Historical Perspectives on the Regulation of Animal Welfare

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Overview

- Provide an historical summary of regulating animal welfare

- Provide a North American context for public concerns/values and how that transforms into decisions about regulating animal welfare

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Early Animal Welfare Concerns

- **Strongly connected to the animal's value relative to sustaining human life**
  - Draft animals provided work, travel, meat and milk
    - Loss of an animal posed a threat to survival

- **Beating, lack of rest and feed**
  - Offensive to others
  - Signified disrespect of property
  - Potential harm to those who relied on animals

Massachusetts Bay Colony (1629)

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Massachusetts Body of Liberties of 1641

(as proposed by Puritan Nathaniel Ward)

Off the Bruite Creatures

92. No man shall exercise any Tirranny or Crueltie towards any bruite Creature which are usuallie kept for man's use.

93. If any man shall have occasion to leade or drive Cattel from place to place that is far of, so that they be weary, or hungry, or fall sick, or lambe, It shall be lawful to rest or refresh them, for a competent time, in any open place that is not Corne, meadow, or inclosed for some peculiar use.

(*A Bibliographical Sketch of the Laws of the Massachusetts Colony from 1630 to 1686*, by William H. Whitmore,Boston, 1890)

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Colonist rules were first Anti-Cruelty Laws

- **Two primary forms of cruelty underlie most laws**
  - Active cruelty (malicious intent)
    - Beating or torturing and animal
  - Passive cruelty
    - Neglect (an act of omission)
      - Starvation, dehydration, etc.

- **Animals are defined as property**
  - Offense against the owner if animal is cruelly treated by others
  - Offense against societal rules if cruelty is committed by the owner

- **Potential for poor treatment of human being**

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British Origins of American Animal Welfare Regulations

- Animal experimentation (vivisection) fueled movements to protect animals in 1800s Britain
  - Prior to the discovery of anesthesia in 1846, no pain relief for animals used in experimentation
  - British were known for their affinity for animals - antivivisection movement grew
- 1822 Act to Prevent Cruelty and Improper Treatment of Cattle
  - An 1835 amendment includes bulls, dogs, bears, and sheep; prohibited cock-fighting and bear- baiting
- 1824 Royal Society for the Prevention of Cruelty to Animals founded
- 1876 The Cruelty to Animals Act
  - Licensing and restrictions on animal experimentation
- 1911 Protection of Animals Act
  - Consolidated previous anticruelty acts to protect any bird, beast, reptile or fish

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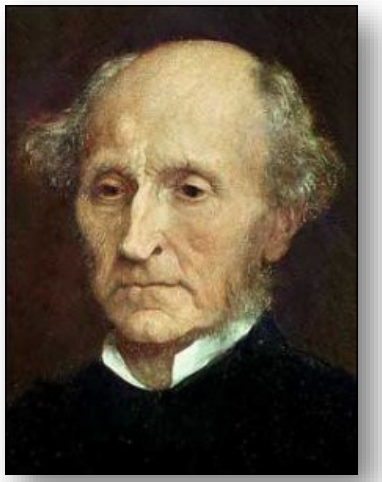
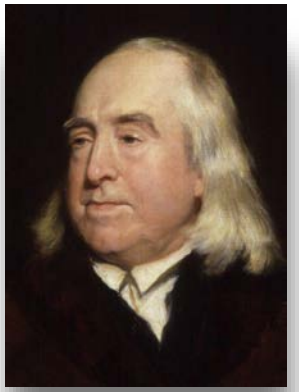
Philosophical and Ethical Debates

The ability of an animal to experience pain was proposed as being central to their moral consideration by Bentham and later Mill.



John Stuart Mill (1806 -1873)

"The question is not, can they reason? Nor, can they talk? But can they suffer?"



Jeremy Bentham (1748 -1832)

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America

- Influenced by the British provision of legal protections for animals
  - New York law prohibiting cruelty to horses, oxen and cattle in 1829
  - American Society for the Prevention of Cruelty to Animals founded in 1866
  - Massachusetts Society for the Prevention of Cruelty to Animals founded in 1868
  - American Humane Association established in 1877
  - Federal bills introduced in 1866 and 1880 to prohibit vivisection (both failed)
  - 1873 and 1906, the 28 Hour Law – shipping and rail transport of livestock

- From 1920 to 1960 a lull in animal protection regulation activity
  - Two World Wars intervened
    - 1958 Humane Slaughter Act passed regulating the killing of food animals
  - Dramatic increase in the use of animals in biomedical research
  - Post-WWII introduction of intensive animal agricultural systems

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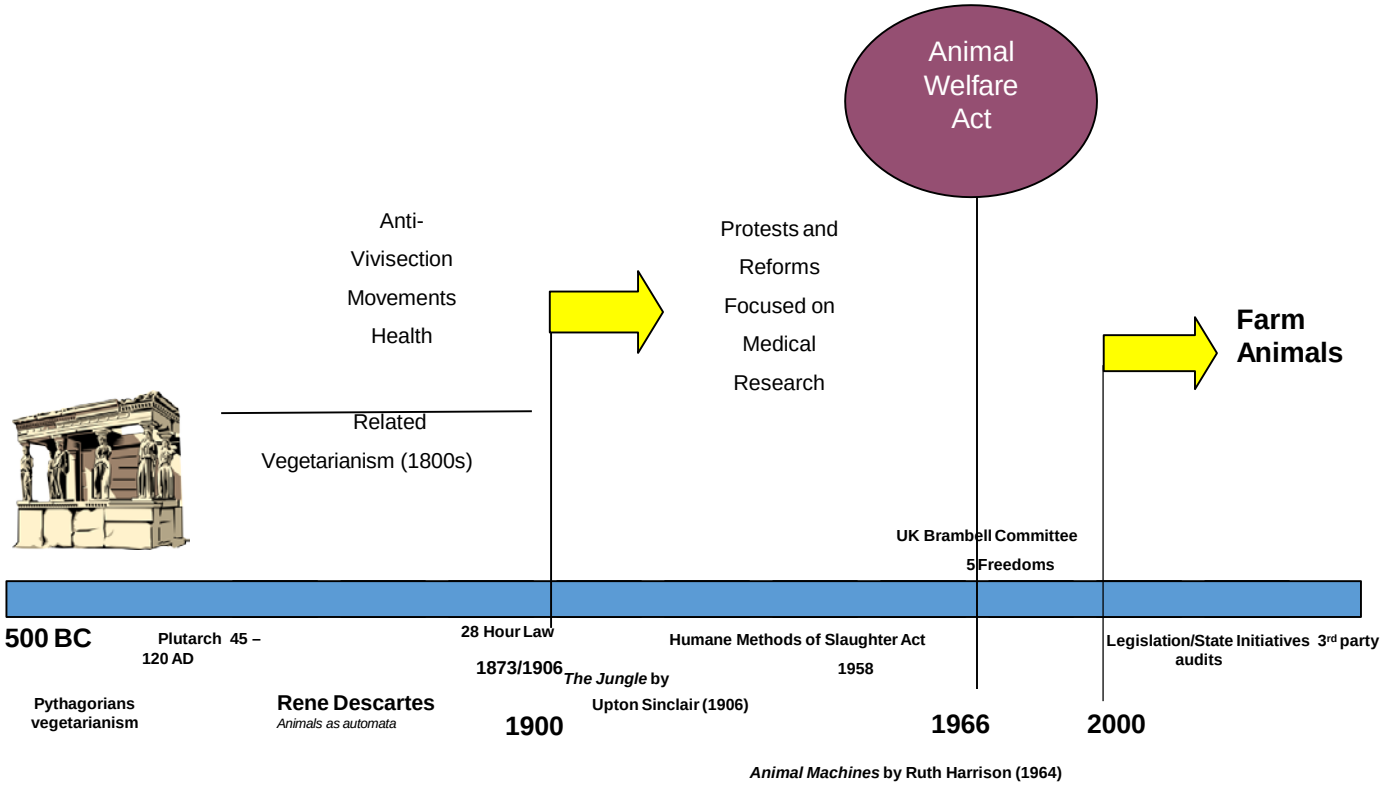
Noteworthy Events Timeline



(Courtesy P. Thompson, 2010)

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The ‘60s

- The use of animals in biomedical research
  - Field of biomedical ethics
    - Concerned with what constituted moral consideration for humans
    - No focus on animals or animal use
- Seminal literary works by authors concerned for animals
    - Rachel Carson – *Silent Spring* published 1962 - wild animals
    - Ruth Harrison – *Animal Machines* published 1964 – farm animals
- Rise of the study of animal behavior (ethology) and ecology
    - Jane Goodall’s research on chimpanzees Gombe Reserve in Tanzania

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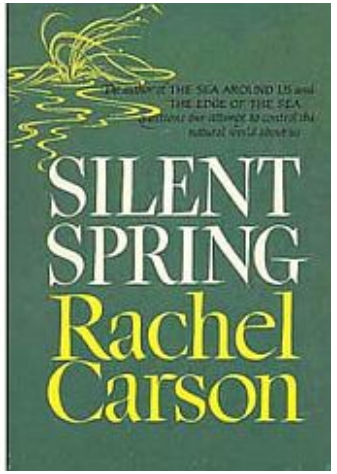
Rachel Carson (1907 -1964)

- 1962 published *Silent Spring* – Marine Biologist, Johns Hopkins University
  - Focused on environmental impacts of the use of pesticides: DDT
  - DDT especially impacted wild bird populations
  - Led to a ban on DDT
  - Led to creation of the Environmental Protection Agency; And founding of NGOs (Green Peace)



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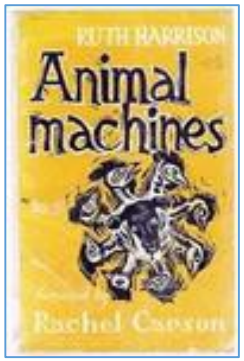
Ruth Harrison (1920 – 2000)

- 1964: Ruth Harrison writes "*Animal Machines*"
  - Scathing description of intensive, large - scale poultry and livestock farming
  - Popularized the term "factory farming"
  - Raised issues of concern, including antibiotic and hormone use and misuse; care and treatment of animals
  - Rachel Carson reads the manuscript and wrote the forward



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Brambell Committee (1964)

- UK government appointed a technical committee to:
    - “Examine conditions of livestock kept in intensive husbandry systems, advise about whether standards should be set in the interests of their welfare, and what the standards should be”

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Brambell Report (1965)

- Defined ideal states rather than standards for acceptable welfare
  - Encompassed the idea that animals can suffer (Miriam Dawkins)
  - Introduced the concept of behavioral needs
  - Lead to development of animal welfare science and basis for regulation

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The Five Freedoms (Brambell Report, 1965)

- Freedom from hunger & thirst
  - By ready access to fresh water & a diet to maintain full health & vigor
- Freedom from discomfort
  - By providing an appropriate environment including shelter & a comfortable resting area
- Freedom from pain, injury or disease
  - By prevention or rapid diagnosis & treatment
- Freedom to express normal behaviour
  - By providing sufficient space, proper facilities & company of the animal's own kind
- Freedom from fear & distress
  - By ensuring conditions and treatment which avoid mental suffering

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Effects of the Five Freedoms

- The five freedoms became the basis for modern animal welfare legislation
- Historically, focus had been on meeting the first three freedoms, which address animals' physical needs
  - Recent shift to focus on 4th freedom (to express normal behavior)
- Refocused the discussion on animal welfare to considering the "quality of life"

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Effects of Five Freedoms

- First comprehensive protection for farmed animals in the U.K.
  - Banning of certain types of housing
- As the European Union (EU) was formed advanced into broader discussions of coordination of animal protection across members of the EU
  - Incorporated into to various directives issued on experimental and farmed animals.
- Development of the scientific exploration of animal welfare
  - Focused on meeting the “needs” of animals and impacts of practices on their welfare
  - Advanced the study of animal behavior in domestic species

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Events that Catalyzed Animal Welfare Regulation

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Pepper the dog

- Family Dalmatian captured by a dog “buncher” in rural Pennsylvania in 1965
- Animal protection groups and law enforcement engaged in search
- Dog sold through various channels to a hospital in New York; the dog had been euthanized
- Media coverage resulted in public outrage
  - " *Concentration Camps for Dogs* " **Life** Vol. 60 No.5 Feb 4 1966 at pages 23-29)

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The Animal Welfare Act (AWA) (7 U.S.C. § 2131)

- Laboratory Animal Welfare Act of 1966
  - later became the Animal Welfare Act
- USDA oversight of care for dogs, cats, rabbits, hamsters, guinea pigs, and non-human primates and other mammals used in biomedical research and education
  - Exempt: Birds, mice and rats, farm animals used for food and fiber research
- Also covers animal exhibitors, animal dealers, and animal transport
- Major amendments in 1985 expanded care and program requirements
  - Providing for the psychological well-being of non-human primates
  - Social environment for social species, exercise for dogs
  - Mandates scientists to justify their methods and animal use through application of the three R's
    - Reduce, Refine and/ or Replace

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AWA Regulates:

- How animals enter the chain of commerce to eliminate the use of stolen animals.
- The environmental conditions under which the animals are housed
- The purchase of covered animals by covered users must be from licensed dealers
- The well-being of the animals during transportation
- How Animal Care Committees must be constituted to review the use of animals used in research/teaching and conduct semi-annual inspections of the animal housing
- The restrictions on the imposition of pain during animal experimentation
- Against animal fighting by prohibiting persons from knowingly moving any animal used for this purpose through interstate or foreign commerce.

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Since the 1960's: Primary Public Concerns

- Housing and Management
  - Confinement type
    - Indoor/outdoor environments
    - Cages, stalls, etc.
  - Number of animals kept
    - Human : animal ratio
  - Space
    - Movement and exercise
  - Behavior accommodation
    - Natural expression of behavior
    - Social needs
- Conservation of species
    - Protection of habitat
    - Inappropriate hunting/catching or poaching
- Practices causing pain and/or distress
  - Acts of cruelty
  - Experimentation methods
  - Testing methods
  - Animal handling procedures
  - Transportation
  - Slaughter and euthanasia methods
  - Procedures requiring amputations
    - Castration
    - Disbudding/dehorning
    - Tail docking or toe clipping
  - Identification methods
    - Branding, ear clipping, toe clipping, etc

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The Silver Springs Monkey Case

https://en.wikipedia.org/wiki/Silver_Spring_monkeys https://www.animallaw.info/case/taub-v-state-maryland
https://www.animallaw.info/case/ippl-v-institute-behavioral-research-inc
https://ilarjournal.oxfordjournals.org/content/40/1/3.full

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Case Summary…

"In late summer 1982, Alex Pacheco, then a student at George Washington University and a founder of PETA, took a summer job in the Silver Spring, Maryland, laboratory of Dr. Edward Taub. While Dr. Taub was away from his laboratory on vacation, Mr. Pacheco arranged to have several veterinarians visit the laboratory, which housed approximately 15 deafferented primates (that is, for each animal, the motor and sensory nerves of one arm were severed). Dr. Taub was studying regeneration of severed nerves. Mr. Pacheco took a series of colored photographs of the condition of the animals. Then he arranged for a state police raid on the facility under the Prevention of Cruelty to Animals law of the state of Maryland. The visiting veterinarians, the colored photographs, and the police report all alleged that the animals were housed in a filthy, fetid environment that constituted cruelty to the animals.

Dr. Taub claimed that his laboratory was clean and well run when he left on vacation. He claimed that Mr. Pacheco had trashed the laboratory, failed to clean cages, neglected the animals, and subjected the laboratory to false reports of animal cruelty. In response, Mr. Pacheco claimed that he merely documented the deplorable state of the laboratory and the condition of the animals. Initially the matter was handled in the courts of Maryland. Dr. Taub was convicted on six counts of animal cruelty, but a court of appeals set aside the conviction on the grounds that since the laboratory was subject to the PHS, the issue was a federal matter. The court remanded custody of the animals to the NIH. OPRR initiated an investigation."

(Excerpt from: Sideris, L., C. McCarthy, and D. H. Smith. 1999. Roots of concern with nonhuman animals in Biomedical Ethics, *ILAR Journal* 40(1): 3-14.)

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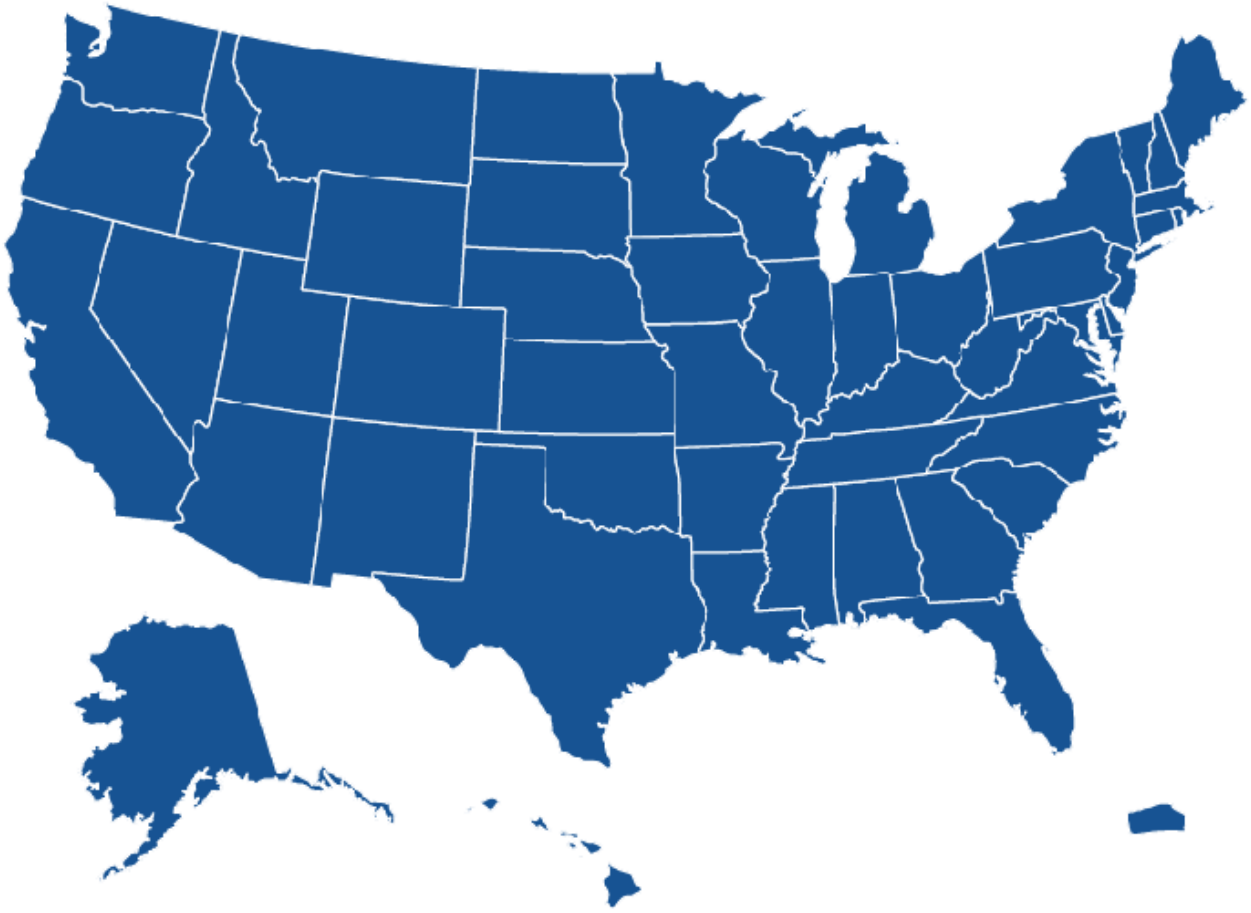
Federal laws driven by the public concerns for animals….



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U.S. laws protecting different aspects of animal welfare (date enacted)

- Twenty-Eight Hour law (1873)
- Migratory Bird Treaty Act (1918)
- Stockyards & Parker Act (1921)
- Bald & Golden Eagle Protection Act (1940)
- Humane Methods of Slaughter Act (1958)
- Endangered Species Act (1966)
- Marine Mammal Protection Act (1972)
- Wild Free Roaming Horses & Burros Act (1971)
- Wild Bird Conservation Act (1992)
- Animal Crush Video Prohibition Act (2010)
- Commercial Transportation of Equines to Slaughter Act (2011)
- Shark Conservation Act (2011)
- Canine Members of the Armed Forces Act (2013)
- Animal Fighting Spectator Prohibition Act (2014)

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Animal Welfare Regulation in the Global Context

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International Conventions/ Agreements on Animal Welfare

Convention on International Trade of Endangered Species of Wild Fauna and Flora (CITES)

- International agreement addresses the international wildlife trade for conservation purposes
- "CITES was drafted as a result of a resolution adopted in 1963 at a meeting of members of IUCN (The World Conservation Union). The text of the Convention was .. agreed at a meeting of representatives of 80 countries in Washington, D.C., ... on 1 July 1975 CITES entered in force.
- … States (countries) adhere voluntarily. States that have agreed to be bound by the Convention ('joined' CITES) are known as Parties. Although CITES is legally binding on the Parties – in other words they have to implement the Convention – it does not take the place of national laws. …..provides a framework to be respected by each Party, which has to adopt its own domestic legislation to ensure that CITES is implemented at the national level."
- Currently 182 countries are bound to CITES https://www.cites.org/eng/disc/what.php

Treaty of Lisbon http://ec.europa.eu/food/animals/welfare/index_en.htm

- 2009 European Council directive recognizing animals as sentient beings and rules based on the "Five Freedoms"
- *"In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage."*

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World Organisation for Animal Health

http://www.oie.int/

- **OBJECTIVES:**
  - Transparency
    - Disclosing and sharing information on world animal disease
  - Scientific information
    - Collect, analyze and share veterinary medical information
  - International solidarity
    - Encourage cooperation in the control of animal disease
  - Sanitary safety
    - Assure and safe-guard world trade through publishing science-based health standards for animals and animal products
  - Promotion of veterinary services
    - Support national veterinary services through improved legal frameworks and resources
  - Food safety and animal welfare
    - Improve OIE cooperation with the Codex Alimentarius Commission to assure safety of foods of animal origin
    - Improve animal welfare as a leading organization for animal health (http://www.oie.int/en/animal-welfare/animal-welfare-at-a-glance/)

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Serves as a reference organization for the World Trade Organization

- Animal disease and Animal welfare

- As of 2016, 180 countries are “Delegates” of OIE
- The World Assembly of Delegates is the decision-making body who:
  - Adopt international standards in the field of animal health, especially for international trade, and animal welfare;
  - Adopt resolutions on the control of the major animal diseases;
  - Elects the members of the governing bodies of the OIE
  - Appoints the Director General of the OIE;
  - Examines and approves the annual report of activities and the financial report of the Director General and the annual budget of the OIE.

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How does OIE define Animal Welfare?

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According to the OIE *Terrestrial Code*, “animal welfare means how an animal is coping with the conditions in which it lives”.

The OIE guiding principles on animal welfare are based on the “Five Freedoms” :

- Freedom from fear and distress;
- Freedom from physical and thermal discomfort;
- Freedom from pain, injury and disease; and
- Freedom to express normal patterns of behaviour.

(http://www.oie.int/en/animal-welfare/animal-welfare-at-a-glance/)

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Summary

- Laws protecting the welfare of animals in the U.S. stretch back to the days of the early colonists
- Philosophical and ethical debates formed the foundation the legal protections for animals
- Authors Rachel Carson and Ruth Harrison paved the way for discussions about the quality of life of animals resulting in the development of the Five Freedoms
- Events have mobilized public concerns and the passage of laws protecting animals in the U.S. including the Animal Welfare Act
- Animal welfare is now a global concept with international organizations such as CITES and OIE assisting its member nations with the protection of animals
- The Five Freedoms have become the primary underpinning of regulations safeguarding the welfare of animals globally.

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