the trap-neuter-release scheme, and greater understanding by the public have resulted in more public involvement than ever, with more people phoning to report animal abuse, according the SPCA. Increases in facilities, services and updated legislation will help Hong Kong to reach the level of other developed countries in terms of animal welfare, according to Sheila McClelland, Founder of Lamma Animal Protection.

"Having a dog is a long-term commitment; there is still so much abandonment that it is difficult to say whether it is significantly worse after Christmas," McClelland said. "All the homeless dogs want for Christmas is a family, a home for life!"

Hong Kong urged to tackle animal welfare

Christine Webster

Last Updated: Wed, 19 Jan 2011 13:46:00 +1100

Animal rights activists in Hong Kong have raised concerns over the treatment of animals used for breeding.

The Society for Prevention of Cruelty to Animals (SPCA) says dogs and other animals, which are used for breeding by pet shops and breeders are being kept in isolation in cages, which are far too small.

It says they are often only allowed out of their cages to reproduce.

SPCA Executive Director, Sandy Macalister, has told Radio Australia's Connect Asia program the laws in Hong Kong urgently need to be changed to ensure those who breed animals have a legal obligation to take better care of them.

"Our law is substantially, out of date, in that it provides only for cruelty - the end result of cruelty - and not a duty of care," he said.

"[That is] the responsibility of owners or breeders or pet shops or anybody to meet certain requirements along the way. Cruelty can only be acted upon once it's been committed, which is obviously, in many cases, too late."

In a statement, Hong Kong's Agriculture, Fisheries and Conservation Department said all animal traders must be licensed and follow its Code of Practice by ensuring animals in enclosures remain dry and clean and have access to food and water.

The department said they should also be able to move about freely and to stand, sit, lie or perch comfortably.

It said the Hong Kong Government keeps animal welfare-related policies and measures under constant review and will consult the Legislative Council later this year on proposed measures to further enhance animal welfare.

Amanda Whitfort, Professor of Law at the University of Hong Kong, says the legislation being used in Hong Kong is based on a UK law developed in 1911.

She says Hong Kong is way behind other cities in other developed countries when it comes to protecting animals from cruelty.

"Particularly in the last few years, countries such as Australia, the United Kingdom, America and many parts of the EU have introduced a requirement that animals are given a minimum standard of care that meet their basic needs," she said.

"Their need to be socialised, their need to be mentally stimulated, their need to be able to behave and interact with their environment in a normal way. Hong Kong doesn't have a law like that - it doesn't have a welfare law, only a prevention of cruelty law, which basically means if you're not overtly cruel to your animals, nothing can be done about the way you treat your animals."

PHOTO
Puppies make popular pets in Hong Kong and usually end up in comfortable homes, but the plight of their parents is causing concern amongst animal liberationists. [Reuters]