Regulating Animal Welfare
Current Perspectives

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Overview

- Briefly discuss public values and views on animal care
- Define voluntary and involuntary means to regulate animal welfare
- Discuss ethical considerations important when deciding to regulate animal welfare

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Current US Public Views on Animal Care

- ***Care about the way animals are raised and treated***
  - Quality of life important
  - Don’t condone cruelty
  - Expect a humane death
- ***Animals are recognized as sentient beings***
  - Animal have emotions and can feel pain
- ***Consumers do evaluate animal production systems relative to their own ethics***

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Conflicting/Competing Social Values

- Consumers do not act in accordance to their ethical beliefs
  - Difference between “ethical self” & acting as a consumer
    - Think of ethical issues related to animal production superficially: someone else’s job to act on it
  - “Warm Glow” effect of animal welfare questions
    - Purchase “welfare friendly” only when special discounts
      - Upward bias on “Willingness to Pay" (WTP) questions
      - Ex. WTP price point for eggs from non-cage systems fell 45.5% after correction for upward bias

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21st Century Regulation of Livestock Production

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Regulating Animal Welfare Means Controlling Human Behavior

- **Voluntary Regulation**
  - Not encoded into law but are recommendations that are constituted and desirable to follow (self-enforced)
- **Involuntary Regulation**
  - Politically encoded into law, prescriptive, and must follow (third-party enforced)

Only one cup or glass of alcoholic beverage may be consumed during any 24 hour period. **Violators are subject to penalty by law.**

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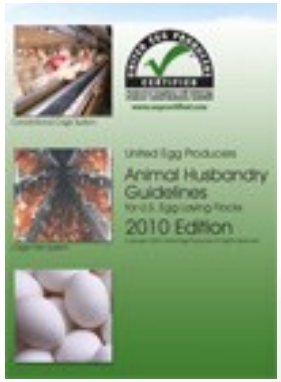
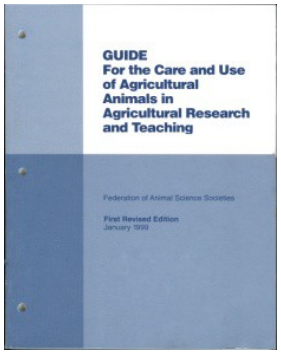
VOLUNTARY REGULATION

Development of Animal Care Guidelines And Standards





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The Development of Animal Care Guidelines and Standards

“Recipes for creating realties” (Busch, 2011)

- Involve compromises between the divergent justifications for practices
- Reconciliation of differences of practice
  - Eg. Housing, treatment etc.
- Recognition of the incompleteness of knowledge: both people and animals
- Recognition of the similarities and differences between humans and animals

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- Voluntary Guidelines
- Most major commodity/producer groups

- **Certification programs**
  - Ex. United Egg Producers (UEP)
  - Ex. Humane Farm Animal Care

- **Self-Assessments**
  - Ex. National Pork Board
  - Ex. FARM Program

- **Third party audits/audit org/audit training**
  - Ex. Validus
  - Professional Animal Auditors Certification Organization

The new social expectations for public assurance of animal welfare

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Voluntary regulation through Corporate Social Responsibility (CSR) policies on Animal Welfare

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NGOs

The Power of….

http://pateassociates.wordpress.com/2011/05/26/

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- Non-government organization (NGO): non-profit, not business
  - **Promote interests, causes and/or goals**
  - **"Stakeholders" - defend the interests of civil society**
  - **Evolve from activist or grass root groups**

- **NGO growth concurrent with Multi-National Corporations (MNC)**
  - **Explosive growth since 1980s**
  - **Counterbalance to big business**
    - Ex. China went from 50 to 3,000 NGO (5 years)
    - Ex. United Nations 3,287 NGOs consultative status

- **NGOs + MNCs = "private political authority"**
  - Pressure, deliberation and provisioning of public good
    - Private authority – especially where no laws exist!

The Rise of NGOs

Food is big business…

(Doh, J.R. and T.R. Guay.2006. Corporate social responsibility, public policy, and NGO activism in Europe and the United States: An institutional-stakeholder perspective*. J. Management Studies* 43(1):47-72)

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Challenges of Voluntary Regulating

- Gaining and maintaining compliance of all parties
  - All must agree to comply
  - Legal issues to address when an industry makes decisions that could affect product pricing
- Maintaining guidelines and standards as living documents
  - Regular review and maintenance by a body of experts
  - Best practice engages multi-disciplinary approach and includes public input
- Enforcement of guidelines and standards to provide assurance
  - Assessment and auditing strategies that are rigorous, well-designed and independent
- Public transparency
  - Are processes maintained and reported
  - Is there a public portal where outcomes can be viewed

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What happens when voluntary efforts fail?

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Involuntary Regulations

- **Laws and other legal mandates that require formal enforcement**
  - Animal Welfare Act
    - Pertains to care and use of certain species in biomedical research, exhibition animals, and dealers
  - Humane Slaughter of Livestock Act
    - Conduct of humane slaughter and handling
  - 28 Hour Rule
    - Rail, ship and road transportation of livestock
  - Individual state regulations pertaining to animal care and use including anti-cruelty laws

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Why Legislate Animal Welfare?

- **To control situations that pose a threat to human/animal/environmental safety and welfare**
  - Unable to control through voluntary regulation
- **To even the playing field for the affected parties**
  - Everyone expected to comply with same rules
  - Markets not disrupted
- **To provide public accountability and assurance**
  - Transparency in meeting social expectations
- **To give standards legal teeth**
  - Deterrence of bad behavior

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Unintended Consequences of Well - Intentioned Animal Welfare Legislation

- **Gold plating**
  - The creation of stellar but unrealistic standards that few if any can meet
- **Over emphasis on one aspect of animal welfare**
  - Tipping the balance such that one aspect of animal welfare is accommodated to the detriment of another resulting in no net gain or a net loss to the animal's welfare
- **Accelerating the consolidation of farm production**
  - Creating a regulatory "super structure" that selects against the small or independent producers
- **Defiance, resistance, or total disengagement of the industry**
  - May move to less regulated or unregulated locations
  - There is no acceptance or recognition of the moral imperative to change behavior

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Defiance, Resistance or Disengagement with a Regulatory Mandate

- **The Compliance Trap:**"In the absence of authoritative broader political and cultural support for the regulator's view of the law then a regulator is trapped." (C. Parker, 2006)

  - **Industry or person(s) meant to implement change perceive the law as illegitimate**
    - Will lobby to overturn law or,
    - Work to remove or not reappoint regulatory staff and officials,
    - They fail to develop a compliance commitment through internalizing and institutionalizing the compliance as a norm

  - **Regulators – goes "soft" on enforcement**
    - Industry can "absorb" the punitive damage of non-compliance or strike bargains with its regulator
    - There is an unethical and unacceptable outcome of regulation

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Other Ethical Considerations for Legislating …

- **Food prices**
  - US citizen: Low percentage of income spent on food – why not raise prices to cover improvements to animal welfare?
    - Figures based on <u>average</u> US salary
    - Increases in food prices disproportionately affect the lower 1/3 who pay considerably higher % of their income on food
      - Increases in fuel and food = increase in poverty stricken
  - There is an ethical imperative to consider the collateral damage caused by regulatory actions

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Other Ethical Considerations…..

- **Importation of cheaper food products produced at a lower standard**
  - Places the regulated domestic industry at a competitive disadvantage
    - UK experienced this problem with mandated phase out of certain production systems
      - Regulators have argued benefits of leading the EU
      - Farmers expressed frustration and resentment at loss of farms and markets
  - Competitive marketing can be argued as morally relevant if society accepts this as an important component to maintaining its well-being
  - Can develop into a food security problem if taken to the extreme
- Legislating does mean you will be developing **REGULATIONS**

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Responsive Regulation vs Regulation Based in Deterrence

- **Adopts a cooperative approach**
  - Seeks to work with regulated industry to:
    - Internalize compliance norm
    - Institutionalize compliance norm
  - Attempts to avoid the compliance trap
  - Typically outcome based performance standards
  - Avoids stigmatizing the regulated community
  - Punitive action only after cooperative strategy fails

- **Considers the interests of the regulated party as well as the public good**
  - Requires socially intelligent strategies to implement change
  - Time scale to change is longer
  - May require compensation to the regulated community to stabilize it and minimize collateral damage

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To regulate or not regulate, that is the question!

- **What is the collective harm caused by the practice?**
  - Is there social/moral endangerment if practice is not changed

- **Can a voluntary approach accomplish the change?**
  - Industry must demonstrate, in a transparent manner, commitment to change and self enforcement
    - Advantage of changing business behavior from within by internalizing and institutionalizing best practice
  - Market forces must cooperate in supporting change
  - Develop and maintain a public accountability mechanism
  - Shorter transaction time for change and more flexibility to tweak
  - Disadvantage of no hard public mandate to change

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To regulate or not regulate…….

- **Would regulation solve the problem?**
  - Depends on how the regulation and enforcement structure is developed
    - Responsive better than simple deterrence
    - May produce similar effect of internal and institutional recognition/acceptance of change in behavior
  - Political transaction time often long
  - Relatively inflexible to change once enacted
  - Public burden for supporting the regulation and its enforcement
    - Effect of unfunded mandate
    - Political authority must respect and support the mandate
  - Should be the mechanism of last resort

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Summary

- We have a long history of thinking about and acting on our moral obligations to animals especially their humane treatment
- Voluntary regulating attempts to control human behavior by developing standards and guidelines for practice that others will voluntarily implement and follow.
- Involuntary regulating requires political process to pass laws (using a legislation) that require regulatory compliance, oversight and enforcement.
- Ethical considerations come into play with respect to both types of regulation.

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The “Egg Bill” Case Study

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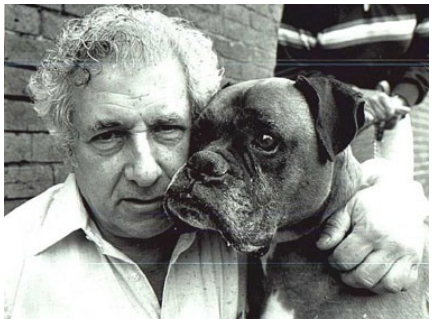
History

- **Numerous attempts made to abolish battery cages and other intensive housing systems in the U.S. for over 40 years**
  - **Formal actions registered over 30 years ago**
    - Veal Calf Protection Act 1991
    - CEASE initiative in Massachusetts
    - Breakfast of Cruelty campaign (bacon and eggs)
  - **Campaigns waged in each decade**
    - Momentum for change builds through different tactical approaches
    - Also true for strategies repelling the attacks
- **New levels of sophistication in driving change**
  - 1990s: Corporate engagement through corporate social responsibility
  - 2000s: state voter referendums combined with corporate engagement



Henry Spira: pioneered corporate pressure including Proctor and Gamble and McDonalds

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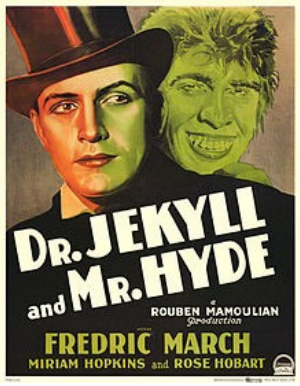
The United Egg Producers (UEP)

http://www.unitedegg.org/

- In 2011 the UEP forged an agreement with the Humane Society of the United States (HSUS) http://www.humanesociety.org/
  - Agreed there existed an irregular patch work of state laws and marketing interruptions
  - Agreed to set a baseline for housing systems for laying hens in the U.S.
  - Agreed there was a viable alternative to the battery cage: the enriched colony system
- UEP Board of Directors approved & HSUS Board of Directors approved
  - Together they set negotiable conditions for continuing the agreement
- Co-developed federal legislation to set a baseline standards
  - UEP had no chance of success alone



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Setting a new baseline for laying hen housing

Enriched Colony Cage System

(Courtesy Big Dutchman)

Conventional or "Battery" Cage System

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“THE EGG BILL”

H.R. 3798 Egg Products Inspection Act Amendment of 2012

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The Agreement

- H.R. 3798 (introduced 2012) included a phased schedule of changing housing systems :
  - 18 years from enactment: 124 and 144 sq in (white/brown hens)
    - For new systems
      - Phase in begins at 67 and 76 sq. in. for new cages;
      - At 3 yrs from enactment, increase to 78 and 90 sq. in. (CA 116 and 134 2015);
      - 6 yrs - 90 and 102 sq. in.;
      - 9 yrs - 101 and 116 sq. in. (must add enrichments);
      - 12 yrs - 113 and 130 sq. in.;
      - 15 yrs - 124 and144 sq. in.
      - At 18 yrs no further changes
    - For existing systems
      - No changes until 4 years after law enactment: space 67 and 76 sq. in. (white/brown);
      - At 6 yr - 25% all caged hens given 90 and 102 sq. in.;
      - 12yr - 55% caged hens 113 and 130 sq. in.;
      - 15 yr - 124 and 144 sq. in. plus all enrichments;
      - At 18 yrs 124 and 144 sq. in. required in all operations.
  - UEP care guidelines would be codified adding uniform standards of management and care

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The Result

- The joint UEP –HSUS legislative effort failed - abandoned in 2014

- H.R. 3798 and subsequent bills garnered:
  - 152 House of Representatives Co-Sponsors
  - 20 Senate Co-sponsors on a companion Senate bill

- Both UEP and HSUS worked with diligence to pass the bill
  - Met with members of Congress
  - Met with farm organizations
  - Met with other animal protection organizations, etc.

- Opposition groups formed
  - Alternative egg producer organization formed to oppose the bill
    - Gave testimony at hearings opposing the bill – hurts small farmers
  - Animal industry groups opposed the bill including:
    - National Cattlemen's Beef Association, National Pork Producers Association, American Farm Bureau
  - Some animal protection and rights organizations opposed aspects of the bill
    - Did not support enriched colony systems

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Helpful Sites to Investigate…

- http://www.hslf.org/issues/egg-bill-fact-sheet.pdf
- http://www.humanesociety.org/issues/confinement_farm/facts/s820.html
- http://cagefreeca.com/what-they-say/the-federal-egg-bill/
- http://sunriseacresmi.com/448/
- http://keepfoodaffordable.com/issues/the-egg-bill/
- http://www.wattagnet.com/articles/21915-if-the-egg-bill-isn-t-passed-what-s-next-for-us-egg-producers?v=preview
- https://www.hfa.org/industry-drops-egg-bill.html
- http://www.agri-pulse.com/Egg-Producers-Humane-Society-end-joint-effort-on-Egg-Bill-2-19-_2014.asp
- http://farmfutures.com/blogs-uep-abandons-hsus-egg-deal-8186

- And many more……..

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