Progress in Animal Legislation: Measurement and Assessment

CHAPTER 7

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Introduction

British philosopher John Stuart Mill once said: "All great movements experience three stages: Ridicule. Discussion. Adoption." (in Wiebers, Gillan, and Wiebers 2000, 169). As movements reach the level of adoption into mainstream society, they acquire a certain level of legitimacy, often reinforced through the passage of legislation that validates the fundamental principles they promote. Contemporary theorist Bill Moyer's (1987) conceptualization of a social movement's evolution adds greater complexity to Mill's assertion.

Moyer asserts that a social movement has eight stages, which operate cyclically (although the various goals within the movement may be at different stages at any one time). The first three stages cover the early organization and recruitment of adherents. The movement then typically gains momentum from a "trigger event"—one that brings public awareness to a social problem—that pushes the movement into stage four. In this stage, the media "discovers" the movement, and the wider public begins to attend to the movement's issues. This is a relatively short phase (for the modern phase of the animal protection movement, it lasted for about fifteen years, until 1990) (Herzog 1995). In stages five and six, some movement followers enter the dead-end phase five. These followers perceive the lack of major legislative change emanating from the media attention as a failure and either burn out or develop much more aggressive techniques. Stage six is peopled by those followers and organizations that take advantage of the media attention to get at least some of the issues onto the public agenda, leading to some concrete achievements. Ultimately Moyer defines social movements as "collective actions in which the populace is alerted, educated, and mobilized, over the years and decades, to challenge the power holders and the whole society to redress social problems or grievances and restore critical social values" (Moyer 1987, 3).

The animal protection movement has historically relied on legislation as a key element to promote and enact its reform agenda. Moyer's model helps to place and analyze when, why, and how the movement (or parts of it) gets its issues onto the public agenda. Over the years, animal organizations have committed significant effort and resources to the passage of legislation leading to greater legal protection for animals. However, some eras have led to the passage of more laws than have other eras. From 1900 to 1950, only one federal law addressing animals was passed, although individual states did pass or amend animal protection laws during this period. Table 1 lists the federal laws passed and amended that deal with animal protection, demonstrating the considerable success and increase in political influence that the animal movement has enjoyed in the second half of the twentieth century.

Federal law is only one dimension of the movement's legislative reform, however. Its political influence has reached not only Congress but also state legislatures, which are also much more active in addressing animal issues. One of the more significant accomplishments for the animal protection movement has been the passage over the last two decades of felony-level animal-cruelty statutes that permit certain abuses against animals to be prosecuted as felonies rather than as misdemeanors, as in the past. Nine states passed felony animal-cruelty laws between 1994 and 1997 (Table 2) and the pace accelerated between 1998 and

Table 1
Federal Legislative Summary, 1958–2003

Year	Federal Legislation Passed/*Amended*
1958	**Humane Slaughter Act**
1959	Wild Horses Act
1962	Bald and Golden Eagle Act
1966	Endangered Species Act **Laboratory Animal Welfare Act**
1970	Animal Welfare Act *(amendments to Laboratory Animal Welfare Act)*
1971	Wild Free-Roaming Horse and Burro Act
1972	**Marine Mammal Protection Act**
1973	*Endangered Species Act amendments* CITES
1976	*Animal Welfare Act amendments* Horse Protection Act Fur Seal Act
1978	*Humane Slaughter Act amendments*
1985	*Animal Welfare Act amendments (focus on alternatives and pain and distress)* PHS Policy on animals in research revised
1990	*Animal Welfare Act amendments*
1992	Wild Bird Conservation Act
1993	International Dolphin Conservation Act Driftnet Fishery Conservation Act NIH Revitalization [Reauthorization] Act mandates development of research methods using no animals
1995	USDA ends face branding
1999	Ban on the interstate shipment of "crush videos"
2000	Chimpanzee Health Improvement, Maintenance, and Protection Act
2002	Dog and Cat Protection Act Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) Authorization Act Safe Air Travel for Animals Act Ban on interstate transportation of birds and dogs for fighting purposes
2003	Captive Exotic Animal Protection Act

Source: Unti and Rowan 2001, 34–37; HSUS 2004.

2001, as an additional sixteen states adopted felony legislation. As of 2003 forty-one states and the District of Columbia had felony level animal-cruelty statutes on their books, and Nebraska, Montana, Connecticut, Texas, Nevada, Virginia, and Colorado had upgraded their original felony animal-cruelty laws.

Even with the greater momentum in the states to enact state felony anti-cruelty legislation, other legislative initiatives were not successful. The animal protection movement began to adopt a new tactic, the citizen-initiative ("direct democracy") process, in the twenty or so states that allowed such petitions. Between 1990 and 2002, twenty animal protection initiatives were passed, and six anti-animal measures were defeated. Overall, thirty-nine initiatives that affected animal protection were introduced during the period and, in twenty-six cases, the result was a win for animal protection.

However, passage of new legislation does not necessarily provide satisfactory protections for animals. The new legislation must be supported by adequate funding and effective enforcement. Little if any legislation is perfect, and usually continuing efforts to improve a statute will be needed.

As the animal movement has gained more political authority and public acceptance, it needs better ways to assess and follow its progress—or lack thereof—towards its goals. In this era, in which nonprofits and funding agencies are demanding better measures of effectiveness, the animal movement needs to examine how it looks at the progress it is (or is not) making in gaining better legal protection for animals.

Federal Legislation

Between 1958 and 1972 three major pieces of federal animal protection legislation were passed, the Humane Slaughter Act (1958), the Animal Welfare Act (1966), and the Marine Mammal Protection Act (1972). These serve as the basis for the following analysis. Given that before 1958, the last federal animal protection legislation that had passed was in

1906, these three legislative victories, plus the other legislation listed in Table 1, demonstrate the rise of the animal movement from political oblivion in the first half of the twentieth century to a position where lawmakers would listen if the context and the proposal were timely and supported by the societal and political mood. (The Endangered Species Act was also passed during this period and was supported by many animal protection organizations, but it is not strictly animal protection legislation, that is, it does not seek to prevent or prohibit animal distress or suffering caused by the human use of animals.)

The Humane Slaughter Act (HSA) established a very basic humane standard of care for farm animals during slaughter (namely, that they should be made insensible to pain). The Animal Welfare Act mandates humane standards for the handling, treatment, and transportation of "any warm blooded animal used for research, testing, experimentation, or exhibition purposes," although farm animals used in food production and birds, mice, and rats used in research are excluded from its coverage. The Marine Mammal Protection Act imposes a moratorium on "harassing, hunting, capturing, or killing all marine mammals" (Animal Welfare Institute 1990, 190).

Humane Methods of Slaughter Act: An Assessment

In the early days of The Humane Society of the United States (HSUS), after its split from the American Humane Association (AHA) in 1954, Fred Myers, HSUS president, was determined to instill a broader vision of the importance of nationally organized initiatives and to lead local organizations in setting their sights on achieving larger strategic objectives (HSUS 1956). One of the points of tension in the internal AHA schism concerned the preslaughter handling and slaughter of animals used for food. Therefore, it is not surprising that the first national campaign that the newly formed HSUS launched focused on that issue. During 1955 and 1956, The HSUS diverted every available dollar from its budget into the drive for slaughterhouse reform and generated widespread publicity on the issue. Myers lined up significant sources of public support for the HSA and testified on its behalf in 1958, the year in which it passed (Unti 2004).

Myers took great encouragement from the fact that, between 1954 and 1958, the animal protection movement had united to achieve passage of a federal humane slaughter law that would spare approximately 100 million animals a year from pain and suffering. It was also a vindication of the vision that had driven the formation of The HSUS, namely, the idea "that hundreds of local societies could lift their eyes from local problems to a great national cruelty" (Unti 2004, 6). Passage of the HSA represented the first time since enactment of the 28-Hour Law (regulating how long livestock could be transported without being given a food and water rest) more than fifty years earlier that the federal government had agreed to address an animal welfare issue. By and large, animal protection in the 1950s was perceived to be the domain of the state legislatures (e.g., anti-cruelty and related legislation).

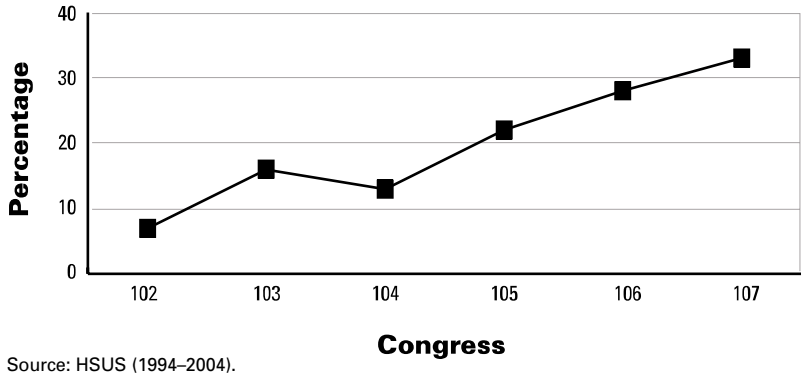
The HSA required slaughter plants selling meat to the U.S. government (roughly 80 percent of all U.S. meatpacking plants) to abide by humane methods of slaughter set by the federal government. The U.S. government was the largest purchaser of meat, buying $300 million worth annually (Unti 2004, 45). According to the law, cattle, sheep, swine, goats, horses, mules, and other equines must be slaughtered humanely, usually by rendering these animals "insensible to pain by a single blow or gunshot or an electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut" (7 U.S.C.A. §1902). One loophole in the law permitted the armed forces to purchase meat that did not have to be certified as humanely slaughtered

Table 2 States with Felony-Level Anti-Cruelty Statutes

Year Enacted	State(s)
1986	Wisc.
1987	
1988	Calif.
1989	Fla.
1990	
1991	
1992	Neb.
1993	Mont.
1994	Del., Mo., N.H., Wash.
1995	La., Ore., Pa.
1996	Conn.
1997	Tex.
1998	Ind., N.C., Vt.
1999	Ariz., Ill., Nev., N.Y., Va.
2000	Ala., Ga., Iowa, S.C.
2001	D.C., Md., Minn., N.J., Tenn.
2002	Colo., Ohio, Me.
2003	Ky., W.V., Wy.

Source: *www.hsus.org:* Legislation and Laws—Citizen Lobbyist Center.

Figure 1
Percentage of Members of Congress Co-sponsoring the Downed Animal Protection Bill (102nd–107th Congress)



Source: HSUS (1994–2004).

as long as the purchased amount did not exceed $2,500. While it is unclear exactly how much meat fell into this category, "a considerable portion of that volume [was] understood to be acquired in lots of $2,500 or less"(Animal Welfare Institute 1990, 55).

Under the concerted efforts of Sen. Robert Dole (R-KS) and Rep. George E. Brown (D-CA), the HSA was amended and renamed the Humane Methods of Slaughter Act (HMSA) in 1978. With this strengthened law, not only plants that sold meat to the government but also all plants that wanted to be U.S. Department of Agriculture (USDA)-certified had to follow the humane methods of slaughter guidelines. Federal inspectors had the authority to shut down inhumane slaughter operations until they were modified to comply with humane standards (although such action was very rare). Any meat imported into the United States had to be from humanely slaughtered animals. In 2002 the HMSA was amended further to request that the Secretary of Agriculture report to Congress on the condition of nonambulatory livestock (downed animals) in slaughter houses.

"Downer" animals had become a focus of increased animal protection concern well before 2002. Since the 102nd Congress in 1994, animal protection groups had lobbied for passage of the Downed Animal Protection Act, which would end the slaughter of downed animals for human consumption. The bill requires that any downed animal be euthanized before it reaches the slaughterhouse. A decade after its first introduction in Congress, the Downed Animal Protection Act was added to the 2004 agriculture appropriations bill, only to be removed at the last minute. Shortly thereafter, when the first case of so-called mad cow disease was discovered in the United States, Agriculture Secretary Ann Veneman announced that downed animals would be banned from the human food chain. While this administrative reaction could be construed as something of a victory for animal advocates, as of 2005, the movement was still pushing for passage of the Downed Animal Protection Act to give greater permanency to the existing administrative ban.

In assessing progress on the downed animal issue, a more nuanced measure is needed than simple passage of the bill into law. One possibility is to follow the level of support via the number of cosponsors who sign on in each Congress. Figure 1 illustrates the steady increase in the proportion of members of Congress who have cosponsored the Downed Animal Protection Act, showing how support for the legislation has risen over time.

While this increase may be a measure of the effectiveness and impact of lobbying by animal activists, other forces are at work as well. In *The Washington Post* Warrick (2001) exposed the abusive violations of the HMSA in various slaughter facilities, describing in detail how cattle remained alive throughout the slaughter process. Relying on the accounts of slaughter facility workers, inspectors, and technicians, Warrick also described how such facilities were allowed to continue to operate despite being cited for numerous violations of the HMSA.

The *Washington Post* article prompted Sen. Robert Byrd (D-WV) to deliver a speech on July 9, 2001, in the U.S. Senate asking for stricter oversight of U.S. slaughter facilities. In this passionate speech, the first ever of its kind on farm animals, Byrd exclaimed: "The law clearly requires that these poor creatures be stunned and rendered insensitive to pain before this process begins. Federal law is being ignored. Animal cruelty abounds" (*Congressional Record 2001,* S7311). Between 2001 and 2004, $1 million was appropriated to the USDA to hire seventeen regional managers to oversee enforcement of the HMSA, as was an additional $5 million to hire at least fifty inspectors to work solely on ensuring compliance with the law (HSUS 2004).

Even taking into account the 1958 passage of the humane slaughter legislation, its subsequent amendments, and the increase in funding for it, the structural problems with enforcement of the Act remain in place. As the animal movement continues to inves-

tigate slaughter facilities and gain political ground, it presses to have the HMSA amended again to include poultry under its humane standards. In 2004 People for the Ethical Treatment of Animals (PETA) conducted an undercover investigation of a slaughter facility. The findings of the investigation, including chickens being kicked and thrown against a wall, reached major media outlets throughout the country. The video footage not only prompted public outrage, but it also created an opportunity for the movement to urge Congress to amend the HMSA. Following the PETA investigation, The HSUS announced a campaign to lobby for the inclusion of poultry in the HMSA and offered a petition for individuals to sign asking Congress for this inclusion. As of mid-2005, more than eighty thousand signatures had been collected.

Despite the recent success in obtaining legislation addressing humane handling and slaughter of livestock, there is considerable room for improvement, not only in the legislative underpinnings of humane handling and slaughter but also in the enforcement of the existing but relatively rudimentary legislation dealing with farm animal protection (especially important given the 8 billion animals a year raised and slaughtered in the United States). Everybody can agree that animals should not be badly handled and tormented when they are transported and slaughtered. However, the law is still too narrowly focused (it does not cover religious slaughter and poultry, for example) and it has been enforced poorly from its implementation. For example, USDA stations its inspectors in slaughter facilities to inspect and certify that animals are slaughtered humanely, but these inspectors receive their USDA paychecks via the companies they inspect and are "embedded" in those companies in ways that make it very difficult for them to take effective action if they see problems with the slaughter process.

Marine Mammal Protection Act: Assessment of Progress

In 1972 the Marine Mammal Protection Act (MMPA) was passed. This law imposed a moratorium on the "harassing, hunting, capturing, or killing" of all marine mammals. The Secretary of Commerce may grant permits to allow the taking and importation of marine mammals: (1) for scientific research or public display; (2) as incidental bycatch in commercial fishing; and (3) in accord with sound principles of resource protection and conservation (16 U.S.C. §§ 1361–1421h). In 1992 the Dolphin Conservation Act was added to the Marine Mammal Protection Act, banning certain tuna-harvesting practices that threatened dolphin populations. The law was amended again in 1994 to reduce the incidental taking of marine mammals during commercial fishing activities.

The MMPA is a relatively comprehensive law from the perspective of animal advocates, and the United States is one of the few countries with such a strong law. The law does include certain exemptions to the moratorium, however, such as capturing marine animals for public display, even when the educational value, the basis for the exemption, is in dispute. The law embodies de facto credibility for educational purposes; a marine mammal facility is not required to show how its exhibit is educational. Plus, there are no explicit standards for keeping such animals, and the standards that do exist are difficult to enforce. Furthermore, the law was weakened when it was reauthorized in 1994. Before 1994 one needed explicit permission to import or export a marine mammal, but, after reauthorization, export permits were no longer necessary.

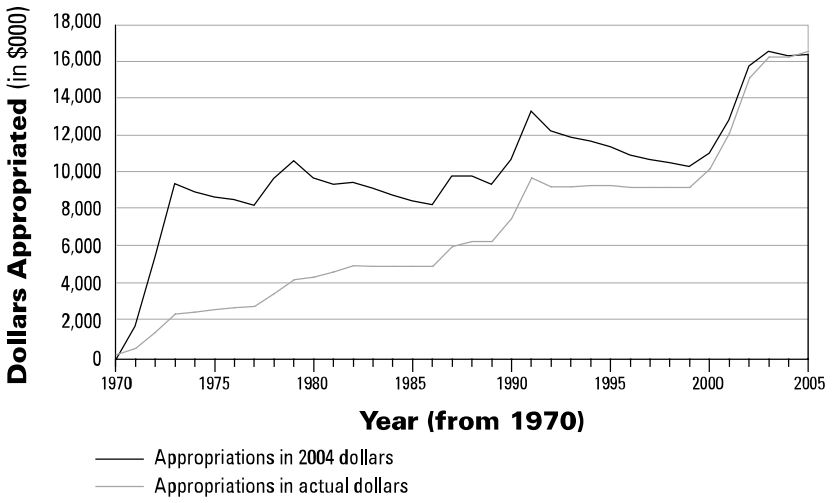
Animal Welfare Act: Assessment of Progress

Even before closing the HSA campaign in 1958, The HSUS had begun to turn its attention to the suffering of animals in research, testing, and education, joining the Animal Welfare Institute in a campaign to reform practices in the country's laboratories.

Generally speaking, the Animal Welfare Act (AWA), enforced by USDA, establishes the standards that govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors and also sets a standard by which animals are handled for transportation in commerce. While the law defines "animal" as any warm-blooded animal used for research, testing, experimentation, or exhibition purposes, or as a pet, it excludes horses not used for research purposes, farm animals, and birds, mice, and rats used in research (U.S.C. §§ 2131–2159). It also prohibits interstate transportation of animals, including live birds used for fighting purposes.

The Laboratory Animal Welfare Act was passed in 1966 "to provide humane standards for dogs, cats, primates, rabbits, hamsters, and guinea pigs in animal dealers' premises and in laboratories prior to experimental use of animals" (Animal Welfare Institute 1990, 77). It was later amended in 1970 (when it was renamed the Animal Welfare Act) and amended further in 1976, 1985, 1990, and 2002. In 1970 the amendments required that the humane standards must be applied not only before the experimental use of animals but also throughout the entire stay of animals in laboratories. The amended law applied to all warm-blooded

Figure 2
AWA Appropriations Funding, 1970–2004



Source: Tom Engle, APHIS/USDA, August 26, 2004.

animals determined by the Secretary of Agriculture as being used or intended for use in experimentation or exhibition except horses not used in research and farm animals used in food and fiber research.

In 1976 the law was amended to require research laboratories to pay similar fines as those for animal exhibitors and dealers who violated the standards set by the AWA. A provision was added to prohibit interstate transportation of dogs used for animal-fighting ventures. In 1985, in response to several public scandals about the mistreatment of laboratory animals in research projects, the guidelines regarding standards of care and alleviation of pain and distress were made more specific. (For example, the law required that the pain and distress suffered by laboratory animals be reduced, and that psychological well-being be enhanced by providing adequate exercise for dogs and an enriched physical environment for primates.) The AWA was amended again in 1990 to establish a holding period for dogs and cats at shelters and other holding facilities before sale to dealers; in addition, dealers had to provide written certification to the recipient regarding each animal's background.

In 1989 The HSUS and the Animal Legal Defense Fund (ALDF) resorted to litigation to reverse USDA's administrative exclusion of rats, mice, and birds from regulatory coverage by the AWA. The litigation asked the U.S. District Court to force USDA to protect all warm-blooded animals used in research laboratories. Although the district court sided with the petitioners and found that exclusion of rats, mice, and birds from coverage was an arbitrary and capricious action by USDA, the appeals court later ruled that the animal protection groups did not have legal standing to sue in federal court to force USDA to change its decision.

In 1999 the American Anti-Vivisection Society (AAVS) filed a new lawsuit on the issue. One year later the court found that it had standing to sue for injunctive relief. At this point, USDA decided to negotiate with the AAVS and reportedly agreed to promulgate regulations that would cover birds, rats, and mice used in research. This development caused considerable alarm among the medical research lobby, which was able to have a rider inserted into a federal appropriations bill that forbade USDA to use any federal funds to promulgate such regulations. In 2002 the particularly powerful senior senator from North Carolina, Jesse Helms, inserted an amendment into the farm bill that permanently excluded rats, mice, and birds used in research from AWA oversight. This development indicated that, although the animal protection movement has gained political influence and public support, the research lobby still has the ability to get a few key politicians to listen to its concerns. To date there are no indications that the movement will have sufficient influence to reverse this loss because the public is not that strongly moved by concern for the welfare of mice, rats, and birds.

In 2002 an amendment was added to prohibit interstate transportation of live birds for fighting purposes. This amendment was intended to hamper the illegal cockfighting industry as well as cockfighting activities in the last two U.S. states, Louisiana and New Mexico, where it remained legal as of mid-2005. Since the amendment was passed, several cockfighting pits have been shut down. But part of the original amendment that would have established felony jail penalties for engaging in an animal fight was dropped during the conference committee discussion of the 2002 farm bill (to which the cockfighting AWA amendment was attached). In 2003 and 2005, the animal protection movement continued its efforts on animal fighting, and the Animal Fighting Prohibition Act was introduced authorizing felony penalties for animal fighting as well as a ban on the interstate commerce of cockfighting implements.

The animal movement has argued that the AWA has not been enforced adequately since it was passed. Part of the problem has been a lack of resources. In the past ten to twenty years, an unlikely coalition of animal protection and research defense groups has been established to press for larger budgets for AWA enforcement. This is one of those areas where everybody perceives a benefit from more effective and more consistent enforcement. The AWA enforcement budget is shown in Figure 2 (the budget in actual dollars is provided on one line; the budget in inflation-adjusted dollars on the other line). The inflation-adjusted column indicates that real funding for AWA enforcement increased in two distinct periods. From 1989 to 1992 funding increased from about $9 million to $12 million, and from 2000 to 2003 funding increased again, from approximately $11 million to $16 million.

The 81 percent increase in actual dollars (or the 50 percent increase in inflation-adjusted dollars) appropriated for AWA enforcement from 1999 to 2003 has arguably led to more effective oversight by USDA inspectors of the approximately ten thousand sites (including research institutes, zoos, puppy mills, circuses and other exhibitors, and commercial breeders) because of the hiring of more than forty additional inspectors (HSUS 2004). However, the effectiveness of enforcement is not simply a measure of how many inspectors there are. From a perspective outside the Animal Care section in USDA/APHIS (Animal and Plant Health Inspection Service), it would appear that enforcement of the AWA (and the morale of the Animal Care staff) was more effective at the end of the 1990s than it is today. Certainly, the information mandated under the AWA is much less available today, despite expansion of the World Wide Web.

Thus, developments under the AWA represent a mixed outcome. The animal movement can point to changes that reflect broader coverage and more effective enforcement, but there have also been setbacks (such as the rats, mice, and birds issue). The movement still has ambitions to expand coverage of the AWA. There is no specific language in the AWA that addresses the practice of mass commercial breeding in puppy mills, for example, and guidelines for handling repeat violators of basic humane standards (e.g., adequate veterinary care, shelter, food, and sanitation) are inadequate. As a result, some puppy mills that have been cited more than once for AWA violations are still in business. The animal protection community lobbied (first in the 107th congressional session and again in the 108th session) for the introduction of the Puppy Protection Act. The Puppy Protection Act would reduce the number of times a female dog may be whelped during a twenty-four-month period, prevent females under one year old from being bred, and provide stricter penalties for puppy mills violating the AWA more than once in at least eight months.

Comparing the Political Impact of the Animal Movement

While the 1950s and 1960s were decades of growing political clout, Table 3 compares the legislative output on behalf of animals for the five-year period 1999–2003 with the five-year period 1979–1983. It is apparent that there has been more success in the most recent five-year period across most species groups, with the possible exception of wildlife. However, two of the four successes on behalf of wildlife from 1979 to 1983 are more accurately described as conservation rather than animal protection measures. While the accomplishments listed between 1979 and 1983 are exhaustive (not much occurred, even though debate on several critical issues from the welfare of laboratory animals to those of horses used in the racing industry could constitute what Mill defined as the "discussion" stage of a movement's development), the 1999–2003 accomplishments listed are, from a subjective viewpoint, not an exhaustive listing of legislative accomplishments. There are still more of them, however, than in the period in the early eighties.

It should be noted that a discrepancy remains among the recent federal accomplishments. Some accomplishments—the Animal Fighting Act and the additional funding for the AWA, both the result of the movement's determination—indicate that the animal protection movement is growing strong. But some accomplishments, such as the Veneman decision regarding downed animals or passage of the Captive Exotic Animal Protection Act (CEAPA), were driven by events that originated outside the movement's planned campaign activities. If mad cow disease had not spread to the United States, downers would likely have continued to be used in the food chain, despite the repeated efforts of animal protection lobbyists to stop the practice. In 2003 the captive exotic animal issue—where the animal movement sought to ban the keeping of exotic animals, such as lions, tigers, jaguars, and cougars as pets—gained national attention when Roy Horn, of the famous Las Vegas entertainment duo Siegfried and Roy, was mauled by one of his own tigers during a show. This event, reinforced when a private citizen was mauled by a pet tiger he was keeping in his small Harlem apartment, received heavy media coverage and stimulated passage of the CEAPA.

Table 3
Comparative Analysis of Federal Accomplishments

Major Federal Accomplishments

	1979–1983	1999–2003
Animal Welfare Act	• Provision on marine mammal care standards added	• USDA AWA enforcement budget boosted by ca. 50 percent • Interstate commerce in birds and dogs used in animal fighting prohibited
Companion Animals		• Banned dog and cat fur products
Cruelty Issues		• Banned "crush videos" (where small animals are tortured/crushed to death)
Farm Animals		• Obtained additional $6 million for enforcement of Humane Slaughter Act • Banned the use of downer cattle for human consumption • Obtained $703,000 for hoop barns for pig raising
Animals in Research		• Passed legislation authorizing the Interagency Coordinating Committee for the Validation of Alternative Methods (ICCVAM) • Passed legislation authorizing a national sanctuary system for retired laboratory chimpanzees
Wildlife	• Passed Alaska Lands bill—designating more than 100 million acres in Alaska as parks or wildlife refuges • Added Marine Mammal Protection Act regulations • National Park Service published final regulations banning trapping on some lands	• Banned commerce in big cats for the pet trade • Banned practice of cutting fins off sharks and discarding their bodies at sea while still alive

Source: Internal HSUS documents

State Legislation

While it is relatively simple to track the growth of animal protection legislation at the federal level (there are only two legislative bodies and one executive), tracking and evaluating legislative advances in fifty states is much more difficult and beyond our capacity for a detailed analysis in this relatively brief chapter. Therefore, we have chosen to focus on one particular area of animal protection legislation, the passage of felony-level penalties as part of state anti-cruelty laws.

For most of the twentieth century, only a handful of states included felony-level penalties in their anti-cruelty legislation. In the mid-1980s, animal protection organizations began to highlight the link between cruelty to animals and other forms of human violence (the name of the long-established HSUS program on this issue, "First Strike," reflects the idea that the animal is the first victim in a household to be abused). The fact that animal cruelty or abuse is a potential indicator of individual violent behavior (Lockwood and Ascione 1997) has driven considerable state legislative activity since 1985. As of the end of 2003, forty states and the District of Columbia included felony-level penalties in their anti-cruelty statutes (Table 4). Wisconsin, California, and Florida passed felony penalty upgrades in the 1980s (Table 5). From 1990 to 1994, six more states did so, followed by another eleven states from 1995 to 1999, and another sixteen from 2000 to 2003.

By any measure, these state legislative initiatives represent considerable progress for the animal protection movement over the last

Table 4
Tracking Passage of Felony Statutes

States with Felony Anti-cruelty Legislation	
1986–89	7
1990–93	9
1994–97	18
1998–2001	34
2002–2003	40

Source: *www.hsus.org:* Legislation and Laws—Citizen Lobbyist Center.

twenty years. When most anticruelty statutes only carried misdemeanor penalties, animal organizations had trouble convincing the police and courts to spend any time on animal-cruelty crimes. Since felony-level penalties were established, the police and courts have taken a few egregious cases through the courts, which consequently administered significant penalties. Thus, in a notorious Iowa case, where three youths broke into a shelter and mutilated and killed a number of cats, the leader of the group received a two-year jail sentence (Bollinger 1998).

The Iowa case illustrates why states have agreed to institute felony-level penalties. There are some cases where it is clear that the perpetrator of the abuse could be a wider danger to society and where the courts need to administer more significant penalties than a few-hundred-dollar fine. A.N.R. (in Ascione and Arkow 1999) has argued that one may classify cases of animal suffering caused by humans in four basic categories: intentional cruelty, in which the perpetrator gains satisfaction from the animal suffering; abuse, in which the behavior is mainly a release of emotional energy and where the animal's suffering is a by-product rather than a necessary component for the perpetrator; neglect, in which the animal's suffering is caused by the ignorance or laziness of the perpetrator; and use, in which the animal may suffer but the activity is sanctioned by society (e.g., animal research, trapping, factory farming). Of these, the most serious is intentional cruelty because it predicts significant future (or current) sociopathic behavior against other humans and animals. Fortunately, intentional cruelty is rare, as is animal abuse. Most reported cases of animal cruelty fall into the neglect category. We were curious, therefore, to see how the felony-level upgrades dealt with issues of intentionality.

Favre and Loring (1983, 145) put forth four critical questions that must be asked when comparing state cruelty statutes: (1) Which animals are protected by the statute? (2) Which humans are held responsible? (3) What is the scope of care that is to be provided? (4) How is the duty (to provide certain care) qualified or exempted? With a large majority of states now having felony-level provisions, one must also consider (5) the circumstances that might lead to prosecution of a felony versus a misdemeanor. From the animal protection perspective, the *intent* of the perpetrator to cause deliberate and premeditated animal suffering or to engage in gratuitous-

Table 5
State Anti-cruelty Legislation with a Consideration for Language of Intent

Felony Legislation?	Language of Intent	No. of States	States
No Felony	No language of intent	0	
	Language of intent	9	Alaska, Ark., Hawaii, Idaho, Kans., Miss., N.D., S.C., Utah
Felony	No language of intent in either	3	Minn., Nev., S.D.
	Language of intent in felony but not misdemeanor	14	Calif., Conn., Del., D.C., Fla., Ill., Mass., Neb., N.H., N.J., N.M., Ohio, Okla., W.V.
	language of intent in misdemeanor but not felony	1	Mo.
	Language of intent in both	24	Ala., Ariz., Colo., Ga., Iowa, Ind., Ky., La., Md., Me., Mich., Mont., N.C., N.Y., Ore., Pa., R.I., Tenn., Tex., Va., Vt., Wash., Wis., Wyo.

Source: State felony laws that can be found on state websites or databases such as Lexis-Nexis.

ly abusive behavior would seem to be a relatively simple way to distinguish between animal-cruelty cases that fall under the felony provisions and those that remain misdemeanors. However, more careful examination of the laws that have been passed and the way in which they are implemented reveals that there is little underlying logic to the felony-penalty upgrades or to the way the courts apply the anti-cruelty statutes.

The legislative language of intent includes a variety of words in the definitions of animal cruelty: "intentionally," "willfully," "knowingly," "maliciously," and/or "purposefully." Comparing the definitions of these words in the widely used *Black's Law Dictionary* (Black et al. 1990), for example, provides little useful guidance on how these terms might be defined and distinguished. Lawyers might argue that state laws cannot be understood fully without looking at their implementation during court proceedings and case outcomes.

Favre and Loring (1983) separated animal-cruelty statutes into two different categories, those without any language of intent and those with such language. All fifty states and the District of Columbia have animal-cruelty statutes. Three states (Minnesota, Nevada, and South Dakota) do not use language of intent at all (Table 5). Of the forty states and the District of Columbia with felony provisions, seventeen[1] use the identical language in their felony and misdemeanor provisions (whether language of intent is included or not). Usually, offenders committing more than one offense "graduate" to receiving felony-level penalties in subsequent violations of the misdemeanor language. Connecticut, one of the seventeen states, is an exception: a violator of one portion of the animal-cruelty statute (containing no language of intent) may be subjected to either a misdemeanor or felony-level penalty. However, in another portion of the statute where language of intent is used, the offender, if convicted, must be charged with a felony (Table 5).

In statutes where the language differs between the felony and misdemeanor portions, those of nine states[2] and the District of Columbia use some form of language of intent in their felony portions but not in their misdemeanor portions. Generally, one could therefore determine that, for these statutes, evidence of intent surrounding an act of animal cruelty automatically amounts to a more serous violation of the law. Granted, the act of cruelty (e.g., mutilation versus general neglect) may factor into stricter penalties. However, there are nine examples where there is a correlation between intent and level of crime. All of the remaining states[3] without felony-level penalties already include language of intent in their misdemeanor provisions. If these weaker cruelty laws are eventually strengthened to include felony penalties, one might question how the felony language would be constructed and, in turn, differentiated from the current misdemeanor language.

One possibility looks at the type of cruelty associated with the language of intent. Alabama, Illinois, and Kentucky have misdemeanor and felony provisions that both use language of intent; however, the felony provisions only apply to companion animals. (In Pennsylvania the felony provision only applies to zoo animals.)

The four states identified in Table 6 (California, Florida, Illinois, and Oregon) exemplify different ways in which language of intent is positioned. California has inserted intent language in the felony provision, while the original misdemeanor language includes terms such as mutilation, torture, and killing of an animal. California's anti-cruelty statute seems especially strong for two critical reasons: if any evidence of intent is present, the offender must be convicted of a felony, but an offender may also be convicted of a felony even if intent is not present.

In Florida, as in California, the felony provision contains language of intent, but the misdemeanor language does not. The felony penalty does not include the misdemeanor language, and the acts under the felony penalty are seemingly more severe than those under the misdemeanor penalty.

Unlike other states that tend to lump cruel acts together, Illinois separates different types of cruelty into distinct categories. Basic animal cruelty (e.g., beating, starving, overworking, cruelly treating) falls into the misdemeanor category, while repeated offenses, "aggravated cruelty," and "animal torture" are categorized as felonies. Both aggravated cruelty and animal torture include language of intent. In the case of aggravated cruelty, the word "intentionally" is used; animal torture includes the terms "knowingly" and "intentionally." This raises the question of why certain language is used in parts of some statutes and not in others. The analysis of statute language raises questions about the consistency of the language of intent—what is used and why. In the Oregon statutes, "intentionally" and "knowing" precede all acts of animal cruelty marking a misdemeanor, but in the felony language, "maliciously" is used solely when an animal is killed, while "intentionally" and "knowingly" are linked to torture.

To assess the impact of one recent state felony anti-cruelty law, it is useful to look at the experience in Texas. The existing law was amended in 2001, producing several years of experience in the application of the felony penalty. In June 2004 Fikac (2004) reported the number of individuals convicted of a felony since 2001, based on data provided by the Texas Department of Criminal Justice (DCJ): twenty-one people had served state prison time since the 2001 law was enacted, with six of them still in prison at

that time. The number excluded the people who were convicted of a felony but were given probation and those who were jailed on a misdemeanor conviction.

The authors were given the names of twenty of the convicted felons by Texas DCJ. A search was conducted in two databases: Lexis-Nexis and a database of news clippings on reported animal-cruelty cases throughout the country maintained by The HSUS. Using the Lexis-Nexis database, we were able to find the jail time served by fourteen of the twenty felons and the type of felony with which they were charged, but we were not given any

Table 6
Four-State Analysis of Language of Intent

State	Year Felony Law Passed/ Amended	Felony Language	Misdemeanor Language
Calif.	1988	Every person who ***maliciously**** and ***intentionally*** maims, mutilates, tortures, or wounds a living animal, or ***maliciously*** and ***intentionally*** kills an animal. Language identical to a misdemeanor offense.	Every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor.
Fla.	1989, 1999	A person who ***intentionally*** commits an act to any animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done.	A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner.
Ill.	1999	Cruel treatment or second or subsequent offense. Aggravated cruelty: ***intentionally*** commit an act that causes a companion animal to suffer serious injury or death. Animal torture: ***Knowingly*** or ***intentionally*** causes the infliction of or subjection to extreme physical pain, motivated by an ***intent*** to increase or prolong the pain, suffering or agony of the animal.	Cruel treatment: Beat, cruelly treat, starve, overwork, or otherwise abuse any animal.
Ore.	1995	A person commits the crime of aggravated animal abuse in the first degree if the person: ***maliciously*** kills an animal; or ***intentionally*** or knowingly tortures an animal.	A person commits the crime of animal abuse in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly: causes serious physical injury to an animal; or cruelly causes the death of an animal.

Source: State felony laws that can be found on state websites or databases such as Lexis-Nexis. *Emphasis added in boldface throughout.

information on the type of animal cruelty any had committed. The HSUS database of approximately 1,300 clippings a year found reports of only three of the twenty felons.

Those pushing for more effective animal-cruelty legislation should take steps to make sure that their state law: (1) applies to all animals; (2) applies to first-time offenders; (3) has large fines and lengthy prison time as penalties; (4) has no exemptions; (5) allows or requires convicted abusers to get counseling at their own expense; and (6) prohibits abusers from possessing animals or living where animals are present (*www.hsus.org:* Legislation and Laws/Citizen Lobbyist Center).

In 2005 animal advocates in Texas were working to strengthen their anti-cruelty law again. When news broke that a man used his lawnmower to run over his puppy, and that he could not be prosecuted because the current law only applies to harming another person's animal, the urgency to correct this loophole heightened. Not only would the introduced bill amend the current law to apply to those who abuse their own animal in a cruel manner, but it expands the definition of "animal" to include harming another person's livestock and the cruel killing of stray and wild animals (Fikac 2005).

This anecdotal analysis of anti-cruelty statutes and their enforcement indicates how idiosyncratic anti-cruelty legislation across the country is, how little logic is applied to developing language that clearly discriminates between types of animal abuse, and how difficult it is to follow up on how effective enforcement of both the misdemeanor and the felony provisions can be. Thus, one must conclude that the animal protection movement has made significant progress in upgrading anti-cruelty legislation, but the underlying logic of many of the changes is confusing, and how the laws are enforced (the most important measure of a successful outcome) is very difficult to measure.

Animal Protection Initiatives[4]

The animal protection movement has used state initiative petitions at various stages in the twentieth century but with limited success until fairly recently. Between 1940 and 1988, animal advocates qualified just a handful of animal protection initiatives, and only one of them passed—a 1972 measure in South Dakota to ban dove hunting, which was reversed eight years later. Voters in other states rejected a series of initiatives restricting the killing of wildlife. For instance, in 1983 Maine voters rejected a ban on moose hunting; Ohio and Oregon voters rejected anti-trapping initiatives in 1978 and 1980, respectively.

Since 1990, however, there has been a proliferation of animal protection initiatives (Tables 7a,b). Voters have approved seventeen of twenty-five animal protection ballot initiatives on subjects ranging from cockfighting to bear baiting, from horse slaughter to canned hunts and the factory farming of pigs. During this period, more than four million signatures of registered voters have been gathered, largely by animal advocates, to qualify the twenty-five initiatives. Most of the initiatives have been spearheaded by the organizing efforts of The HSUS and The Fund for Animals. They carefully identified winnable issues in demographically favorable states, and they organized volunteer petitioners, conducted public attitude surveys to guide the wording of the petitions, raised money, and persuaded voters to support the initiatives, primarily by airing emotionally compelling advertising showing direct harm to animals.

Since 1991 the animal movement's victories in the initiative process have been plentiful and diverse. For example, animal advocates have worked to place anti-trapping initiatives on seven ballots since 1995, prevailing in five instances. Six other initiatives dealt with hound hunting and baiting of predators, and animal advocates prevailed in four of them. One measure related to the shooting of captive animals, in so-called canned hunts, and two measures related to the airborne hunting of wolves in Alaska. Voters approved all three of these measures.

These victories have been built on a proven formula for predicting the success of an initiative. The animal issue must be selected carefully and must be "right" for that particular state. State residents must be polled to determine if there is enough support for an issue. The state must have people who can donate money for the initiative, newspapers and other media outlets must support the issue, and the initiative must address a long overdue reform. (For an example of the last of these, before the 2002 initiative that banned cockfighting, Oklahoma was one of only three states where cockfighting was still legal, and a ban of the blood sport was long overdue.)

The success of animal protection initiatives is even more impressive when considering that humane advocates have not been able to leverage huge financial advantages to secure victories. On the contrary, in some cases, including the 1994 measure in Oregon to ban bear baiting and hound hunting, animal protection groups have overcome the lopsided financial advantages enjoyed by their opponents. At the same time, hunting groups have been successful only in those cases where they amassed huge war chests that allowed them to blitz voters with their message and erode public support for animal protection initiatives. For example, hunting groups

Table 7a
Animal Protection Initiatives and Referendums—Wins

		Wins	Percentage Voting Yes	Percentage Voting No
1990	Calif.	**Proposition 117:** prohibits sport hunting of mountain lions	52	48
1992	Colo.	**Amendment 10:** prohibits spring, bait, and hound hunting of black bears	70	30
1994	Ariz.	**Proposition 201:** prohibits steel-jawed traps and other body-gripping traps	58	42
	Ore.	**Measure 18:** bans bear baiting and hound hunting of mountain lions	52	48
1996	Alaska	**Measure 3:** bans same-day airborne hunting of wolves and foxes	58	42
	Calif.	***Proposition 197*:*** *allows trophy hunting of mountain lions*	42	58
	Colo.	**Amendment 14:** bans leghold traps and other body-gripping traps	52	48
	Mass.	**Question 1:** restricts steel-jawed traps and other body-gripping traps, bans hound hunting of bears and bobcats, and eliminates quota for hunters on Fisheries and Wildlife Board	64	36
	Ore.	***Measure 34*:*** *repeals ban on bear baiting and hound hunting of bears and cougars*	42	58
	Wash.	**Initiative 655:** bans bear baiting and hound hunting of bears, cougars, bobcats, and lynx	63	37
1998	Ariz.	**Proposition 201:** prohibits cockfighting	68	32
	Calif.	**Proposition 4:** bans the use of cruel and indiscriminate traps and poisons	57	43
	Calif.	**Proposition 6:** prohibits slaughter of horses and sale of horse meat for human consumption	59	41
	Colo.	**Amendment 13:** *provides uniform regulations of livestock*	39	61
	Colo.	**Amendment 14:** regulates commercial hog factories	62	38
	Mo.	**Proposition A:** prohibits cockfighting	63	37
2000	Alaska	***Measure 1*:*** *bans wildlife issues from ballot*	36	64
	Alaska	**Measure 6:** bans land-and-shoot wolf hunting	53	47
	Ariz.	***Proposition 102*:*** *require two-thirds majority for wildlife issues*	38	62
	Mont.	**Initiative 143:** prohibits new game farm licenses	52	48
	Wash.	**Initiative 713:** restricts steel-jawed traps and certain poisons	55	45
2002	Ariz.	**Proposition 201:** *expands gambling at greyhound tracks*	20	80
	Fla.	**Amendment 10:** bans gestation crates for pigs	55	45
	Ga.	***Measure 6*:*** specialty license plate for spay/neuter	71	29
	Okla.	**State Question 687:** bans cockfighting	56	44
	Okla.	***State Question 698*:*** increases signature requirement for animal issues	46	54

Note: Italics indicate bad measures that were defeated. * Referendum (referred to ballot by state legislature).

Table 7b
Animal Protection Initiatives and Referendums—Losses

		Losses	Percentage Voting Yes	Percentage Voting No
1992	Ariz.	**Proposition 200:** bans steel-jawed traps and other body-gripping traps	38	62
1996	Idaho	**Proposition 2:** bans spring bait, and hound hunting of black bears	40	60
	Mich.	**Proposal D:** bans baiting and hounding of black bears	38	62
	Mich.	**Proposal G*:** exclusive authority over wildlife to National Resources Committee in Mich.	64	36
1998	Alaska	**Proposition 9:** bans wolf snare trapping	36	64
	Minn.	**Amendment 2:** constitutional recognition of hunting	77	23
	Ohio	**Issue 1:** restores ban on mourning dove hunting	40	60
	Utah	**Proposition 5*:** requires two-thirds majority for wildlife ballot issues	56	44
	Mass.	**Question 3:** bans greyhound racing	49	51
2000	N.D.	**Question 1:** constitutional recognition of hunting	77	23
	Ore.	**Measure 97:** restricts steel-jawed traps and certain poisons	59	41
	Va.	**Question 2*:** constitutional recognition of hunting	60	40
2002	Ark.	**Initiated Act 1:** increases penalties for animal cruelty	38	62

* Referendum (referred to ballot by state legislature).
Source: Internal HSUS document on ballot measures.

spent $1.8 million against an anti-trapping initiative in Arizona in 1992. They spent $2.5 million in Michigan and $750,000 in Idaho against initiatives to ban bear hunting, and $2.5 million against the dove hunting ban in Ohio. Hunting groups outspent animal advocates by margins of from four to one to ten to one in these campaigns.

Animal advocates have not used large amounts of cash to qualify measures for the ballots, either. Generally, they have deployed volunteer petitioners to collect signatures for ballot measures. Conventional wisdom is that initiative qualification in California requires a minimum of $1 million for signature collection, but in 1990, Proposition 117, the mountain lion initiative, relied exclusively on volunteer petitioners, and less than $500,000 was required to collect the necessary signatures. In 1998 the California group Protect Pets and Wildlife, a coalition of humane organizations dedicated to banning the use of steel-jawed leghold traps, spent about $350,000 to amass more than 700,000 signatures, relying largely on seven thousand volunteer petitioners. In Massachusetts in 1995–96, animal advocates spent only $25,000 to gather nearly 200,000 signatures to add a measure to restrict trapping to the November ballot.

Not only have opponents tried to thwart efforts by animal advocates by outspending them, but they have also organized measures to make it more difficult to pass animal protection initiatives. They have tried to raise the standard for both qualification and voter approval of measures. In 1996 Idaho hunting groups soundly defeated Proposition 2 to ban spring bear hunting and the use of dogs or bait to hunt bears. Their formula for success was a campaign targeting "out-of-state animal rights extremists" who, they charged, wanted to do away with "Idaho freedoms." They spent nearly $800,000 to defeat the measure, while proponents spent just a fraction of that amount in support of the measure. Hunting groups then succeeded in passing sweeping changes to the initiative process, drastically reducing the time allowed for petitioning and requiring that petitioners collect signatures dispersed throughout the state. For example, petitioners had to amass at least 6 percent of registered voters in twenty-two of the state's forty-four counties. Before that stipulation, there were no geographic distribution requirements.

Since many of the initiative victo-

ries affect hunting of wildlife, hunters have used either the initiative process or the state legislature to pass resolutions that recognize hunting as a constitutional right. Initiatives preserving the constitutional right to hunt have been passed in Alaska, North Dakota, and Virginia. Animal advocates, while not supporting such measures, have not been interested in pouring time and money into defeating them.

Overall, animal advocates have been victorious 67 percent of the time since 1991. While this may be a significant number in itself, it is crucial to weigh the significance of each ballot initiative in its own right. For example, one of the most important initiative wins for the animal protection movement was passage of the 1992 Colorado Amendment 10, which prohibited sport hunting of bears in the spring and the use of baits and/or hounding. The first of its kind to succeed in the initiative process, this measure set a precedent; Oregon, Massachusetts, and Washington later passed similar measures. The 2002 Florida initiative banning the use of gestation crates for pregnant sows was the first measure to be passed regarding animals involved in agribusiness. The success of this initiative has opened the door for animal advocates to consider using the initiative process in other states to effect further reforms on behalf of farm animals.

While animal advocates sustained occasional setbacks—each one produced by the substantial investment of dollars by opposition groups—the movement has used the initiative process carefully to obtain some basic protections for animals. The animal movement's victories have demonstrated that its values strike a chord with the public. These victories have also signaled to policy makers that animal protection demands cannot be summarily dismissed. The initiatives have provided another measure of confidence to animal advocates in the political sphere, prompting additional investment not only in initiative campaigns, but also in traditional legislative campaigns.

Conclusion

From 1900 to 1950, the animal protection movement had relatively little political clout. In Moyer's model, the movement was in stage one and two. In the 1950s the movement began to have success passing new legislation, and it began to grow as new animal protection organizations were established. It steadily moved into Moyer's stage three. In the late '70s and early '80s, it moved into stage four as the media discovered "animal rights" and gave the movement significant exposure. In the 1990s media attention changed (Herzog 1995). While reference to animal issues and the movement itself became much more common in the media marketplace (e.g., several *Seinfeld* episodes involved animal rights issues), the cover stories that focused on the movement became much less common. Some in the movement saw this decline as a failure and resorted to more aggressive tactics, while others recognized that animal protection could now command a place in public policy discussions and took advantage of the openings presented.

Although the animal protection movement has been able to gain significant protection for animals in the past twenty years, much remains to be done. Moyer's movement model predicts that, as successes are gained and animal protection reforms are incorporated into the public agenda, the movement itself will wane. Such weakening is not inevitable. The movement's influence can continue to grow and expand; while protecting animals should always be the focus, this focus must be viewed in conjunction with appropriate goals to gain more measurable outcomes and thus more social acceptance and political clout. The movement must continue working to correct earlier shortcomings and to push the envelope on behalf of animals to be resourceful and effective.

Notes

[1]California (lesser felony with identical language. No language of intent); Colorado (second or subsequent offense; knowingly); Connecticut (no language of intent); Iowa (second or subsequent offense; intentionally); Illinois (for cruel treatment; no language of intent); Indiana (second or subsequent offense, knowingly, intentionally); Minnesota: (second conviction w/in five years); North Carolina: (same language, intentionally); Nebraska (subsequent offenses); New Hampshire (second or subsequent offense); New Mexico (fourth or subsequent offense); Nevada (guilty after third offense); Ohio (for second offense only); Pennsylvania (subsequent offenses; willfully, maliciously); Tennessee (second or subsequent offense; intentionally, knowingly); Texas (third conviction; intentionally, knowingly); and Vermont (second offense).

[2]California, Delaware, Florida, Illinois, Massachusetts, Nebraska, New Hampshire, New Jersey, and New Mexico.

[3]Alaska; Arkansas; Hawaii; Idaho; Kansas; Mississippi (language of intent only when pertaining to dogs); North Dakota; South Carolina; and Utah.

[4]A significant portion of the data has been taken from Pacelle 2001 and 2003 with the permission of the author.

Literature Cited

Animal Welfare Institute. 1990. *Animals and their legal rights: A survey of American laws from 1641 to 1990.* 4h ed. Washington, D.C.: Animal Welfare Institute.

Ascione, F.R., and P. Arkow. 1999. *Child abuse, domestic violence, and animal abuse: Linking the circles of compassion for prevention and intervention.* West Lafayette, Ind.: Purdue University Press.

Black, H.C., J.R. Nolan, J.M. Nolan-Haley, M.J. Connolly, S.C. Hicks, and M.N. Alibrandi. 1990. *Black's law dictionary.* 6h ed. St. Paul: West Publishing Company.

Bollinger, V. 1998. One deadly night at Noah's Ark. *HSUS News,* 43(2): 36–40.

Favre, D.S., and M. Loring. 1983. *Animal law.* Westport, Conn.: Quorum Books.

Fikac P. 2004. Law rarely bites animal abusers: In its first three years, statute has put just 21 people in prison. *San Antonio Express-News,* June 1.

————. 2005. Animal cruelty crackdown touted. *San Antonio Express-News,* March 20.

Herzog, H.A. 1995. Has public interest in animal rights peaked? *American Psychologist* 50: 945–947.

The Humane Society of the United States (HSUS). 1956. Senate committee schedules April slaughter bill hearing. *HSUS News,* April, 1.

————. 2004. Internal document on federal legislative accomplishments. Washington, D.C.: HSUS.

————. 1994–2004. *The humane scorecard: 102nd–107th Congresses*. Washington, D.C.: HSUS.

Lockwood, R., and F.R. Ascione. 1997. *Cruelty to animals and interpersonal violence: Readings in research and application.* West Lafayette, Ind.: Purdue University Press.

Moyer, B. 1987. *The movement action plan: A strategic framework describing the eight stages of successful social movements.* San Francisco at *www.campusactivism.org/displayresource.php?giRid=257& gsPhile=movement_action_plan.pdf&giPhid=419).*

Pacelle, W. 2001. The animal protection movement: A modern-day model use of the initiative process. In *The battle over citizen lawmaking: The growing regulation of initiative and referendum: 2001,* ed. M.D. Waters, 109–119. Durham: Carolina Academic Press.

————. 2003. The animal protection movement and I and R. In *Initiative and referendum almanac:* 2003, ed. M.D. Waters, 482–484. Durham, N.C.: Carolina Academic Press.

Unti, B. 2004. *Protecting all animals: A fifty-year history of The Humane Society of the United States*. Washington, D.C.: Humane Society Press.

Unti, B., and A.N. Rowan. 2001. A social history of postwar animal protection. In *The State of the Animals: 2001,* ed. D.J. Salem and A.N. Rowan, 21–37. Washington, D.C.: Humane Society Press.

Warrick, J. 2001. They die piece by piece: In overtaxed plants, humane treatment of cattle is often a battle lost. *The Washington Post,* April 10.

Wiebers, M.S.W., A. Gillan, and D.W. Wiebers. 2000. *Souls like ourselves: Inspired thoughts for personal and planetary advancement.* Rochester, Minn.: Sojourn Press.