

# DOG MEAT IN KOREA: A SOCIO-LEGAL CHALLENGE

By  
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*This article explores the dog meat debate in Korea from a socio-legal perspective. It first examines the legal status of dogs and dog meat, and the legal protection for dogs under the old and new legislative frameworks. It then discusses socio-legal challenges to banning dog meat in the Korean context, employing examples of both legal approaches taken by other countries and the politics of dog meat in Korea, specifically. The article argues that the controversy over dog meat must be reframed and dog meat be socially redefined in order to protect dogs, which are currently caught in the conflict over their socio-legal status as companion and livestock animals.*

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## I. INTRODUCTION

Dogs have been our good friends and trusted stewards. Is the life of such an animal as negligible as the price of a meal? A bowl of *bosintang* today is [ten dollars].<sup>1</sup>

Dog meat is the fourth most-consumed meat in the Republic of Korea ("Korea") after pork, beef, and chicken.<sup>2</sup> Around two million dogs are slaughtered for food each year<sup>3</sup> and served in over twenty thousand restaurants,<sup>4</sup> mostly in the form of stew commonly known as *bosintang*.<sup>5</sup> According to a recent survey, 61.7% of Koreans have had dog meat at least once in their lives.<sup>6</sup> Those who consume dog meat do so at an average of 4.6 times a year.<sup>7</sup> The production and sale of dog

<sup>1</sup> SBS, *Pet Dogs Turned Into Bosintang*, [http://wizard2.sbs.co.kr/vobos/wizard2/resource/template/contents/07\\_review\\_detail.jsp?vProgId=1000111&vVodId=V0000240318&vMenuId=1001753&rpage=4&cpage=21&vVodCnt1=00112&vVodCnt2=00&vUrl=/vobos/wizard2/resource/template/contents/07\\_review\\_list.jsp](http://wizard2.sbs.co.kr/vobos/wizard2/resource/template/contents/07_review_detail.jsp?vProgId=1000111&vVodId=V0000240318&vMenuId=1001753&rpage=4&cpage=21&vVodCnt1=00112&vVodCnt2=00&vUrl=/vobos/wizard2/resource/template/contents/07_review_list.jsp) (last updated July 22, 2005). The dollar amount is in U.S. currency; the exchange rate between Korean and U.S. currencies used in this paper is 1 U.S. dollar = 1,000 KRW.

<sup>2</sup> Korean Assn. for Policy Stud. (KAPS), *A Policy Study for Hygienic Treatment of Slaughter Dogs* (Final Report to the Office for Government Policy Coordination) (Korean Assn. for Policy Stud. 2004). The total amount of dog meat consumed each year is approximately 100,000 tonnes (including 93,600 tonnes used annually to produce health tonic called *gaesoju*), as compared to pork (700,000 tonnes), beef (360,000 tonnes), and chicken (280,000 tonnes). *Id.*

<sup>3</sup> *Id.* at 40–41. The number of dogs slaughtered for food each year is estimated to be 2,051,290. It is calculated based on the average frequency of consumption per year (4.6 times) and an average serving quantity (300 grams). *Id.*

<sup>4</sup> Ji-Hyun Kim, *Bosintang Controversy: What is the Solution?*, [http://www.assembly.go.kr/brd/news/news\\_vw.jsp?newsId=3727](http://www.assembly.go.kr/brd/news/news_vw.jsp?newsId=3727) (last updated Aug. 9, 2006). According to a report issued during the annual audit of the administration conducted by the National Assembly in 1998, there are 6,484 registered dog meat restaurants. *Id.*

<sup>5</sup> Cuisine of Dog Meat, *Bosintang*, <http://wolf.ok.ac.kr/~annyy/english/e5.htm> (accessed Apr. 13, 2008) (*Bosintang*, also transliterated as *boshintang*, *poshintang*, and *posintang*, literally means invigorating stew. It is a relatively new name for dog stew introduced in the 1940s to avoid negative stigmatised names such as *gaejang*, *gaejangguk*, *gaetang*, or *gujang*. Just before the 1988 Seoul Olympics, other more benign, euphemistic names were once again attributed to it, such as *yeongyangtang* and *sacheoltang*, literally meaning nutritious stew and four-seasons stew, respectively).

<sup>6</sup> KAPS, *supra* n. 2, at 39. (The total number of samples is 1,025).

<sup>7</sup> *Id.* at 40 (A 64.1% majority, however, consumes dog meat less than or equal to three times a year).

meat is a large industry, with an estimated value of two billion U.S. dollars.<sup>8</sup>

Despite the significance of the industry, there is no clear law governing the trade of dog meat. There is neither explicit recognition of dog meat as legitimate food, nor a clear ban on the sale or slaughter of dogs for food. In the midst of this legal uncertainty, the processing of dog meat has gone underground with no official guidelines to guarantee untainted meat or animal welfare. The legislative and policy options are deadlocked, with the government caught between the imperative of animal protection lobbied for by both national and international advocates and the deeply embedded custom of traditional food defended by the mainstream society. As a result, animal welfare issues have been dismissed as the lowest priority. The previous Animal Protection Act of 1991<sup>9</sup> was a law on paper only. Although the Animal Protection Amendment Act of 2007, which came into effect in January 2008, is a step forward, it is a small step and its implications for the use of dog meat are largely unclear. Dog meat continues to be a headache for law and policy makers.

Against this backdrop, this article examines dog meat in Korea from a socio-legal perspective. As there has been no academic analysis on the law relating to dog meat, this article is exploratory and the overall objective is to initiate academic discussion in the area. More specifically, it attempts to map the complex and simultaneously social, political, and legal landscape on which the dog meat controversy sits. This article deliberately avoids the "why" questions on the morality of dog eating. Instead, the article assumes the view of Korean animal protectionists,<sup>10</sup> who say that the abolition of the canine-eating practice is a crucial step that must be made in order to safeguard the general welfare of all animals in Korea,<sup>11</sup> and focuses on the question of *how* Korea can move towards a dog meat-free society.

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<sup>8</sup> *Id.* at 41. An estimated figure calculated with an average price for a bowl of *bosintang* as 10,000 won (10 U.S. dollars). *Id.* The dog slaughter industry is estimated at somewhere between 219.9 and 272.5 billion won (219.9–272.5 million U.S. dollars). *Id.*

<sup>9</sup> Animal Protection Act. For an unofficial English translation of the Act, see Food and Agriculture Organization of the United Nations, <http://faolex.fao.org/docs/texts/kor50859.doc> (accessed Apr. 13, 2008).

<sup>10</sup> The term "animal protectionists" is adopted in this article as a broad term that includes "animal rights," "welfare advocates," and "activists" because the former term is more commonly used in Korea.

<sup>11</sup> Korea Animal Rights Advocates (KARA), *Policy Suggestions to the 17th President-Elect's Committee*, <http://www.withanimal.net/tt-cgi/tt/site/ttboard.cgi?act=read&db=w01&page=1&idx=354> ("Numerous animal cruelty cases demonstrate that the consumption of dog meat has apparently encouraged animal cruelty. Many citizens and animal protection activists firmly believe that our society can move toward a life-respecting, animal welfare state when we start banning dog-eating.") (accessed Apr. 13, 2008). See also generally KARA, *The Ban on Eating Companion Animals*, <http://www.withanimal.net/html2/adm.html> (accessed Apr. 13, 2008); Korea Assn. for Animal Protection (KAAP), *Petition Against Dog-Eating*, [http://www.kaap.or.kr/new\\_site/dog\\_1.html](http://www.kaap.or.kr/new_site/dog_1.html) (accessed Apr. 13, 2008); Anti-Dog Meat Headquarters (ADMH), *Resources*

Part II of this article situates dog meat in its historical and legal context, discussing the place of a dog in traditional and contemporary Korean societies and the legal status of dogs and dog meat in Korea. Part III then looks into the legal protection of dogs under the old (the Animal Protection Act of 1991) and new (the Animal Protection Amendment Act of 2007) animal protection legislative frameworks. Having illustrated the worrying reality, Part IV then focuses specifically on legal challenges to banning dog meat in Korea. It highlights the inherent limits of animal protection laws and how some countries have outlawed dog meat, and illustrates both why the Korean government is facing a policy deadlock and how it is attempting to break it. Finally, Part V discusses what is hindering the consensual process and what needs to be done to move towards a dog meat-free society. It focuses on how the debate should be reframed and how dog meat should be socially redefined in Korea.

## II. DOG MEAT IN HISTORICAL AND LEGAL CONTEXT

To understand the debate surrounding dog meat, it is necessary to examine the place of a dog in Korean society in an historical context and the legal status of dogs and dog meat under the current law.

### A. *The Place of a Dog in Korean Society: Livestock or Companion?*

Despite its apparently long history,<sup>12</sup> the practice of eating dog meat in Korea only came to the attention of the West relatively recently, in the late nineteenth century, through the writings of Western missionaries.<sup>13</sup> In contrast to the situation in the West, dogs in Korea were not bred for the purpose of companionship and were not used for activities such as herding sheep or draught. Dogs were often consumed

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*on Dog Meat*, <http://www.admh.org/> (accessed Apr. 13, 2008); Korean Animal Protection Socy., *Anti-Dog Meat Campaign Flyer for 2007*, <http://www.koreananimals.or.kr/zboard/view.php?id=notice&no=289> (accessed Apr. 13, 2008); Intl. Aid for Korean Animals (IAKA), *Dogs*, <http://www.koreananimals.org/animals/dogs.htm> (accessed Apr. 13, 2008) (generally supporting the proposition that the abolition of dog meat eating would safeguard the welfare of animals in Korea).

<sup>12</sup> Supporters say there is archaeological evidence to suggest that Koreans have eaten dogs for over one thousand years. One of the wall paintings in the Goguryeo (Koguryo) tombs complex in South Hwanghae Province, North Korea, a UNESCO World Heritage site which dates from 4th century A.D., depicts a slaughtered dog in a storehouse. See United Nations/UNESCO World Heritage Ctr., *Complex of Koguryo Tombs*, <http://whc.unesco.org/en/list/1091> (Feb. 5, 2008) (describing the tomb complex). However, some animal protectionists claim that dog meat is not Korea's traditional food, while admitting that "[s]ome of our ancestors did eat dog meat—but purely to avoid starvation in times of famine." Sunnan Kum, Friends of Dogs, *Sunnan's Speech at the HK Conference*, <http://www.friendsofdogs.net/KAPSoppose.html> (accessed Apr. 13, 2008).

<sup>13</sup> See e.g. Charles Dallet, *Histoire de L'église de Corée* (V. Palmé 1874); William Elliot Griffis, *Corea, the Hermit Nation* (C. Scribner's Sons, 1882); James Scarth Gale, *Korean Sketches* (Fleming. H. Revell Co. 1898) (describing instances where the practice of dog meat eating in Korea was exposed to the West).

as food; however, it was more common to hunt wild dogs than to rear them domestically for consumption purposes.<sup>14</sup> In the latter case, these dogs were never allowed inside the house and were treated more or less as livestock, just like swine. The commonly found mongrel dog breed was, and still is, called *ddong-gae*, literally meaning “shit-dog,” because such dogs ate and survived on human feces, like pigs did.<sup>15</sup> Notably, it was never a common practice to give names to dogs. Dogs were unanimously called *meong-meong*, a Korean equivalent of “bow-wow,” indicating that these dogs were not treated as “pets.”<sup>16</sup>

In fact, people in Korea began to own pet dogs starting in the 1980s.<sup>17</sup> Due to the short history of pet culture, the traditional attitudes toward dogs have not entirely disappeared, but rather a dual perception has emerged which views *ddong-gae* as edible livestock different from pet dogs. Take, for instance, the typical response from a Korean questioned about the morality of dog-eating: “We only eat *ddong-gae*, specifically bred for food just like pigs.”<sup>18</sup>

Traditional attitudes toward dogs can be identified through an analysis of common Korean proverbs. There are over a hundred proverbs referring to dogs, which are much more than those regarding any other sort of animal, depicting the intimate relationship between dogs and people. Apparently, however, the sheer number of proverbs does not mean that dogs were considered companions or, to borrow a Western notion, “man’s best friend.” Indeed, the stereotypical image of a dog observable in all proverbs is a worthless, insignificant, naughty, and ungrateful animal.<sup>19</sup> A few proverbs refer explicitly to dog meat; for example, “Dog meat always tastes like dog meat.”<sup>20</sup>

In contrast, cattle were highly valued as necessities. Because of their relative scarcity due to Korea’s mountainous geographical condition being less suitable for farming huge numbers of livestock, cattle were treated with respect, and one proverb states that “cattle are ancestors of farming villages.”<sup>21</sup> Perhaps not surprisingly given the context, slaughtering cattle was illegal<sup>22</sup> and eating cattle was regarded

<sup>14</sup> Frederick J. Simoons, *Traditional Use and Avoidance of Foods of Animal Origin: A Culture Historical View*, 28 *BioScience* 178, 178 (1978).

<sup>15</sup> Natl. Inst. of the Korean Language (NIKL), *Dictionary of Standard Korean* 181–82 (Natl. Inst. of the Korean Language-Dusan Donga, Seoul, 1999).

<sup>16</sup> The same applied to cats, which were not named and called *ya-ong* or *nabi*.

<sup>17</sup> See e.g. Am-Youn Kim, *A Study on the Future Development of Korea’s Pet Dog Industry* 5 (Ph.D. Dissertation, Chungnam National University, 2004) (arguing that the origin of Korean pet culture can be found in war dogs that were brought in by the Japanese during World War II).

<sup>18</sup> Yong-Geun Ann, *The Illogic of Anti-Dog Eating Arguments*, <http://wolf.ok.ac.kr/~annyg/k3.htm> (accessed Apr. 13, 2008); Yong-Geun Ann, *The Violence of the Anti-Dog Meat Consumption Movement*, <http://wolf.ok.ac.kr/~annyg/k8.htm> (accessed Apr. 13, 2008).

<sup>19</sup> NIKL, *supra* n. 15.

<sup>20</sup> *Id.* at 184.

<sup>21</sup> *Id.* at 3504.

<sup>22</sup> Evidence can be found on numerous accounts in the Annals of Choson Dynasty. See e.g. Ijo Sillok, *Annals of King Taejong*, Ch. 13, 195–96; *Annals of King Taejong*, Ch.

as treacherous.<sup>23</sup> Only when cattle could no longer provide labor were they slaughtered and consumed. Thus, like in China, where “perennial shortages of meat and the absence of dairying have produced a long-standing pattern of involuntary vegetarianism,” in Korea “dog-flesh eating was the rule, not the exception.”<sup>24</sup>

Perhaps because other types of meat were so difficult to obtain, it became a custom to consume dog meat on designated days. Among these are the three hottest days of the lunar calendar, known as *bok-nal* or *bok* days. But why specifically dog meat? The reason stems from the ancient Chinese metaphysical theory of Yin-Yang and the Five Elements. According to the *Jibongyuseol*, the first Korean encyclopaedia published in 1614, *bok* denotes the period of the season when Yin (feminine force) is strong and tries to rise, but is forced by Yang (masculine force) to remain crouched. Dog meat is “fire” among the Five Elements and *bok* is the opposite, “metal;” people eat dog meat stew to recharge Yang and to counter Yin, thereby overcoming heat.<sup>25</sup> This is why it is popularly believed that heat depletes sexual potency during summer, and why dog meat is believed to possess the power to restore/increase it. Chicken can be consumed as an alternative to dogs, but because chickens were more expensive and rare in the old days, dogs were consumed more frequently amongst commoners.<sup>26</sup> Also, a number of classic medical texts such as the *Donguibogam* point out the dietary similarities between dogs and humans, and recommend dog meat to fortify the spirit, warm the body, and aid in recovery from illness.<sup>27</sup> Canine-eating thus became both a custom and part of a dietary tradi-

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22, 181; *Annals of King Sejong*, Ch. 10, 240 (Classical Texts Research Institute (translation), Yeogang, Seoul, 1994). The author thanks and acknowledges Daham Chong as the source of information.

<sup>23</sup> NIKL, *supra* n. 15, at 3504 (“Eat an ox”).

<sup>24</sup> Marvin Harris, *Good to Eat: Riddles of Food and Culture* 179 (Simon & Schuster 1985). Harris argues that unlike in China,

Westerners refrain from eating dogs not because dogs are their most beloved pets, but essentially because dogs, being carnivorous, are an inefficient source of meat; Westerners have a great abundance of alternate sources of animal foods; and dogs render many services alive which far outweigh the value of their flesh and carcass. In contrast, dog-eating cultures generally lack an abundance of alternative sources of animal foods, and the services which dogs can render alive are not sufficient to outweigh the products they can provide when dead.

*Id.* It is worth noting that, as of 2002, the meat consumption per capita in Korea is 48 kilograms per year, still much lower than most Western countries. EarthTrends, *Agriculture and Food—Meat Consumption: Per Capita*, <http://earthtrends.wri.org/text/agriculture-food/variable-193.html> (accessed Apr. 13, 2008).

<sup>25</sup> Indeed, the Chinese character for *bok* (伏) is a shape of a dog (犬) crouching by a person (人).

<sup>26</sup> Yong-Geun Ann, *Dog Meat Eating History and Culture in Korea*, 12 *Korean Journal of Food and Nutrition* 387, 390 (1999).

<sup>27</sup> Dong-Won Shin, Nam-Il Kim & In-Seok Yeo, *Donguibogam in Single Volume* 835 (Deulnyeok, Seoul, 199). These classic medical texts include *Gyuhapchongseo*, *Buinpilji*, *hyangyakjipseongbang*, and *bonchogangmok*. Yong-Geun Ann, *Dog Meat Food in Korea*, 12 *Korean Journal of Food and Nutrition* 397, 400–02 (1991).

tion, and is still widely believed to be good for health. According to recent surveys, most regular *bosintang* consumers say they eat dog meat for health reasons,<sup>28</sup> and thirty-three percent (thirty-seven percent among male participants) agreed that dog meat is good for men.<sup>29</sup>

Notwithstanding this historical background, rapid changes to the practice of eating dog meat have occurred within a single generation. The last few decades have been a time of immense economic development,<sup>30</sup> and Korea has experienced dramatic and unprecedented improvement in the quality of living. The higher living standards, coupled with an influx of Western culture, manifested itself in a huge pet boom during the 1990s.<sup>31</sup> It is estimated that there are now over three million pet dogs in Korea (as of 2003), which means that at least one in every five households owns one.<sup>32</sup> The market for dogs and related products is estimated at over two billion U.S. dollars.<sup>33</sup> With the increase in pet ownership, tolerance for animal cruelty decreased and animal protection activism is now beginning to constitute a mainstream societal issue. Animal cruelty incidents hit national headlines from time to time and attract public outcry.<sup>34</sup>

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<sup>28</sup> KAPS, *supra* n. 2, at 41.

<sup>29</sup> An ongoing online questionnaire started on July 27, 2006, and voluntarily participated in by 2,957 members of Empas (a popular search engine) (as of Mar. 30, 2008). No duplicate votes were counted. *Dog Meat is Good for Sexual Potency?*, [http://ranking.empas.com/fight/fight\\_view\\_result.html?artsn=226606&c=0&ls=l&pq=i%3D1%26psn%3D1446%26s%3DA%26t%3DA%26o%3D5%26d%3D0&t=N&l=I#stat](http://ranking.empas.com/fight/fight_view_result.html?artsn=226606&c=0&ls=l&pq=i%3D1%26psn%3D1446%26s%3DA%26t%3DA%26o%3D5%26d%3D0&t=N&l=I#stat) (accessed Apr. 13, 2008). However, Western doctors and Oriental medical doctors alike stress that there is no proven medicinal effect on humans. Seung-Bok Han, *Wrong Dog-eating Culture*, <http://news.kbs.co.kr/exec/print.php?id=216812> (accessed Apr. 13, 2008).

<sup>30</sup> The so-called "economic miracle" started at the end of the 1960s, after the Japanese Imperial Period (1910–1945), the birth of the Republic of Korea as a modern nation-state in 1948, and the Korean War (1950–1953).

<sup>31</sup> Hankyoreh News, *Korea, Bosintang Disappearing and Pets a Growing Trend*, <http://worldcup.hani.co.kr/section005000000/2003/08/005000000200308041601001.html> (Aug. 8, 2003).

<sup>32</sup> *Id.*

<sup>33</sup> KAPS, *supra* n. 2, at 38–39. The Association expects the market to grow up to 4.2 billion U.S. dollars because forty percent of the population intend to own a pet dog in the foreseeable future. *Id.*

<sup>34</sup> A recent animal cruelty incident to come under public scrutiny was the so-called "Dog-Balloon-Girl" incident, where a video clip shows a girl tying a little pet dog to a bunch of helium balloons and apparently flying it into the sky. However, the girl later revealed that the dog had not flown into the sky but was tied to a fishing rod, and she brought the dog back down to the ground. This video clip was quickly spread over the Internet and brought about widespread condemnation of the act as cruelty to animals, one that caused severe mental distress to the dog. It later turned out that the video clip was in fact deliberately produced as an advertisement (the girl is wearing a top with a company logo). The public urged that the girl be prosecuted, without realizing how little, if anything, could be done against her under the then existing legal framework. See Part III, Section A, *infra*, for an analysis on this animal protection regime. See e.g. Yul Shin, *Dog-Balloon-Girl, Fishing Using a Real Fishing Rod*, *NoCutNews*, <http://www.cbs.co.kr/Nocut/Show.asp?IDX=317297> (Sept. 13, 2006); KARA, *Let's Search for the Dog-Balloon-Girl!*, <http://www.withanimal.net/tt-cgi/tt/site/ttboard.cgi?act=read&db=w01&page=1&idx=284> (Sept. 28, 2006); Chang-Gil Park, *Kyunggyang Newspaper*,

Nevertheless, the so-called “dog meat culture” has proven resilient. The practice of eating dog meat remains a widespread social phenomenon, one that is culturally defended by a large majority of Koreans. According to a voluntary online survey that received more than 4,600 responses and was administered by Empas, one of the most popular and widely used Web portals in Korea, forty-three percent of the respondents agreed with the phrase “although I do not eat dog meat, I think there is no need to eradicate it.”<sup>35</sup> This was followed closely by forty-two of the respondents who agreed with “I eat dog meat and there is no need to eradicate it.”<sup>36</sup> It follows that an overwhelming majority of eighty-five percent of the respondents supported the dog meat trade, irrespective of their personal eating habits, while the remaining fifteen percent (eleven percent of whom do not eat dog meat and four percent of whom do) think it should disappear.<sup>37</sup> This survey, while hardly conclusive, provides some indication of where Korea sits in terms of public attitudes toward dog meat.

### B. *The Legal History of Dog Meat: Is It Legal or Illegal?*

This section examines the legal status of both dogs and dog meat in Korea by raising a set of questions of legality. First of all, what is a dog in legal terms? Dogs in Korea are, by legal definition, “domestic animals” under the Livestock Act 1963 (LA),<sup>38</sup> while they are not included in the list of livestock under the Livestock Processing Act 1962 (LPA).<sup>39</sup> This bifurcated legal definition of dogs has several legal implications.

Is it legal to raise and slaughter dogs for food? The exclusion of dog from the list of livestock in the LPA—the principal statute governing hygienic slaughtering of livestock and processing of meat—means that there is no explicit recognition of dogs as a meat source or livestock. However, this omission does not automatically ban the raising and slaughtering of dogs for food. Hence, such an act is neither legal nor illegal, for there is no specific law governing the slaughter of dogs, and therefore it would seem to sit outside the law’s reach. The only relevant regulations are provided by the current Animal Protection Act (APA). Simply put, it is *not illegal* to raise and slaughter dogs

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*Animal Protection Act Unable to Prevent Animal Cruelty*, [http://news.khan.co.kr/kh\\_news/khan\\_art\\_view.html?artid=200609281724321&code=990304](http://news.khan.co.kr/kh_news/khan_art_view.html?artid=200609281724321&code=990304) (Sept. 28, 2006) (articles discussing the incident).

<sup>35</sup> An ongoing online questionnaire started on July 24, 2006. No duplicate votes were counted. Empas, *Your View on Bosintang Culture?*, [http://ranking.empas.com/survey/survey\\_view\\_result.html?artsn=226210&eo=1&t=T&ed=1&ep=1&pq=q%3D&psn=0&esn=0&ls=s&lI&t=M#stat](http://ranking.empas.com/survey/survey_view_result.html?artsn=226210&eo=1&t=T&ed=1&ep=1&pq=q%3D&psn=0&esn=0&ls=s&lI&t=M#stat) (accessed Apr. 13, 2008).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Ministerial Ordinance of the Livestock Act art. 2(1).

<sup>39</sup> Livestock Processing Act art. 2(1).



for consumption, as long as it does not violate the general anti-cruelty provisions of the APA.<sup>40</sup>

Is dog meat then legally food? Although there is no explicit recognition of dog meat as food or meat, the Korea Food and Drug Administration under the Ministry for Health, Welfare and Family Affairs (MOHW), in accordance with the Food Sanitation Act of 1962 (FSA),<sup>41</sup> recognizes as food any edible product, except for drugs.<sup>42</sup> In a 1996 case against a person charged for selling dog meat without declaration, a Seoul District Court judge, referring to Article 7 of the Presidential Decree of the FSA listing the scope of meat as “flesh, internal organs, tail, [etcetera] edible parts of a beast produced for food,”<sup>43</sup> ruled that dog meat is food as “it is widely eaten,” notwithstanding the fact that MOHW does not explicitly recognize dog meat as a consumable meat.<sup>44</sup> Furthermore, in similar cases relating to sale of *gaesoju* or “dog tonic drink,” which is made by boiling oriental medicinal herbs with a dog, the Supreme Court has repeatedly ruled that the concoction is not medicine as defined by the Pharmaceutical Affairs Act 1953,<sup>45</sup> and is, therefore, food.<sup>46</sup>

Since dog meat qualifies as food, is it then legal to sell it? This is another question without a definitive answer. Although dog meat qualifies as food under the FSA, making a restaurant’s selling of dog meat subject to food sanitation regulations, whether it is recognized as legitimate food for sale is a different question.

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<sup>40</sup> Back in the 1970s, however, dogs were legally classified as livestock. In August 1975, the Ministry of Agriculture and Forestry (now the Ministry for Food, Agriculture, Forestry and Fisheries) included dog in the legal definition of livestock under the Ministerial Ordinance of the LPA (then the Livestock Hygienic Treatment Act). Indeed, a butcher caught selling uninspected dog meat was actually prosecuted and sentenced to a fine of fifty thousand won (fifty dollars). Nevertheless, in June 1978, “dog” was deleted from the list of livestock. Byeong-Rae Cho, *Pressian News*, “Need to Discuss about Legalising Dog Meat,” [http://www.pressian.com/Scripts/section/menu/print.asp?article\\_num=60011214162200](http://www.pressian.com/Scripts/section/menu/print.asp?article_num=60011214162200) (Dec. 17, 2001).

<sup>41</sup> Food Sanitation Act art. 2(1).

<sup>42</sup> *Id.*

<sup>43</sup> Presidential Decree of the Food Sanitation Act art. 7(5)Na(1) (as amended in 1995).

<sup>44</sup> Seoul Central District Court, November 20, 1996. If it was judged otherwise—if dog meat is not food—the butcher would have been discharged without a conviction because there would be nothing to prevent a person from selling dog meat. Nevertheless, Judge Park Seong-Cheol reduced the penalty from five million won to three million stating that, “taking into account that most dog meat wholesalers are operating without a license . . . the defendant cannot be solely blamed upon.” See also Reuters, ‘McDog’ Restaurant Chain Challenges McDonald’s, [http://www.mcspotlight.org/media/press/reuters\\_8jun97.html](http://www.mcspotlight.org/media/press/reuters_8jun97.html) (June 8, 1997).

<sup>45</sup> Pharmaceutical Affairs Act art. 2(4) (1953).

<sup>46</sup> Supreme Court, 1987 Do 1443 (full text of the judgment can be viewed at <http://glaw.scourt.go.kr/jbsonw/jbsonc08r01.do?docID=351128E26955B0CEE0438C013982B0CE&courtName&caseNum>) (accessed Apr. 13, 2008). See also Yonhap News; Supreme Court, “Whether Gaesoju is ‘Medicine’ or Not Depends on its Substances and Effects,” <http://www.hani.co.kr/section-005100030/2004/07/005100030200407281017093.html> (July 28, 2004).

The first attempt to restrict the sale of dog meat was initiated in January 1983, when the central government, fearing the possibility that dog meat sales would cause negative media attention during the 1988 Seoul Olympics, announced an initiative to ban dog meat sales in urban areas (allowing the continued sale in rural areas), particularly targeting tourist sites.<sup>47</sup> Shortly after, the government ministries began to take action: The Ministry of Foreign Affairs (now the Ministry of Foreign Affairs and Trade) requested a prohibition on slaughtering dogs for food; the Ministry of Agriculture and Forestry (now the Ministry for Food, Agriculture, Forestry and Fisheries) ordered the suppression of breeding slaughter dogs; and the Ministry of Health and Society (the Ministry of Health and Welfare (1998 to February 2008) and now the Ministry for Health, Welfare and Family Affairs) began to crack down on restaurants serving dog meat.<sup>48</sup> On February 21, 1984, Seoul City issued Regulation No. 94, outlawing the sale of dog meat in Seoul City by classifying dog meat as disgusting food. However, these regulations instituted for international publicity during the period running up to the 1988 Seoul Olympics were not backed by a long-term commitment.

On June 8, 1984, the Ministry of Health and Society formally institutionalized the ban on the sale of dog meat, or more specifically *bosintang* and *gaesoju*, when it classified those items, along with numerous others, as disgusting foods (or “unseemly food” or “foods deemed unsightly”) in the Operational Rule relating to the Ministerial Ordinance of the FSA,<sup>49</sup> and prohibited the sale of such disgusting foods. If caught selling such food (at a registered restaurant), the owner gets a warning on the first offense, a week-long suspension on the second offense, a fifteen-day suspension on the third offense, and with a fourth offense the restaurant’s license is revoked. The provision banning the sale of disgusting food survived a series of amendments and is still in place today,<sup>50</sup> but evidence indicates that this administrative regulation has not been rigorously enforced except during the Seoul Olympics.<sup>51</sup>

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<sup>47</sup> KAPS, *supra* n. 2, at 10.

<sup>48</sup> *Id.* at 10–11.

<sup>49</sup> The definition of disgusting food includes *bosintang*, *gaesoju*, snake soup, earthworm soup, maggot soup, and other foods that provoke disgust in citizens. The Operational Rule for the Ministerial Ordinance of the Food Sanitation Act, Ministry of Health and Society (June 1984).

<sup>50</sup> In a series of amendments, the provision moved around the Ministerial Ordinance of the FSA a few times. First it moved to Articles 21 and 22 of Annex 10 by an amendment dated March 28, 1987, then it moved to Article 20 of Annex 13 by an amendment dated November 30, 1989. Finally, it moved to Article 5 of Annex 13 by an amendment dated August 31, 1995.

<sup>51</sup> KAPS, *supra* n. 2, at 11; *A Proposal for a Bill to Amend the Animal Protection Act for Banning the Consumption of Dogs and Cats*, submitted to the National Assembly on Nov. 18, 1999, [http://www.koreananimals.or.kr/zboard/view.php?id=notice&page=14&snl=&divpage=1&sn=off&ss=on&sc=on&select\\_arrange=headnum&desc=asc&no=2](http://www.koreananimals.or.kr/zboard/view.php?id=notice&page=14&snl=&divpage=1&sn=off&ss=on&sc=on&select_arrange=headnum&desc=asc&no=2) (accessed Apr. 13, 2008). To avoid negative worldwide publicity, the government more

There are at least two identifiable reasons for the lack of enforcement. First, the enforcement responsibility lies at the local level and local governments seem unclear as to their responsibilities under the Rule and reluctant to interfere with such a widespread and socially accepted "cultural" practice.<sup>52</sup> Second, there has been no long-term political commitment to the ban. Thus, the sale of dog meat is technically illegal, but nevertheless continues in mainstream society. It is to be noted that Korea, as is the case in most countries, has no explicit prohibition on consumption per se, and slaughtering of dogs and cooking and eating their flesh for other than a commercial purpose is legal. Korea has no prohibition on consumption, and slaughtering, cooking, and eating dog meat for other than a commercial purpose is legal.

To sum up, a dog is legally a domestic animal, but is not livestock. Therefore, there is no regulation over the slaughtering and processing of dogs for food, except under the general anti-cruelty provisions of the APA. Dog meat is food that requires the seller to obtain a license, as with any other food product, and is also to be treated in accordance with the FSA. However, the legality is in question because dog meat is legally classified as disgusting food, and thus its sale is prohibited.

The legal uncertainty over dog meat has caused interministerial tension between the Ministry of Agriculture and Forestry (MAF), responsible for the legal protection of dogs, and MOHW, responsible for food regulations. In 1996, MOHW blamed MAF for the unregulated dog meat industry by highlighting that MAF is the ministry responsible for regulating the slaughter, distribution, and sale of domestic animals.<sup>53</sup> In response, MAF stated that MOHW assumes the responsibility for its reluctance to control dog meat with its FSA, pointing out that dog meat is classified as a disgusting food and thus cannot be cooked and sold in accordance with Article 42 of the Ministerial Ordinance of the FSA; while dog is not classified as livestock, hence no legal restriction is in place to regulate matters such as its use and methods of slaughter.<sup>54</sup> However, MOHW argues, in response to a series of complaints from animal protectionists, that it is very difficult to say dog meat sale is illegal.<sup>55</sup> MOHW goes further, as well, denying

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rigorously enforced the ban on dog meat during the Olympics in Seoul; after the Olympics, enforcement once again was less strict. *Id.*

<sup>52</sup> Gyeong-Tae Kim, *Net Dwellers Fly into a Rage about Dog Meat Buffet*, <http://worldcup.hani.co.kr/section-005000000/2002/08/005000000200208201328548.html> (Aug. 20, 2002).

<sup>53</sup> Yong-Geun Ann, *The Direction of Reformation on the Edibility of Dogmeat in Korea*, 16 *Korean Journal of Food and Nutrition* 72, 74-75 (2003).

<sup>54</sup> *Id.*

<sup>55</sup> MOHW's official response to a civil petition launched by an individual on August 14, 2000. Gyeong-Ah Son, *MOHW Says It's Difficult to Conclude Dog Meat is Illegal*, [http://www.koreananimals.or.kr/zboard/view.php?id=free&page=1&sn1=&divpage=1&sn=off&ss=on&sc=on&select\\_arrange=name&desc=asc&no=192](http://www.koreananimals.or.kr/zboard/view.php?id=free&page=1&sn1=&divpage=1&sn=off&ss=on&sc=on&select_arrange=name&desc=asc&no=192) (accessed Apr. 13, 2008); E-mail from Moon-Soo Kim to Rakhyun E. Kim, *Animal Cruelty Cases in Korea* (Nov. 23, 2006) (copy on file with the author); KARA, <http://www.withanimal.net/tt-cgi/tt/site/ttboard.cgi?act=read&db=reserch&page=1&idx=121> (Nov. 8, 2006).

the existence of the legal provision which classifies dog meat as disgusting food, and thus insists that there is no legal ground to regulate dog meat.<sup>56</sup> MOHW urges a clearer legal provision in relation to dog meat based on social consensus.<sup>57</sup>

Amidst this legal uncertainty, the dog meat industry remains in Korea. The number of registered *bosintang* restaurants numbered 6,484 in 1998, and the government estimates that there are well over twenty thousand, counting those unregistered.<sup>58</sup> In April 1997, the first dog meat franchise was established.<sup>59</sup> In August 2001, there was an attempt to produce a genetically modified "super slaughter dog."<sup>60</sup> In April 2002, an online shopping mall specializing in trading dog meat was set up (but soon closed down after pressure from various organizations).<sup>61</sup> In July 2002, a pre-cooked microwave *bosintang* was first introduced.<sup>62</sup> In August 2002, the first dog meat buffet opened.<sup>63</sup> Recently, in November 2006, an advertisement recruiting potential franchisors for a *bosintang* restaurant franchise was published in a national newspaper. It stated: "declaring the popularization of invigorating meal [dog meat] market which is over one trillion won [one billion U.S. dollars] a year."<sup>64</sup> The advertisement was immediately met with widespread public condemnation.<sup>65</sup> Korea sits in the middle of a conflict between the age-old dog meat culture and the growing social resistance to the practice.

### III. LEGAL PROTECTION OF DOGS IN KOREA: IMPLICATIONS FOR THE DOG MEAT TRADE

In the legal context discussed above, legal protection for dogs is provided only through the general provisions of the APA. Fifteen years after the enactment of the APA, it underwent a major legislative devel-

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<sup>56</sup> Son, *supra* n. 55.

<sup>57</sup> *Id.*

<sup>58</sup> Kim, *supra* n. 4.

<sup>59</sup> KARA, *Chronology of Events Related to the Dog Meat Industry: 1975-2002* 10, <http://www.withanimal.net/tt-cgi/tt/site/ttboard.cgi?act=download&db=w08&aidx=525&fidx=1> (accessed Apr. 13, 2008).

<sup>60</sup> *Id.* at 15 (Professor Hum-Dai Park at Daegu University led the research).

<sup>61</sup> *Id.* at 17 (The Web address for the online shopping mall was <http://www.boshinmall.com>). The most recent attempt in running an online dog meat retail business was [www.e-bosin.com](http://www.e-bosin.com) which opened in April 2007. After complaints from citizens and animal protectionists, the site was shut down in July 2007 but later reopened, and as of March 2008, the online shop is taking phone orders. See also IAKA, E-Bosin.com, <http://www.koreananimals.org/info/news/ebosin.htm> (accessed Apr. 13, 2008).

<sup>62</sup> Han-Gi Seo, *Food Authority Troubled by Introduction of Pre-cooked Microwave Bosintang*, <http://worldcup.hani.co.kr/section-005000000/2002/07/005000000200207310729075.html> (July 31, 2002).

<sup>63</sup> Kim, *supra* n. 55 (The price was 22,000 won (22 U.S. dollars) per person).

<sup>64</sup> Kookmin Ilbo 12 (Seoul, S. Kor., Nov. 21, 2006).

<sup>65</sup> Jong-Hwa Kim, *Kookmin Daily Troubled by Dog Meat Advertisement*, [http://news.media.daum.net/society/media/200611/29/mediatoday/v14884406.html?\\_right\\_TOPIC=R6](http://news.media.daum.net/society/media/200611/29/mediatoday/v14884406.html?_right_TOPIC=R6) (accessed Apr. 13, 2008).

opment through the Animal Protection Amendment Act of 2007 ("the Amendment Act"), and the amended APA came into force in January 2008.<sup>66</sup> Section A briefly discusses the original APA with a few historical dog cruelty cases to illustrate how ineffective it was in preventing animal cruelty, and hence, in protecting the welfare of slaughter dogs.<sup>67</sup> Section B then explores the Amendment Act, paying particular attention to possible implications for the dog meat industry.

### A. *The Animal Protection Act of 1991*

The original statute, enacted in 1991, was without sufficient detail to be effective in preventing and punishing an act of animal cruelty. Take the following anti-cruelty provision for example:

- (1) No person shall kill an animal without a rational reason, in a cruel manner, or in a way which provokes disgust.
- (2) No person shall inflict pain or injury to an animal without a rational reason.
- (3) An owner or a manager of an animal shall not abandon an animal without a rational reason.<sup>68</sup>

The Korean legislature had employed the notion of "without a rational reason" as an analogy to the notion of "unnecessary" or "unjustifiable" that is common in anti-cruelty statutes.<sup>69</sup> No definition of what constitutes a rational reason was provided. Article 6 was, as admitted by the government,<sup>70</sup> too abstract to be effectively enforceable. In fact, on one occasion the court ruled that punishment was not possible under this provision due to its vagueness.<sup>71</sup>

Another critical shortcoming of the original APA was the available penalties, which were set at a bare minimum. The maximum penalty for an offense contrary to Article 6 was a fine upon conviction of, or an infringement fee of, not exceeding two hundred thousand won (two hundred U.S. dollars), or detention for an unspecified length of time, which occurred only once under the original APA.<sup>72</sup> Because the pen-

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<sup>66</sup> The Animal Protection Amendment Bill was passed on December 22, 2006, at the 262d plenary session of the National Assembly and the APA was amended accordingly on January 26, 2007.

<sup>67</sup> Since all cruelty cases involving dogs were summary convictions, the few publicly known cases are those which animal protection groups were informed of and got involved in the reporting and/or legal process.

<sup>68</sup> Animal Protection Act (APA) art. 6.

<sup>69</sup> See e.g. Gary L Francione, *Animals, Property, and the Law* 145 (Temple U. Press 1995) (noting the use of language such as "unnecessary" and "unjustifiable" in other anti-cruelty statutes).

<sup>70</sup> Agric., Forestry, Mar. Affairs and Fisheries Comm., *Report on Six Animal Protection Partial Amendment Bills*, Bill Rev. Comm. Rpt. 36 (2006).

<sup>71</sup> Moon-Soo Kim, "Without a Rational Reason" and "Without a Justifiable Excuse," <http://www.withanimal.net/tt-cgi/tt/site/ttboard.cgi?act=read&db=research&page=1&idx=122> (accessed Apr. 13, 2006).

<sup>72</sup> *Infra* n. 80.

alty was at a similar level to a minor offense,<sup>73</sup> an animal cruelty offense was at best proceeded against summarily without prosecution. On top of this extremely low penalty available to the court, there was no legal ground for temporary seizure, let alone forfeiture. Hence, animal protectionists were often compelled to pay the owner who committed an animal cruelty offense more money than the fine in order to persuade him or her to give up the animal under ill-treatment.<sup>74</sup>

Given the content of this legislation, it is perhaps not surprising that the first animal cruelty case sentenced under the APA took place in November 2001, ten years after the legislation was first enacted.<sup>75</sup> In this case, called the "Jaebumi incident" (named after the child who reported the case to an animal protection group), a drunken man cruelly kicked and beat his own pet dog. A District Court judge convicted him of an offense of cruelty under the APA and fined him one hundred thousand won (one hundred U.S. dollars).<sup>76</sup> Later, an animal protection group paid the owner three times the fine to persuade him to give up the dog.<sup>77</sup>

Fifteen years after the APA was enacted, a person who committed an offense contrary to Article 6 was finally sentenced to detention. In August 2006, a person who witnessed the cruelty filmed the scene and uploaded the video clip onto the Internet, provoking a public outcry.<sup>78</sup> After a summary trial, a District Court judge sentenced the offender to two days in detention, stating that the degree of cruelty was so extreme that it was judged to disgust the average person.<sup>79</sup>

Hardly any dog breeder obeyed Article 5 of the APA,<sup>80</sup> which imposed basic welfare requirements such as clean water and food, and

<sup>73</sup> Punishment of Minor Offenses Act art. 1 (1954).

<sup>74</sup> E-mail from Moon-Soo Kim to Rakhyun E. Kim (Nov. 30, 2006) (copy on file with author).

<sup>75</sup> KARA, *supra* n. 59. See also ADMH, *Jaebumi Incident*, <http://www.admh.org/jaebum/jaebum01.htm> (July 11, 2001) (noting that the *Jaebumi* Incident was the first action under the APA since its enactment).

<sup>76</sup> The same fine was imposed on a man who killed a stray dog by throwing it out of a window in 2002. Apparently, he was unaware that such an act is a criminal offense. Worrying that a criminal conviction under the APA could jeopardise his career as a teacher, since the offense took place in his classroom and he was reported by his students, he persuaded the police officer to file the case as a minor offense and was later fined without conviction under the Punishment of Minor Offenses Act of 1954.

<sup>77</sup> ADMH, *supra* n. 75.

<sup>78</sup> Hak-Chan Kim, *Dog Ill-Treatment, A Man in His 40s Sentenced to Two-Day Detention at Summary Trial* (Aug. 4, 2006), [http://news.chosun.com/site/data/html\\_dir/2006/08/04/2006080470117.html](http://news.chosun.com/site/data/html_dir/2006/08/04/2006080470117.html).

<sup>79</sup> *Id.*

<sup>80</sup> APA art. 5. Entitled "Proper Care and Management," this article states:

(1) Efforts shall be made by an owner or a manager of an animal to ensure that the animal is properly fed and watered, and to provide it with adequate exercise, rest, and sleep.

(2) When an animal is ill or injured, its owner or manager shall provide the animal with a prompt treatment and take other necessary measures.

Article 8,<sup>81</sup> which regulated humane slaughter.<sup>82</sup> The noncompliance stems from the fact that offenses against Article 6 were the only punishable offenses under the APA. In other words, there was no punishment for causing or allowing physical pain or suffering by omission or neglect, even if one did not feed and water his or her animal, did not provide medical treatment to an ill or injured animal under care, or inflicted unnecessary pain and suffering when slaughtering an animal.<sup>83</sup> It was, sadly, a common practice for dog breeders to provide dirty food and water to cut down on costs and to inject antibiotics to keep the animals alive.<sup>84</sup> In some extreme cases, dog meat was fed to dogs.<sup>85</sup> Given that a fully grown slaughter dog is sold for less than one hundred thousand won (one hundred U.S. dollars),<sup>86</sup> it is not difficult to guess how much would be spent on raising the dog for six to twelve

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(3) When caring for a wild animal or transporting an animal to another cage, its owner or manager shall endeavour to take necessary measures to enable the animal to adapt to the new environment.

<sup>81</sup> APA art. 8 (Methods of Slaughter) (when it is inevitable to kill an animal, the slaughter should be conducted so as to inflict the least amount of pain).

<sup>82</sup> Animal Protection Law Amendment Committee, Moon-Soo Kim, *Errors and Fictions in the Service of Study for Hygienic Treatment of Slaughter Dogs* (Animal Protectionists' Report, Animal Protection Law Amendment Committee, 2005).

<sup>83</sup> The following observation posted on a Web site summarizes what the typical conditions were like at a dog breeding and slaughter facility operating under the previous animal protection legal framework:

What the staff of SeoulSearching.com did not like about this dog farm were the conditions by which the dogs were kept. Frankly the place was a nasty, stinking mess. Dogs were in hot, dirty and cramped conditions. Fecal matter and urine were running away from the facility. Flies were everywhere. The dogs smelled bad. They were in poor condition with little or no food, and dirty water. We saw piles of dog fecal matter next to freezers that contained butchered dogs, and other areas that were used for cooking dogs. We saw refrigerated trucks used to transport dog meat to various markets and restaurants. We saw dogs being killed, and dogs barking and crying as other dogs near them were being killed by very slow and primitive means.

Seoul Searching, *About Eating Dog*, <http://www.seoulsearching.com/DogMeat.html> (accessed Apr. 13, 2008); see also KARA, *Yellow Dog Research Data: Result of Field Research Conducted Between April–May 2005*, <http://www.withanimal.net/tt-cgi/tt/site/ttboard.cgi?db=yd> (accessed Apr. 13, 2008) (examples of conditions with an explanation that the APA, which legislates the treatment of animals, had enough exceptions to it such that breeders could ignore it).

<sup>84</sup> KARA, *supra* n. 83.

<sup>85</sup> Jong-Yeong Nam, *Dog Meat, Are There Ethics on the Dinner Table?*, <http://h21.hani.co.kr/section-021005000/2005/08/021005000200508080572041.html> (accessed Apr. 13, 2008).

<sup>86</sup> This price is for a dog weighing around twenty kilograms sold in an urban area. In rural areas, these dogs may be sold for as little as thirty thousand won (thirty U.S. dollars). E-mail from Moon-Soo Kim to Rakhyun E. Kim, *Price of Dogs* (Dec. 2, 2006) (copy on file with author). Prepared and ready-to-cook whole dog meat is sold at [www.e-bosin.com](http://www.e-bosin.com) for between 210,000 won (210 U.S. dollars) for a dog weighing fifteen kilograms when alive, and 310,000 won (310 U.S. dollars) for a dog weighing twenty-four kilograms when alive. Bosin.com, *Menu*, <http://tpgnseos.cafe24.com/web/mailbox/menu.jpg> (accessed Apr. 13, 2008). For more information on Bosin.com, see *supra* n. 61.

months. When dogs are worth more dead than alive, there is a limit to how much their welfare can be guaranteed.

The evidence shows that dogs raised under such awful, cramped conditions were slaughtered inhumanely, with nothing done to prevent them from suffering. The most common method of slaughter was by hanging—a method that apparently causes suffering for about ten minutes before death.<sup>87</sup> The other common method of slaughtering dogs was by electrocution, in which case the dog dies after two or three minutes of suffering.<sup>88</sup> Once killed, “most dogs are skinned and their bodies browned using a blow torch.”<sup>89</sup>

### B. *The Animal Protection Amendment Act of 2007*

The Amendment Act is an amalgamation of six “partial” Amendment Bills, five submitted by members of the National Assembly and one submitted by MAF.<sup>90</sup> While the legislation avoids tackling the dog meat controversy directly, there are potential implications for the industry.<sup>91</sup>

The legal status of dogs remains unchanged because the Amendment Act retains the original definition of animals<sup>92</sup> and adopts no new terms, such as definitions for companion or pet animals. However, the Amendment Act introduces an animal registration system, whereby pets are required to be registered with MAF.<sup>93</sup> This dual

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<sup>87</sup> SBS, *supra* n. 1 (testimony of a dog slaughterer and butcher).

<sup>88</sup> *Id.*

<sup>89</sup> BBC News, *Dogs ‘Blow-Torched’ Alive*, <http://news.bbc.co.uk/2/hi/294627.stm> (Mar. 11, 1999).

<sup>90</sup> Bill 3017, submitted by Lee Myeong-Gyu (Oct. 21, 2005); Bill 4210, submitted by Lee Gye-Gyeong (Apr. 7, 2006); Bill 4245, submitted by Lee Yeong-Ho (Apr. 12, 2006); Bill 4721, submitted by Shim Jae-Cheol (Aug. 17, 2006); Bill 4837, submitted by MAF (Sept. 4, 2006); Bill 5313, submitted by Gong Seong-Jin (Nov. 9, 2006). Gong’s Bill was drafted in consultation with animal protectionists. Agric., Forestry, Mar. Affairs and Fisheries Comm., *Report on Six Animal Protection Partial Amendment Bills*, *supra* n. 70, at 21. Each of the six bills was brought up for discussion and laid before the Agriculture, Forestry, Maritime Affairs and Fisheries Committee on November 27, 2006, and each was then referred to the Bill Review Committee (which produced the Report on Six Animal Protection Partial Amendment Bills). *Id.* The Bill Review Committee modified some provisions and referred the bills back to the Agriculture, Forestry, Maritime Affairs and Fisheries Committee, where the six bills were consolidated into one “full (alternative)” Amendment Bill and submitted to a plenary session of the National Assembly. *Id.*

<sup>91</sup> The purposes of the amendment are: “to strengthen duties of the state and local governments in regard to animal protection; to provide legal ground for the system of registering companion animals; and to complement relevant provisions to increase enforceability against cruelty on animals.” Animal Protection Amendment Bill 2006, Bill 5778, 2 (Jan. 26, 2007).

<sup>92</sup> “Animal” is narrowly defined as specifically meaning a vertebrate such as cattle, horses, swine, dogs, cats, rabbits, poultry, ducks, goats, sheep, deer, fox, and minks, and additional animal species can be added to the list by the Presidential Decree. In the original APA, the term “vertebrate” did not appear in the definition and MAF held discretionary power through the Ministerial Ordinance.

<sup>93</sup> Animal Protection Amend. Act (APAA) art. 5 (Jan. 26, 2007).



treatment of dogs may effectively reinforce the popular attitude of distinguishing between registered pet dogs and unregistered slaughter dogs, and thereby further justify the consumption of dog meat.

The main anti-cruelty provisions are listed under Article 7 of the Amendment Act. While there is no ban on the slaughter of dogs for food, “an act of killing in a cruel way such as hanging,”<sup>94</sup> and “an act of killing in an open area such as on the street or in front of other animals of the same kind watching,”<sup>95</sup> are explicitly prohibited under Article 7(1). These are the common methods by which dogs are slaughtered for food, and if the Amendment Act is effectively implemented, it is likely that most dogs will instead be electrocuted to death, which still involves a measure of suffering.

Further prohibited acts are listed under Article 7(2): “an act of inflicting pain or injuring with a tool or a drug”;<sup>96</sup> “an act of damaging a live animal’s body, or extracting body fluids, or installing equipments for extracting body fluids”;<sup>97</sup> and “an act of inflicting pain or injuring an animal for the purpose of gambling, advertising, entertaining, or enticing.”<sup>98</sup> The MAF has determined some exemptions to these prohibitions, including actions “for the purpose of prevention or treatment of illness”; actions “for treatment of illness or experiments involving an animal”; and actions related to “traditional folk games.”<sup>99</sup>

The Amendment Act replaces the concept of “without a rational reason” with yet another all-encompassing notion—“without a justifiable excuse.”<sup>100</sup> Accordingly, “an act of killing without a justifiable excuse”<sup>101</sup> and “an act of inflicting pain or injury without a justifiable excuse”<sup>102</sup> are generally prohibited.<sup>103</sup> In other words, killing, inflicting pain, or injuring an animal without a justifiable excuse is prohibited, as is unnecessary slaughter or suffering. Instead of further clarifying this overarching principle, the legislature gave MAF the discretionary power to determine specific cases where particular acts are not “unjustifiable,” i.e., instances when slaughtering or infliction of suffering may justifiably take place.<sup>104</sup>

The Amendment Act does not make the failure to act to prevent unnecessary suffering a punishable offense. In other words, if one does not directly cause an animal to suffer, but instead simply allows the suffering, that person is not guilty of an offense. However, draft

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<sup>94</sup> *Id.* at art. 7(1)(1).

<sup>95</sup> *Id.* at art. 7(1)(2).

<sup>96</sup> *Id.* at art. 7(2)(1).

<sup>97</sup> *Id.* at art. 7(2)(2).

<sup>98</sup> *Id.* at art. 7(2)(3).

<sup>99</sup> APAA art. 7(2)(3).

<sup>100</sup> *Id.* at art. 7(1)(3), 7(2)(4).

<sup>101</sup> *Id.* at art. 7(1)(3).

<sup>102</sup> *Id.* at art. 7(2)(4).

<sup>103</sup> *Id.* at art. 7(1), 7(2).

<sup>104</sup> *Id.* at art. 7(1)(3), 7(2)(1)–7(2)(4). The Act includes examples of such justifiable acts, such as when there is a need for disposal by a veterinarian or when an animal poses a threat to a person’s life, body, or property. *Id.*

Amendment Bills did include a provision stating that, without a justifiable excuse, the owner "shall not abandon or neglect an animal to suffer from hunger or illness,"<sup>105</sup> backed by an infringement fee penalty.<sup>106</sup> In spite of the limited scope of the draft Bill—it would only have prevented prolonged suffering from hunger and illness—the recognition of the omission to act, as well as the commission of particular acts, as part of an offense of cruelty was a significant step forward. Disappointingly, the second half of the provision was deleted when the final draft was submitted to the National Assembly. The first half of the provision on abandonment, which was in the APA from its inception, remains without a clear definition of what constitutes an act of abandonment, which in turn leaves its enforceability in question.<sup>107</sup> Additionally, the penalty for an act of abandonment is still very low; an infringement fee not exceeding five hundred thousand won (five hundred U.S. dollars).<sup>108</sup>

Another problem casting doubt on the efficacy of the law is the penalty provision. If a person commits an offense under Articles 7(1) or 7(2), the person may be liable for the highest penalty available under the Amendment Act, which is a fine of up to five million won (five thousand U.S. dollars).<sup>109</sup> Despite three Amendment Bills put forward by Lee, Gong, and MAF,<sup>110</sup> which set the maximum penalty for an offense of animal cruelty as imprisonment for six months, the Bill Review Committee insisted on lowering the penalty to two million won (two thousand U.S. dollars), with no possibility of a jail term.<sup>111</sup> The committee's reasons for this lowering were many: Public awareness towards animal protection and animal cruelty is not as high as in other more advanced countries; the goal for securing the general effectiveness of law is to raise the consciousness of an average member of society; the priority should be on strengthening the social consensus; enforcement and penalties are to be supplementary for securing legal effectiveness; and the regulatory effectiveness may actually degrade if the penalty is too high.<sup>112</sup> Although it may well be true that raising the

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<sup>105</sup> APAA art. 7(2)(4).

<sup>106</sup> Bill 4210 art. 16(1)(1); Bill 4837 art. 16(1)(1); Bill 5313 art. 22(1)(1), *supra* n. 90.

<sup>107</sup> APAA art. 7(4). Three-quarters of states in the U.S. outlaw abandoning a protected animal, but their statutes usually do not define the term. Jordan Curnutt, *Animals and the Law: A Sourcebook* 75 (ABC-CLIO, 2001). However, Delaware's explanation of "abandonment" is representative of those states that do: "completely forsaking or deserting an animal originally under one's custody without making reasonable arrangements for the custody of that animal to be assumed by another person." *Id.* In Korea, some local governments have established city regulations to control abandoned animals, including, Seoul City Regulation No. 2900 (1992); Busan City Regulation No. 3672 (2000); Daegu City Regulation No. 3511 (2001).

<sup>108</sup> APAA art. 26(1)(1).

<sup>109</sup> *Id.* at art. 25(1).

<sup>110</sup> See Agric., Forestry, Mar. Affairs and Fisheries Comm., *supra* n. 90 (explaining that sections within each of these separate bills were consolidated with other bills into one amended bill that called for a similar maximum penalty).

<sup>111</sup> *Id.* at 126–27.

<sup>112</sup> *Id.*

maximum penalty alone does not necessarily help,<sup>113</sup> erasing the jail term penalty provision and increasing the maximum fine to only five thousand dollars is certainly not a significant step forward. The still low and lenient penalty leaves a big question mark as to whether the APA, as altered by the Amendment Act, will provide any deterrent effect in the years to come.

Despite these shortcomings, the Amendment Act does make some vital changes to Korean animal protection law. One positive aspect is the introduction of a breeder license system, whereby a person who is intending to produce, import, or sell animals needs to obtain a license from the local government.<sup>114</sup> Until now, there was no such license required to breed slaughter dogs, and nothing could be done to the breeder who mistreated dogs, as there was no legal ground to seize the dogs or penalize the breeder. In the coming years, if the breeder violates anti-cruelty provisions (Articles 7(1) and 7(2)) by mistreating dogs under his or her care, he or she will have their business license revoked and will be unable to breed dogs.<sup>115</sup> Furthermore, the Amendment Act obliges breeders to obey the rules listed in the Ministerial Ordinance,<sup>116</sup> and also to be equipped with the necessary resources for animal protection and hygiene.<sup>117</sup> If violated, the license may also be revoked or suspended for six months.<sup>118</sup> Importantly, the offender may also be required to attend courses on animal protection and public hygiene<sup>119</sup> or may be liable for an infringement fee not exceeding five hundred thousand won (five hundred U.S. dollars).<sup>120</sup> Such legal obligations on breeders, importers, and retailers, and the threat of punishment by suspension or revocation of breeding licenses will likely have positive effects on the conditions in which slaughter dogs are reared.

Additionally, the Amendment Act significantly improves the enforcement regime for the APA. Under the 1991 legal framework, the police were the only people entitled to enforce the law.<sup>121</sup> As illustrated earlier, however, the police often overlook animal cruelty offenses as being too trivial, especially because the penalty is negligible and, perhaps more importantly, because they are not adequately trained for the task. The Amendment Act mitigates this problem by adding a provision to train and operate animal protection inspectors as law enforcement officers. The Amendment Act provides for two kinds

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<sup>113</sup> See e.g. Peter Sankoff, *Five Years of the "New" Animal Welfare Regime: Lessons Learned From New Zealand's Decision to Modernize Its Animal Welfare Legislation*, 11 *Animal L.* 7, 31 (2005) (noting that "raising the maximum penalty may not lead to more severe penalties and thus animal welfare legislation may require separate sentencing guidelines to assist judges").

<sup>114</sup> APAA art. 15.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.* at art. 16.

<sup>117</sup> *Id.* at art. 15(3).

<sup>118</sup> *Id.* at art. 21(2).

<sup>119</sup> *Id.* at art. 17.

<sup>120</sup> APAA art. 26(1)(3).

<sup>121</sup> APA at art. 1.

of positions: animal protection inspectors and honorary animal protection inspectors. The former is more of an administrative post, appointed from among a pool of public servants,<sup>122</sup> while the latter is a person with good knowledge and experience with animal protection, and is to be appointed through nomination by recognized non-governmental organizations to both inspect for animal cruelty and to rescue and protect those animals being mistreated.<sup>123</sup> However, a shadow of doubt is cast upon this hopeful picture as, under the Amendment Act, prosecutors are also required to act on behalf of animals.<sup>124</sup> As widely observed in different jurisdictions around the world, prosecutors are often unmotivated or inadequately resourced to take on such a role.<sup>125</sup>

Probably the single most significant development in the animal law regime is that the animal protection inspectors are granted the right to seize animals suffering from ill-treatment.<sup>126</sup> The absence of a provision for the immediate removal of an animal from its abusive environment was the most pervasive and serious deficiency of the APA.<sup>127</sup> Thanks to the amendment, animal protection inspectors may seize an animal and separate it from the person who is mistreating it, or may, when deemed necessary, take the animal to an animal protection agency or a veterinarian for treatment.<sup>128</sup> If a person refuses, interferes with, or evades an inspector's order to surrender the animal, he or she may be liable to pay an infringement fee of up to 500,000 won (500 U.S. dollars).<sup>129</sup> Though the seizure provision is a step in the right direction, its real impact is dubious because its wording remains vague and there is still no legal definition for ill-treatment in the APA.

#### IV. THE LAW AND POLITICS OF DOG MEAT

By now it should be apparent that what exists in Korea is a weak animal protection regime coupled with legal uncertainty concerning the status of dog meat. Part IV turns to legal issues specifically relating to dog meat. Section A focuses on the question of the legality of dog meat in other countries and how some have outlawed it. Questioning whether Korea could follow suit, Section B illustrates why the government faces a policy deadlock on the dog meat industry and how it has sought to break it.

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<sup>122</sup> APAA art. 19(1).

<sup>123</sup> *Id.* at art. 19(2).

<sup>124</sup> *See id.* at art. 5.

<sup>125</sup> *See e.g.* Sankoff, *supra* n. 113, at 25 (pointing out that one of the constraints to effective enforcement is often a lack of adequate resources).

<sup>126</sup> APAA art. 26(5).

<sup>127</sup> David S. Favre & Murray Loring, *Animal Law* 158 (Quorum 1983).

<sup>128</sup> Agric., Forestry, Mar. Affairs and Fisheries Comm., *supra* n. 70, at 119-20 (The government was cautious and reluctant to recognize the right to seize an animal as this power compromises the owner's right to his or her property. For that reason, the Bill Review Committee had suggested that the wording be modified from "shall" to "may," which was accepted and accordingly amended).

<sup>129</sup> APAA art. 26(1)(4).

A. *Legal Challenges to Banning Dog Meat:  
An International Perspective*

Are conventional anti-cruelty or animal welfare laws, both in Korea and the rest of the world, equipped with competent provisions to prevent the slaughtering of dogs for food? The answer is not as obvious as it might seem because anti-cruelty and animal welfare laws do not extend to safeguarding the lives of animals. These general, world-wide laws are based on the broad principle that it is acceptable to exploit animals for food, provided that their death is humane.<sup>130</sup>

Even outside of Korea, anti-cruelty law does not view dogs as direct beneficiaries of the law, or as being valuable for their own sake.<sup>131</sup> In other words, anti-cruelty legislation does not create legal rights for animals and does not guarantee the right to life.<sup>132</sup> Thus, anti-cruelty law invariably excludes certain uses of animals from the scope of its protections, including "normal" or "accepted" agricultural practices, hunting and trapping, and slaughtering for food.<sup>133</sup> Indeed, one could go so far as to say that "anti-cruelty laws are not meant to protect animals, [as] the statutes are not intended to interfere with the owners' possession, use, and enjoyment of their animals."<sup>134</sup>

Similarly, death is not treated as a welfare issue. Animal welfare theory is concerned with ensuring that animals are treated as "humanely" as possible and are not subjected to "unnecessary" suffering.<sup>135</sup> Although death has an ethical dimension, and the manner in which an animal dies is clearly relevant to its welfare,<sup>136</sup> death is not, in itself, considered to be a welfare issue. For example, in Germany,

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<sup>130</sup> Gary L. Francione, *Rain Without Thunder: The Ideology of the Animal Rights Movement* 113 (Temple U. Press 1996).

<sup>131</sup> Curnutt, *supra* n. 107, at 69–73.

<sup>132</sup> See e.g. Francione, *supra* n. 130, at 133. Francione states that:

Contrary to what is commonly thought, however, [anticruelty] statutes do not have as their primary purpose the protection of animals. A close examination of anticruelty laws indicates that they have an exclusively humanocentric focus, and to the extent that they impose duties on human beings, these duties give rise to no corresponding rights for animals. Rather, anticruelty statutes *reinforce and support the status of animals as property*.

*Id.* (emphasis in original). See also Francione, *supra* n. 69, at ch. 6.

<sup>133</sup> See e.g. William A. Reppy, Jr., *Broad Exemptions in Animal-Cruelty Statutes Unconstitutionally Deny Equal Protection of the Law*, 70 Law & Contemp. Probs. 255 (2007); Pamela Frasch, Stephan K. Otto, Kristen M. Olsen & Paul A. Ernest, *State Animal Anti-Cruelty Statutes: An Overview*, 5 Animal L. 69 (1999); Curnutt, *supra* n. 107, at 77–78 (supporting the proposition that such exceptions from protection are found in many anti-cruelty laws).

<sup>134</sup> *People v. Arroyo*, 777 N.Y.S.2d 836, 842 (N.Y. Crim. Ct. 2004).

<sup>135</sup> Mike Radford, *Animal Welfare Law in Britain* 275–76 (Oxford U. Press 2001).

<sup>136</sup> *Id.*; John Webster, *Animal Welfare: A Cool Eye Towards Eden* 15 (Blackwell Science Ltd., 1995). See also Andrew F. Fraser & Donald M. Broom, *Farm Animal Behaviour and Welfare* 257 (Baillière Tindall 1990) (discussing the welfare implications of instantaneous death versus slow death).

slaughtering an animal for food, "has never been found to violate the ethical basis of 'reasonable cause' for killing a vertebrate animal."<sup>137</sup>

In the Scottish case of *Patchett v. Macdougall*, judges agreed that death is not itself sufficient to establish that the animal suffered. Lord Wheatley stated: "I do not consider that the structure and purport of the [Protection of Animals Act 1911] opens the door to [the] view [that loss of life equates to unnecessary suffering]."<sup>138</sup> In a similar manner, in *Isted v. CPS*, the English High Court held that a person could not be convicted under section 1(1) of the 1911 Act if an animal was killed outright.<sup>139</sup> Notably indeed, the Five Freedoms internationally recognized as representing the fundamental requirements of all animals and which formed the cornerstone of modern animal welfare law—do not include the "freedom to live."<sup>140</sup> "Freedom" in this context constitutes "a possibility to have self determination by carrying out an action or avoiding a problem."<sup>141</sup> Thus, an act of slaughtering an animal for food does not constitute cruelty under the current animal anti-cruelty and welfare laws, and is therefore legal from a common law perspective.

In the U. S., state anti-cruelty statutes often make specific exceptions, clarifying that killing does not constitute cruelty. Georgia's exception is typical, stipulating that the prohibition "does not apply to the killing of animals raised for the purpose of providing food."<sup>142</sup> Nebraska's statute also exempts "[c]ommonly followed practices occurring in conjunction with the slaughter of animals for food or byproducts."<sup>143</sup> At best, some statutes qualify the exemptions by requiring that the exempted activity be done humanely.<sup>144</sup> "Many of the most common activities pertaining to animals are simply beyond the reach of any protections afforded by state animal cruelty statutes."<sup>145</sup> Thus, the legal protection of dogs against ill-treatment and the outlawing of the

<sup>137</sup> Kate M. Natrass, . . . *Und Die Tiere, Constitutional Protection for Germany's Animals*, 10 *Animal L.* 283, 307 (2004).

<sup>138</sup> *Patchett v. Macdougall* [1983] S.L.T. 152, 153.

<sup>139</sup> *Isted v. CPS*, [1998] Crim LR 194.

<sup>140</sup> The Five Freedoms, developed in the U.K. in 1965, include freedom from hunger and thirst; freedom from discomfort; freedom from pain, injury or disease; freedom to express normal behaviour; and freedom from fear and distress. The Brambell Report, 1965. See also Radford, *supra* n. 135, at 264–66 (discussing the Five Freedoms).

<sup>141</sup> Scientific Veterinary Comm., *Report on the Welfare of Intensively Kept Pigs* ¶ 1.4 (1997).

<sup>142</sup> Ga. Code Ann. § 16-12-4 (2000).

<sup>143</sup> Neb. Rev. Stat. § 28-1013(10) (1995).

<sup>144</sup> See e.g. Idaho Code Ann. § 25-3514(2), (4) (2000) (allowing the "humane slaughter of any animal normally and commonly raised as food or for production of fiber" and the "humane destruction of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane destruction of animals for population control"); Md. Crim. Code Ann. § 10-603(3) (2006) (exempted activities may nevertheless fall within the scope of criminal sanctions if a person fails to "employ the most humane method reasonably available" while engaging in such activity).

<sup>145</sup> Arnie J. Dryden, *Overcoming the Inadequacies of Animal Cruelty Statutes and the Property-Based View of Animals*, 38 *Idaho L. Rev.* 177, 192 (2001).

“humane” slaughtering of dogs for food are two very different issues. However, a number of states in the U.S. make exemptions to the exception for animals which are not “normally” or “commonly” raised for food, thereby including dogs within the reach of anti-cruelty statutes.

But again, as in *Patchett v. Macdougall* and *Isted v. CPS*, humane slaughter by instant death is not a violation of anti-cruelty and animal welfare provisions even if the animal slaughtered happens to be a dog. Indeed, in a case against two Cambodian refugees in California charged with cruelty to animals after killing a German Shepherd for food, the judge “ruled that it was not illegal for them to kill the animal for food as long as the animal was not killed in an inhumane way.”<sup>146</sup> He dismissed all charges against them and “supported his position by paralleling their behavior with the common occurrences in slaughterhouses.”<sup>147</sup>

Nevertheless, dog meat is illegal in six states in the U.S.<sup>148</sup> and notably, the bans are imposed on the sale of dog meat, rather than the killing itself. For example, in the state of California, Penal Code Section 598b makes a person guilty of a misdemeanor if he or she possesses, “sells, buys, gives away, or accepts any carcass of any animal, or any animal that is traditionally or commonly kept as a pet or companion, with the intent of using or having another person use any part of that carcass, or the animal, for food.”<sup>149</sup> Delaware’s anti-cruelty statute is more specific about dogs and cats, making a person guilty of a class A misdemeanor<sup>150</sup> if he or she “knowingly or recklessly sells, barter or offers for sale or barter, the flesh of a domestic dog or cat, or any product made in whole or in part from the flesh of a domestic dog or cat.”<sup>151</sup> If convicted, the person is “prohibited from owning or possessing any domestic dog or cat for 15 years” and is subject to a fine of \$2,500.<sup>152</sup>

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<sup>146</sup> Marcella Monk Flake, *Yale-New Haven Teachers Institute, The Impact of Culture on U.S. Law*, <http://www.yale.org/ynhti/curriculum/units/1996/1/96.01.08.x.html> (accessed Apr. 13, 2008).

<sup>147</sup> *Id.*

<sup>148</sup> William Saletan, *Wok the Dog: What's Wrong with Eating Man's Best Friend?*, <http://www.slate.com/id/2060840> (Jan. 16, 2002) (noting that dog meat is legal in forty-four states).

<sup>149</sup> Cal. Pen. Code Ann. § 598b (a)–(b) (2006).

<sup>150</sup> Del. Code Ann. tit. 11, § 1325(b)(2) (1995). According to the statute, the term “domestic dog or cat” means:

a dog (*Canis familiaris*) or cat (*Felis catus* or *Felis domesticus*) that is generally recognized in the United States as being a household pet and shall not include coyote, fox, lynx, bobcat or any other wild or commercially raised canine or feline species the fur or hair of which is recognized for use in warm clothing and outer wear . . . and which species is not recognized as an endangered or threatened species . . . .

*Id.* at § 1325A(d).

<sup>151</sup> *Id.* at § 1325(b)(1).

<sup>152</sup> *Id.* at § 1325(c)(1)–(2).

The norm against dog meat has become increasingly globalized. Some Asian countries have explicitly banned both the slaughtering and the sale of dogs for food by taking various legal approaches. In Hong Kong, a local ordinance<sup>153</sup> bans dog or cat meat by prohibiting the slaughter of *any* dog or cat for food, whether “for mankind or otherwise,”<sup>154</sup> as well as the act of “sell[ing] or us[ing] or permit[ing] the sale or use of the flesh of dogs and cats for food.”<sup>155</sup> It is noteworthy that the onus of proof lies on the person who is “found in possession of the carcass of any dog or cat,” to prove that he or she has not committed any breach of the above stated prohibited acts.<sup>156</sup> Any person who contravenes any of the above regulations is liable for a fine of HK 5,000 (650 U.S. dollars) *and* imprisonment for six months.<sup>157</sup>

Similarly, in Manila, the capital city of the Philippines, Metro Manila Commission Ordinance 82-02 specifically prohibits the killing, selling, or offering for sale of *any* dog for food, the storing or offering of dog meat for sale within Metro Manila, and the transporting of dogs and/or dog meat to and from Metro Manila.<sup>158</sup> More generally, Section 6 of the Philippine Animal Welfare Act 1998 bans dog meat by prohibiting the killing of any animal other than cattle, pigs, goats, sheep, poultry, rabbits, carabaos, horses, deer, and crocodiles, except in some commonly exempted instances.<sup>159</sup> Such a reverse listing approach is quite innovative, but may prove to be overly ambitious in the Philippines.

Indeed, the eating of dog meat is not uncommon in the Philippines. According to an anti-dog meat organization, DogMeatTrade.com, about five hundred thousand dogs are killed annually in the Philippine Islands for human consumption and the government is doing little to implement the law already in place.<sup>160</sup> There are a few reasons why this might be the case. First, it is believed that some government officials themselves partake in the eating of dog meat, which explains the low political commitment towards enforcing the law.<sup>161</sup> Second,

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<sup>153</sup> Dogs and Cats Ord. Ch. 167A, Reg. 22 (June 30, 1997).

<sup>154</sup> *Id.* at Reg. 22(1).

<sup>155</sup> *Id.* at Reg. 22(2).

<sup>156</sup> *Id.* at Reg. 22(3).

<sup>157</sup> *Id.* at Reg. 23. In 2006, for the first time in Hong Kong, four men were sentenced to thirty days imprisonment for slaughtering dogs for food. Apple Daily, *First Time Men Sent to Jail for Eating Dogs*, [http://www1.appledaily.atnext.com/template/apple/sec\\_main.cfm?iss\\_id=20061223&sec\\_id=4104](http://www1.appledaily.atnext.com/template/apple/sec_main.cfm?iss_id=20061223&sec_id=4104) (Dec. 23, 2006). For the news in English, see Letters from China, *Jailed For Eating Dogs*, [http://voyage.typepad.com/china/2006/12/jailed\\_for\\_eati.html](http://voyage.typepad.com/china/2006/12/jailed_for_eati.html) (Dec. 23, 2006); EastSouthWestNorth, *Daily Brief Comments December 2006*, <http://www.zonaeuropa.com/200612.brief.htm> (Dec. 23, 2006).

<sup>158</sup> Metro Manila Commn. Ord. No. 82-02, (available at [http://www.dogmeattrade.com/library\\_articles/manila\\_ordinance.html](http://www.dogmeattrade.com/library_articles/manila_ordinance.html)) (accessed Apr. 13, 2008).

<sup>159</sup> Philippine Animal Welfare Act of 1998 § 6 (Feb. 11, 1998) (available at <http://www.linisgobyerno.org/RA8485.htm>) (accessed Apr. 13, 2008).

<sup>160</sup> Dog Meat Trade.com, *What is the Government Doing About the Illegal Trade of Dog Meat?*, [http://dogmeattrade.com/facts\\_government\\_illegal.html](http://dogmeattrade.com/facts_government_illegal.html) (accessed Apr. 13, 2008).

<sup>161</sup> *Id.*



the police officials in charge of catching and arresting illegal dog meat traders are often bribed by the traders.<sup>162</sup> Third, even if an illegal trader is brought into court, he or she is made to pay only a small cost for violating the law,<sup>163</sup> even though the law states:

Any person who violates any of the provisions of this Act shall, upon conviction by final judgment, be punished by imprisonment of not less than six months nor more than two years or a fine of not less than 1,000 pesos [20 U.S. dollars] nor more than 5,000 pesos [100 U.S. dollars] or both at the discretion of the Court.<sup>164</sup>

Across the Luzon Strait, the Taiwanese legislature banned dog meat in 2001 by amending the existing Animal Protection Act of 1993.<sup>165</sup> It defined all dogs as pets and banned the killing of a pet for meat or the selling of its meat. Specifically, it defined the term pet as “a dog, a cat, or other animal that is fed or kept for the purposes of pleasure and companionship.”<sup>166</sup> The law also states:

No one shall be allowed to kill an animal at will. This provision, however, does not apply to any of the following instances: (1) For economic purposes, such as for meat, fur or food of other animals. [. . .] A pet should not be slaughtered or sold as referred to in Item 1 of the preceding Paragraph.<sup>167</sup>

Taiwan’s Animal Protection Act also established a fine of more than NT 50,000 (1,500 U.S. dollars), but no more than NT 250,000 (7,500 U.S. dollars) for violations.<sup>168</sup> Considering that the lawful treatment of animals often varies according to both circumstances and prevailing commercial imperatives, elevating the legal status of all dogs to a pet which cannot be commercialized for food or fur is a significant step forward. It is admitting that a dog is a pet “regardless of who owns it or where it is being held.”<sup>169</sup>

In Korea, there have been several unsuccessful lobbying attempts by animal protectionists to amend the APA to prohibit the slaughtering of dogs and cats for human consumption. The most current attempt, which is not an amendment proposal, but rather an attempt to

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<sup>162</sup> *Id.*

<sup>163</sup> DogMeatTrade.com, *What Does the Animal Welfare Act Say About Torturing and Killing Dogs?*, [http://www.dogmeattrade.com/facts\\_animal\\_welfare.html](http://www.dogmeattrade.com/facts_animal_welfare.html) (accessed Apr. 13, 2008).

<sup>164</sup> Philippine Animal Welfare Act at § 8.

<sup>165</sup> Article 10(3) of Taiwan’s Animal Protection Act of 1993 prohibits “any act [against animals] that violates good social custom.” Dog meat may be ruled out as illegal depending on social consensus at the time. Apparently, however, the language is too vague to understand its scope and enforce it. Additionally, such a provision would likely be unconstitutional in the U.S. See David Favre & Charles F. Hall, *Animal Leg. and Historical Ctr.*, *Comparative National Animal Welfare Laws*, <http://www.animallaw.info/nonus/articles/arcomparativenationalwelfarelaws.htm> (last updated 2004).

<sup>166</sup> Taiwan’s Animal Protection Act of 1993 art. 3(5).

<sup>167</sup> *Id.* at art. 12.

<sup>168</sup> *Id.* at art. 31.

<sup>169</sup> David Favre, *Movement Toward an International Convention for the Protection of Animals—The Further Adventures of Four Rabbits*, in *Animal Welfare and the Law*, 248 (D.E. Blackman, et al. eds., Cambridge U. Press 1989).

enact a separate piece of legislation that would override the APA, deserves some attention. The draft legislation, known as the Special Draft Bill for the Prohibition of Slaughtering and Eating Companion Animals (the Bill), was drafted by one of the most active animal protection groups in Korea, the Korea Animal Rights Advocates (KARA).<sup>170</sup> The Bill adopts the term "companion animal" and defines it as meaning any dog or cat.<sup>171</sup> Prohibited acts include (1) importing or breeding companion animals for food; (2) slaughtering companion animals for food; and (3) trading (selling and buying) or providing companion animals for food, or processing, displaying, or distributing companion animals for sale.<sup>172</sup> If one of these provisions is violated, the offender may be liable for imprisonment for a term of up to one year or for a fine of up to ten million won (ten thousand U.S. dollars).<sup>173</sup> The Bill goes as far as banning an act of eating a companion animal or food processed with a companion animal as a primary ingredient, and imposes a penalty of imprisonment for up to one month or a fine of up to one million won (one thousand U.S. dollars).<sup>174</sup> Further, if convicted under paragraphs (1) and (2), the convicted may be ordered to either attend an animal protection education program or participate in animal protection community service for up to one hundred hours.<sup>175</sup>

In Korea, where dog-eating is prevalent, such stringent measures as the Bill proposes would indeed be necessary to secure the welfare of dogs. The question is, however, whether the ideal of such a law is too far from the reality or politics of dog meat.

### B. Korea's Policy Deadlock on Dog Meat

Throughout the years, Korea has faced severe condemnation from international non-governmental organizations and individuals regarding its policy on dog meat consumption. International pressure began mounting between the late 1970s and the early 1980s, but the real pressure was felt during the period running up to the 1988 Seoul Olympics.<sup>176</sup> At that time, international organizations developed anti-dog meat campaigns against Korea in different forms: organizing physical protests, sending official complaint letters to government offices, and threatening to boycott international events and products made in

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<sup>170</sup> Moon-Soo Kim, KARA, *Prohibition of Slaughtering and Eating Companion Animals Special Draft Bill*, <http://www.withanimal.net/ttegi/tt/site/ttboard.cgi?act=read&db=w01&page=1&idx=301> (Dec. 20, 2006).

<sup>171</sup> Prohibition of Slaughtering and Eating Companion Animals Special Draft Bill art. 2 [hereinafter Draft Bill].

<sup>172</sup> Draft Bill at art. 4.

<sup>173</sup> Draft Bill at art. 5(1).

<sup>174</sup> Draft Bill at arts. 4, 5(2).

<sup>175</sup> Draft Bill at art. 5(3).

<sup>176</sup> See generally Daniel Katz, Student Author, *A Modest Proposal: Possible Dog Exports From US and Social Issues*, 8 TED Case Studies 477, § II, <http://www.american.edu/TED/dog.htm> (Apr. 4, 1998); KARA, *supra* n. 55, at 11 (according to an animal protection group in Korea, about three million letters were sent to the Korean government during this time).

Korea.<sup>177</sup> Such critiques also permeated academia. For example, a law journal published an article arguing for a trade ban on greyhound exports from Australia to Korea and China because there was a possibility that those greyhounds may end up on plates.<sup>178</sup>

Brigitte Bardot, an infamous figure in Korea for her opposition to dog meat, stands at the center of the dog meat debate in Korea.<sup>179</sup> In a famous radio interview nationally broadcast in November 2001, she told a Korean anchor that: "cows are grown to be eaten, dogs are not. I accept that many people eat beef, but a *cultured* country does not allow its people to eat dogs."<sup>180</sup> This provocative statement, laden with cultural imperialism, was ill-received in Korea. Since then, anyone who speaks out against dog meat is often perceived as siding with her.

Perhaps inevitably, the Korean response to such a condemnation and threat of sanction and coercion from the West is negative.<sup>181</sup> By defining the custom of eating dog as part of an age-old food "culture," most Korean people refute criticism from a cultural relativist standpoint, maintaining that the only difference between slaughtering a dog for food and slaughtering a cow or a pig or other animal is the culture in which it is done. As Korea's economic status improves, the external pressure is increasingly met with revulsion. However, because Korea is industrialized, Westerners seem ever more compelled to point fingers at Korea (while there are other countries whose citizens eat dogs),<sup>182</sup> unable to comprehend *why* those Koreans, presumably civilized because of the industrialized nature of the country, insist on eating dogs.<sup>183</sup> The vicious cycle continues.

During the run-up to the 2002 Korea-Japan Soccer World Cup, for instance, the President of the International Federation of Football As-

<sup>177</sup> KARA, *supra* n. 59, at 7.

<sup>178</sup> Alison G. Jones, *Australia's Damaging International Trade Practice: The Case Against Cruelty to Greyhounds*, 14 P. Rim L. & Policy J. 680 (2005).

<sup>179</sup> Gyeong-Ok Jeon, *Empas News*, *Why Would Anyone be Afraid of Brigitte Bardot*, <http://news.empas.com/print.tsp/20060808n08652/> (last updated Aug. 8, 2006).

<sup>180</sup> Lew Irwin, World Entertainment News Network, *Bardot Ends South Korean Interview In Disgust*, <http://www.imdb.com/news/wenn/2001-12-05> (accessed Apr. 13, 2006) (emphasis added).

<sup>181</sup> See e.g. KAPS, *supra* n. 2, at 11–12, 26–30 (the online study by DogAid Australia includes numerous quotes and anecdotes suggesting a negative view meant to coerce Korea into a change in policy).

<sup>182</sup> See John Feffer, *The Politics of Dog: When Globalization and Culinary Practice Clash*, *The American Prospect*, [http://www.prospect.org/cs/articles?article=the\\_politics\\_of\\_dog](http://www.prospect.org/cs/articles?article=the_politics_of_dog) (June 2, 2002) (noting that "dog is eaten in China, Taiwan, Burma, Indonesia, Laos, Vietnam, Ghana, and the Congo, and by various indigenous peoples and desperately hungry Arctic explorers"); Betsy Tao, *A Stitch in Time: Addressing the Environmental, Health, and Animal Welfare Effects of China's Expanding Meat Industry*, 15 *Geo. Intl. Env'tl. L. Rev.* 321, 325 (2002–2003) (addressing the consumption of meats, including dog meat, in China).

<sup>183</sup> Feffer, *supra* n. 182 (noting that one commentator contends that one of the main reasons why "most fingers are pointing at Korea," despite the fact that dog is eaten in other countries, is the fact that Korea is more industrialized (an OECD member state) coupled with the prevailing perception that "an *industrialized* country does not allow its people to eat dogs").

sociation (FIFA) sent an official letter (dated November 6, 2001) to Korea requesting a ban on the sale of dog meat during the World Cup,<sup>184</sup> hoping the government would bring in the same law it used in 1988 to stop the sale of dog meat.<sup>185</sup> Chung Mong-Joon, a powerful Korean entrepreneur and politician who also holds a position as the Vice President of FIFA,<sup>186</sup> rejected it by saying that there was no need for FIFA to get involved.<sup>187</sup> Goh Kun, then the Seoul City Mayor, took a similar view and stated that there would be no extra enforcement efforts to control the sale of dog meat during the World Cup, dismissing the comment by the FIFA President as a cultural difference.<sup>188</sup>

Such defensive attitudes are not confined to the political arena, as they are shared across academia and intellectual society. For example, in September 2001, the Korea Rural Economic Institute mentioned in a report to the Office for Government Policy Coordination, that legalization of dog meat is needed in order to safeguard public health.<sup>189</sup> On December 20, 2001, 167 leaders like Roh Moo-hyun (who later became the President) and twelve social groups such as the Federation of Korean Trade Unions and the Korean Society for Cultural Anthropology declared that Korea should seek dog meat legalization which both acknowledges cultural differences and pays consideration to animal welfare concerns.<sup>190</sup>

Many Korean lawmakers have been pushing to legalize the industry through regulation.<sup>191</sup> At the heart of the debate stands Kim Hong-Shin, a former Member of the National Assembly.<sup>192</sup> Highlighting that non-regulation of slaughter dogs has led to unhygienic, dreadful breeding conditions, Kim Hong-Shin argued that the government must not be sidetracked by foreigners who have a biased point of view, but rather prioritize the health of people who consume dog meat.<sup>193</sup> He also pointed out that classifying dogs as livestock, so as to regulate their welfare under the LPA, would actually enhance their welfare.<sup>194</sup>

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<sup>184</sup> Saletan, *supra* n. 148.

<sup>185</sup> BBC News, *FIFA Warns S Korea Over Dog Meat* (Nov. 6, 2001), <http://news.bbc.co.uk/2/hi/asia-pacific/1640848.stm>.

<sup>186</sup> Mayor Goh Kun, *There Will Be No Sanctions Against Dog Meat*, Hankyoreh News (Nov. 6, 2001), <http://www.hani.co.kr/section-005000000/2001/11/005000000200111161913025.html>. (Chung Mong-Joon also holds positions as the President of Korea Football Association and a member of the National Assembly).

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> KARA, *supra* n. 59, at 15.

<sup>190</sup> Declaration of Non-Interference on Dog Meat Issues, <http://www.hongshin.net/new/PDS1/PDS1/%EB%B3%B4%EB%8F%84%EC%9E%90%EB%A3%8C6%5B1%5D.hwp> (Dec. 20, 2001).

<sup>191</sup> BBC News, *Call to Legalize Dog Meat*, <http://news.bbc.co.uk/2/hi/asia-pacific/1731437.stm> (Dec. 28, 2001).

<sup>192</sup> *Id.* Kim Hong-Shin stated that “[s]ome foreigners, because of their lack of cultural understanding, have gone so far as to insult the Korean people over eating dogs.” *Id.*

<sup>193</sup> Cho, *supra* n. 40.

<sup>194</sup> ADMH, *Contradictions and Flaws in Kim Hong-Shin's Logic*, <http://www.admh.org/data/logic2.htm> (accessed Apr. 13, 2008).

Nonetheless, his attempts in August and December of 1999 to include certain slaughter dog breeds in the definition of "livestock" through a Livestock Processing Amendment Bill were both turned down by MAF.

These attempts to legalize the dog meat trade sparked the rise of organized animal activism in Korea. Animal protectionists launched anti-dog meat campaigns by highlighting that the regulation of dog meat is a double-edged sword; once dogs are classified as livestock, there is no turning back from the factory farming of dogs.<sup>195</sup> The first attempt at such a campaign, made in response to Kim Hong-Shin's proposal in November 1999, was a bill drafted by the Korea Animal Protection Society (KAPS) that proposed a ban on slaughtering dogs and cats for food and medicinal use.<sup>196</sup> Later, in 2004, a coalition of animal protection groups issued a model bill for an amendment banning dog slaughter. The model bill takes a similar approach to the 1999 KAPS bill, but includes a separate definition for "companion animal."<sup>197</sup>

The Korean government also knows that legalization of dog meat is not a realistic option and no government department wants to take on such an unpopular and troublesome task.<sup>198</sup> However, the Korean government does not consider banning dog meat a viable policy option either. One government-sponsored policy report dismissed the option of banning dog meat by simply, but accurately, saying: "[A]lthough the option may be welcomed internationally, it would bring about even greater public opposition within Korea than in the case of legalizing dog meat."<sup>199</sup> In effect, the government faces a policy deadlock; on one hand there is strong opposition from animal protectionists; on the other hand, the status quo is a widespread acceptance of dog meat and a virtually unregulated two-billion-dollar per year industry.

Compelled to "do something about it," the government sought to break the policy deadlock by adopting a "regulation without legalization" approach. First, it strategically brought the hygiene and wastewater problems of dog breeders to the public's attention,<sup>200</sup> and then on March 9, 2005, it announced a proposal to control dog meat hygieni-

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<sup>195</sup> KARA, Q9. *Wouldn't We Be Reducing Cruelty to Dogs if We Legalized Dog Meat?*, in *Soom 78-89 (9 FAQs on Dog-Eating)* (Deobureo Soom Press 2007).

<sup>196</sup> KARA, *supra* n. 59, at 13.

<sup>197</sup> KARA, *2004 Animal Protection Act*, [http://www.koreananimals.or.kr/zboard/view.php?id=notice&page=1&sn1=&divpage=1&sn=off&ss=on&sc=on&select\\_arrange=hit&desc=desc&no=185](http://www.koreananimals.or.kr/zboard/view.php?id=notice&page=1&sn1=&divpage=1&sn=off&ss=on&sc=on&select_arrange=hit&desc=desc&no=185) (accessed Apr. 13, 2008).

<sup>198</sup> Sunnan Kum & Kyenan Kim, *Letter from KAPS January 23rd 2005—Govt Proposal to Hygienically Control Dogmeat*, <http://www.dogaid.freesevers.com/updates.htm> (accessed Apr. 13, 2008).

<sup>199</sup> KAPS, *supra* n. 2, at 62–65.

<sup>200</sup> *Id.* See also Yong-Seok Kim, *Serious Environmental Pollution from Dog Farms*, <http://news.kbs.co.kr/exec/print.php?id=315455> (Apr. 27, 2002); Su-Yeong Jeong, *Dog Farms Threatening Water Supply*, <http://news.kbs.co.kr/exec/print.php?id=688536> (Jan. 31, 2005) (examples of how the government attempted to use the exposure of problems created by dog breeders as a justification for legally regulating the conditions of dogs in slaughterhouses).

cally, while maintaining the existing legal status of dogs; i.e., without classifying dogs as livestock under the LPA.<sup>201</sup> Its plan was to amend an MAF administrative regulation on inspecting animals that are not livestock, but are raised and consumed by humans (currently ostriches, badgers, and nutrias),<sup>202</sup> to include dogs, so that they can be *hygienically* slaughtered<sup>203</sup> and processed.<sup>204</sup> This approach—establishing a legal basis to regulate the dog meat industry—*de facto* recognizes the legality of processing and trading dog meat for consumption.<sup>205</sup> This policy option was perceived as easier to implement and more acceptable, as it required no amendment to law but only to an administrative regulation.<sup>206</sup> Nonetheless, this plan remains unimplemented due to, among other factors, enduring opposition from national animal protection groups.<sup>207</sup>

<sup>201</sup> Gi-Seop Shin, *Debate Heats Up After Government's Plan to Effectively Legalise Dog Meat* (Mar. 21, 2005) <http://www.hani.co.kr/section-001065000/2005/03/001065000200503211603001.html>; Jae-Jung Kim, *Hygienic Control of Dog Meat Restaurants. . . Will the Dog Meat in Effect Be Legalized?* (Mar. 9, 2005) <http://news.media.daum.net/society/medical/200503/09/khan/v8548930.html>.

<sup>202</sup> MAF Ord. No. 1441 (2003); LPA art. 40-2.

<sup>203</sup> Currently, legitimate methods of slaughter for ostriches are electrocution, carbon dioxide anaesthetisation, and exsanguination; for badgers and nutrias, they are bashing, electrocution, shooting, stabbing, carbon dioxide anaesthetisation, and exsanguination. MAF Ord. No. 1441, Annex 1 (2003).

<sup>204</sup> Biopsy and autopsy inspections are required. During a biopsy, for example, an inspector examines posture, behaviour, nutritive conditions, respiratory conditions, skins, fur, and also when deemed necessary, pulse, body temperature, eyelids, nasal cavity, oral cavity, and anus. *Id.*

<sup>205</sup> See Shin, *supra* n. 201 (depicting Yeong-Hun Kim's cartoon illustration of a conversation between a government employee who says "I will punish cruel methods of slaughter and strengthen hygiene control" and a citizen who wonders if this means, "Legalization of dog meat?").

<sup>206</sup> The government seems to have public support for this approach. In a survey conducted by the Korean Association for Policy Studies, only 25.1% supported banning dog meat while 74.9% opposed the ban. A majority of 58.4% picked hygiene as the first policy priority, above animal protection (30.9%), and concerns about the environment (8.0%). KAPS, *supra* n. 2, at 41, 44. See also Empas, *Legalization of Dog Meat! Do You Support or Oppose?*, [http://ranking.empas.com/fight/fight\\_view\\_result.html?artsn=146071&c=0&ls=s&pq=q%3D%25](http://ranking.empas.com/fight/fight_view_result.html?artsn=146071&c=0&ls=s&pq=q%3D%25) (accessed Apr. 13, 2008) (revealing that thirty-seven percent of poll participants support banning dog meat); Empas, *Need to Legislate a Dog Meat Ban?*, [http://ranking.empas.com/fight/fight\\_view\\_result.html?artsn=226342&c=0&ls=s&pq=q%3D%25](http://ranking.empas.com/fight/fight_view_result.html?artsn=226342&c=0&ls=s&pq=q%3D%25) (accessed Apr. 13, 2008) (revealing that forty-seven percent of poll participants want legislation enacted to legalize the consumption of dog meat).

<sup>207</sup> See e.g. Animal Protection Groups' Alliance, *Government Must Withdraw Its Plan for the Legalization of Dog Meat*, <http://www.withanimal.net/tt/cgi/tt/site/ttboard.cgi?act=download&db=w01&aidx=163&fidx=1> (Mar. 27, 2005); Animal Freedom Korea, *Stop the Dog Meat Hygienic Control Policy Plan*, [http://www.animals.or.kr/bbs/zboard.php?id=issue\\_01&page=3&sn1=&divpage=1&sn=off&ss=on&sc=on&select\\_arrange=headnum&desc=asc&no=53](http://www.animals.or.kr/bbs/zboard.php?id=issue_01&page=3&sn1=&divpage=1&sn=off&ss=on&sc=on&select_arrange=headnum&desc=asc&no=53) (Jan. 5, 2005); Kyung-Tae Koh, *Banning Dog-Eating is the First Step toward Eradicating Meat-Eating. . . It is Not Discrimination Against Other Meat Sources*, <http://news.naver.com/main/read.nhn?mode=LPOD&mid=etc&oid=112&aid=0000011068> (July 15, 2005); Su-San Lee, *Chronology of Event in Relation with the Amendment of the Animal Protection Act*, [http://www.kaap.or.kr/new\\_site/s1.html?mode=read&idx=16008&page=1&page\\_list=1&db\\_name=s1&kwd=](http://www.kaap.or.kr/new_site/s1.html?mode=read&idx=16008&page=1&page_list=1&db_name=s1&kwd=) (May

Instead the government took a subtle step toward bringing the dog meat industry under the law's radar. In 2006, the Ministry of Environment inserted dogs into the definition of domestic animals under the new Act on Management and Use of Domestic Animal Excreta of 2006.<sup>208</sup> Although this Act is not directly relevant to dog meat per se, it established for the first time the legal basis for regulating wastes discharged from slaughter dog breeding facilities, thereby allowing an implicit acknowledgement of the operation of those rearing dogs for the purpose of consumption as legal. This move was received by animal protection groups as an incremental step toward legalizing dog meat.<sup>209</sup>

The debate on the legalization of dog meat resurfaced on the national level in March 2008, when the Seoul city government announced its plan to put forward a policy suggestion to the central government to amend the LPA and legally classify slaughter dogs as livestock.<sup>210</sup> In a national survey conducted a few days later, 50.3% supported the idea of legalizing dog meat "for public health reasons" whereas 26.9% opposed.<sup>211</sup>

While these numbers do not come as a surprise, the high percentage of support among the younger generation is noteworthy.<sup>212</sup> A group of survey participants in their twenties recorded the highest support rate, at 76.3%, compared to below average rates of 48.5% and 42% from the respondents in their forties and fifties-and-above, respectively.<sup>213</sup> The survey results indicate the possibility of the contrary to a commonly held belief to be true; the idea that the younger generation is generally more Westernized and hence tend to be more repulsive about eating dogs. One thing we can learn from it is that it would be a dreadful mistake to leave it up to time. The dog meat challenge will not go away unless we take conscious actions.

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10, 2005); KARA, *Opposition Reports on the Policy Study for Hygienic Treatment of Slaughter Dogs*, <http://www.withanimal.net/ttcgi/tt/site/ttboard.cgi?act=read&db=w01&page=3&idx=163> (Jan. 12, 2005).

<sup>208</sup> Act on Management and Use of Animal Excreta art. 2(1); Presidential Decree of the Act on Management and Use of Animal Excreta art. 2.

<sup>209</sup> E-mail from Moon-Soo Kim to Rakhyun E. Kim (Dec. 13, 2007) (copy on file with author).

<sup>210</sup> Gi-Seop Jeong, *Seoul City "Let's Control Dog Meat as Livestock Product,"* [http://news.chosun.com/site/data/html\\_dir/2008/03/24/2008032400128.html](http://news.chosun.com/site/data/html_dir/2008/03/24/2008032400128.html) (Mar. 24, 2008).

<sup>211</sup> Bong-Seok Son, *Half of Korea "Dog Meat Should be Controlled as Livestock Product,"* [http://news.khan.co.kr/kh\\_news/khan\\_art\\_view.html?artid=200803281211152&code=940100](http://news.khan.co.kr/kh_news/khan_art_view.html?artid=200803281211152&code=940100) (Mar. 28, 2008). The survey was administered by Real Meter ([www.realmeter.net](http://www.realmeter.net)) at the request of the Christian Broadcasting System's Radio division. *Id.* The sample size was five hundred and the error range was  $\pm 4.4\%$  at 95% confidence level. *Id.*

<sup>212</sup> *Id.*

<sup>213</sup> *Id.*

## V. WHERE TO FROM HERE?: SOCIAL CHANGES AHEAD

What are the barriers to social acceptance of the norm against dog meat? Aligning the discussion on the two anti-dog meat slogans used by Korean animal protectionists, Part V discusses how the debate should be reframed, and dog meat redefined, in order to overcome hurdles to socio-legal internalization of the norm against dog meat in Korea.

### A. "I Love Korea. I Oppose Dog-Eating.": Reframing the Debate

What could explain the fact that the majority of people who would never eat dog meat and are often disgusted by it—many of whom express real love for their pet dogs—nevertheless firmly defend the practice as being part of Korean "culture"?<sup>214</sup> The key to moving toward a dog meat-free society lies in understanding why these people defend dog meat, and how to change their attitudes. Insights can be gained from the following slogan used by anti-dog meat campaigners: "I love Korea. I oppose dog-eating."<sup>215</sup> Why do they say "I love Korea"? An intuitive answer would be that because dog-eating has an adverse impact on Korea's international image, they want dog meat to be eradicated from their nation. However, there is more to it than this.

They say "I love Korea" because anti-dog meat campaigners are often perceived and socially defined as traitors and/or die-hard dog (or pet) lovers, siding with the "white supremacists" abroad rather than those who have sincere concern for the welfare of animals.<sup>216</sup> The controversy over dog meat is framed as a matter of cultural confrontation between Korea and the West. For Koreans, accepting dog meat as disgusting and barbaric is to lose the battle against the onslaught of Westernization led by condescending and racist cultural imperialists like Brigitte Bardot.<sup>217</sup> To mainstream Korea, dog meat is not just

<sup>214</sup> See Part II, Section A, *supra* (comparing views of dogs as companions and livestock).

<sup>215</sup> See e.g. KARA, KARA *July Newsletter*, <http://www.withanimal.net/tt-cgi/tt/board/ttboard.cgi?act=read&db=w01&page=1&idx=175> (Aug. 24, 2004); Se-Yeon Park, Animal Protection Groups Alliance, *Anti-Dog Meat Legalization Protest*, [http://news.naver.com/news/read.php?mode=LOD&office\\_id=003&article\\_id=0002020954](http://news.naver.com/news/read.php?mode=LOD&office_id=003&article_id=0002020954) (Mar. 26, 2008) (showing photographs of anti-dog meat campaigners with signs).

<sup>216</sup> See e.g. Rolf Potts, *Man Bites Dog*, <http://www.salon.com/wlust/feature/1998/10/28feature.html> (Oct. 28, 1998) (explaining that "[to] this day, many older Koreans—raised on the ideal of duty to family—are as put off by the American love of dogs as Americans are put off by Koreans' taste for dog meat. Why, they wonder, do Americans gladly spend hours teaching their dogs to do silly tricks, yet consider it an act of extreme generosity and sacrifice to go to the care home and chat with their grandmother once a week?"); Jeon, *supra* n. 179 (one animal protectionist questioning: "[would] there be another place like Korea where a person trying to protect lives of innocent animals needs to say 'I'm not a traitor?'").

<sup>217</sup> Jeon, *supra* n. 179 (stating that Bardot was branded a racist in Korea, based on her remarks).



about personal culinary preference or economic rationales, but about standing up to cultural imperialism.<sup>218</sup>

So most Koreans say, “[it] may not be good soup, but it is *our* soup.”<sup>219</sup> In the face of what are perceived as cultural imperialist threats, dog meat has been given status as a cultural symbol of nationalism. This is why only a fraction of the population says that dog-eating is barbaric, while the majority urges that Korea should not feel ashamed of it.<sup>220</sup> The promoters of legalization say “the government should be more open and confident about Korean culture, and that it is a mistake to suppress a traditional Korean practice.”<sup>221</sup> This perception also pushes the government to formally backtrack and distinguish “slaughter dogs” and “pet dogs,” and this is why the mainstream society tries to legalize dog meat—to bring it to the surface—and to stand up against rampant Westernization by expressing the view that there are different, acceptable ways of living.

The problem is rooted in the gap between cultural imperialism and cultural relativism. The question is: How can we find the middle ground between these two? First of all, the debate over dog meat needs to be rational (as opposed to emotional). Questions of legitimacy are colored by deeply held, often overwhelmingly subjective and ill-informed,<sup>222</sup> personal convictions.<sup>223</sup> These must be avoided. They are not only useless, but dangerous—they give further incentive to defend dog-eating as part of Korean culture. Depicting an average Korean person as if he or she is tolerant of cruelty and as if he or she kills and cooks the family’s own pet dogs will bear no positive outcome for the sake of dogs.<sup>224</sup> In relation to this, basing the argument on double

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<sup>218</sup> KARA, Q6. *Aren't They Cultural Imperialists?*, in *Soom 78-89 (9 FAQs on Dog-Eating)* (Deobureo Soom Press 2007). To explain in detail why the debate is framed this way is beyond the scope of this paper, but one of the factors reinforcing the sensitivity of the dog meat debate in Korea can be found in the peculiar history of Korea. See e.g. Feffer, *supra* n. 182 (noting the relationship between Koreans feeling *han* (a deep sense of injustice) and Korean sentiments regarding their divided peninsula or the experience of Japanese colonialism. Personal convictions against *poshintang* (dog stew) may bring up feelings of *han*).

<sup>219</sup> *Id.*

<sup>220</sup> Empas, *Dog-eaters Are Barbarians?*, [http://ranking.empas.com/fight/fight\\_view\\_result.html?artsn=226607&c=0&ls=s&pq=q%3D%25](http://ranking.empas.com/fight/fight_view_result.html?artsn=226607&c=0&ls=s&pq=q%3D%25) (July 7, 2006). In an ongoing on-line questionnaire started on July 27, 2006 and voluntarily participated in by 2,765 Empas members (as of Jan. 6, 2007), only eleven percent say that “eating dog meat is barbaric” while eighty-nine percent think otherwise. No duplicate votes were counted.

<sup>221</sup> Andrew Wood, *No Dogs on Seoul Menus*, <http://news.bbc.co.uk/2/hi/asia-pacific/460627.stm> (Sept. 29, 1999).

<sup>222</sup> It is very difficult for many Western animal welfare organizations to have a clear idea of what is going on in Korea. Most of them rely heavily on the information published online in English by Korea’s national animal protection groups (reports that are often shallow in depth and one-sided), or through speculations on a few, unimaginably cruel traditional practices, most of which are rarely found in Korea today.

<sup>223</sup> Radford, *supra* n. 135, at 116.

<sup>224</sup> E.g. Hairproduct.com, *Now Would You Eat Your Pet Dog or Cat?*, [http://www.hairproducts.com/view\\_product.php?product=A-SAVE-PETS](http://www.hairproducts.com/view_product.php?product=A-SAVE-PETS) (accessed Apr. 13, 2008)

standards by saying dogs are somehow “more important” than other animals is not only misguided, but destructive.

Furthermore, the international community needs to facilitate the rational discussion among the Korean people by understanding that a voluntary acculturation process<sup>225</sup> is what can change another nation’s behavior, not sanction or coercion. Especially because of how the debate is framed, the pressure to assimilate must be imposed from within. In order to induce social acceptance and consensus, contrary to the popular belief, international pressure on the Korean government to promote changes should only come after appealing to the public.

Of course, much of the responsibility also lies with Korean media and politicians. Why would Korea, for example, interview Brigitte Bardot instead of, say, Jane Goodall? Bardot was a strategic choice to stir up anger among the Korean public.<sup>226</sup> Media should not depict the controversy over dog meat as a clash of Asian versus Western cultures.<sup>227</sup> Politicians need to understand that to protest against dog meat is not a demand from white supremacists, but rather a demand from the changing populace, increasingly concerned about animal welfare.

*B. “Dog-Eating is Not Culture. It’s Just a Bad Habit.”:  
Redefining Dog Meat*

In parallel to reframing the debate, there is an ongoing effort by Korean animal protectionists to shake the root of the controversy; that is to redefine dog-eating as a mere bad *habit*, not culture.<sup>228</sup> They argue that dog meat has never been part of the Korean tradition, but rather a bad habit that took root in the society during the post-war poverty of the 1950s.<sup>229</sup> If you take culture out of the equation, there is

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(urging readers to sign a petition to the South Korean government to stop the “brutal murder of dogs and cats”).

<sup>225</sup> Acculturation, as defined by an international legal theory, is “the general process of adopting the beliefs and behavioral patterns of the surrounding culture. This mechanism induces behavioral changes through pressures to assimilate—some imposed by other actors and some imposed by the self.” Ryan Goodman & Derek Jinks, *How to Influence States: Socialization and International Human Rights Law*, 54 *Duke L. J.* 621, 638 (2004).

<sup>226</sup> Jeon, *supra* n. 179.

<sup>227</sup> Brian Carnell, *South Korea May Legalize Sale of Dog Meat*, <http://www.animalrights.net/archives/year/2002/000004.html> (Jan. 2, 2002).

<sup>228</sup> See photos in KBS, *Dogs Feel the Same Pain As We Do: Animal Protectionists Protest Against Dog Meat*, <http://news.kbs.co.kr/exec/print.php?id=1190136> (July 20, 2006); Hankyoreh News, *Controversy over Dog Meat Heats Up Yet Again*, <http://www.hani.co.kr/section-005000000/2002/05/005000000200205251423001.html> (accessed Apr. 13, 2008) (the placard in the photo on the left states: “Dog meat is not Korean traditional food”); Jeon, *supra* n. 179 (KARA’s anti-dog meat campaign advertisement on a bus states: “I want to live. . . I want to live! Dog-eating—It is nothing but a bad habit that must disappear!”).

<sup>229</sup> See e.g. KARA, *Q4. Isn’t it Part of Our Country’s Traditional Culture?*, in *Soom 78-89 (9 FAQs on Dog-Eating)* (Deobureo Soom Press 2007); IAKA, *About Kyenan Kum*, <http://www.koreananimals.org/about/kyenan.htm> (accessed Apr. 13, 2008); Chang-Gil

no rational reason to insist on asking: "why can we not eat dogs while we eat pigs?" Instead, the question could be: "why should we *also* eat dogs?" An answer to the first question may be difficult to find within the current ethical framework, but an answer to the second question may be just as difficult to find.

Furthermore, animal protectionists highlight the fact that cultural relativism cannot be used as an excuse to justify dog-eating.<sup>230</sup> Certain cultural practices involving animals are on the wane; for example, bullfighting in Barcelona<sup>231</sup> and fox hunting with hounds in the UK,<sup>232</sup> which are "seen by a growing majority of the population as an anachronistic, brutal, and unnecessary means of killing animals."<sup>233</sup> Although dog-eating is an intrinsically different issue to bullfighting and fox hunting because the slaughter of dogs can be done humanely without unnecessary suffering, it remains a fact that not all foods are viewed equally, and certain culinary practices among industrialized countries are also on the wane. "Cat, which was once eaten in parts of Spain, can no longer be found on the menu there; smoked dog ham and dried dog meat were once popular in Switzerland but no longer."<sup>234</sup> Perhaps the most analogous case would be horse meat in the U.S., which has been banned in a number of states.<sup>235</sup> "In globalization-speak, this might be called 'harmoni[z]ation.'"<sup>236</sup>

Ultimately, a paradigm shift needs to occur in order to overcome the inherently anthropocentric cultural controversy and create a framework where the life of an animal, in this case of a dog, is placed at the center of the debate. As long as there are people who shamelessly say, "Yeah, I killed it. So what? We eat dogs, right?,"<sup>237</sup> legal protection for dogs will inevitably be limited. Dog meat consumers need to ask themselves, is the life of a dog as negligible as the price of a meal?

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Park, *Legalization of the Slaughter of Dogs for Food and Korean Culture*, [http://www.voice4animals.org/bbs/board.cgi?id=bbs1&action=print\\_view&gul=147](http://www.voice4animals.org/bbs/board.cgi?id=bbs1&action=print_view&gul=147) (accessed Apr. 13, 2008); Kum, *supra* n. 12 (supporting the fact that such activity was not an engrained tradition, but instead a fringe activity rooted in financial hardship emanating from post-war conditions).

<sup>230</sup> See e.g. KARA, Q5. *Don't You Know About Cultural Relativism?*, in *Soom 78-89 (9 FAQs on Dog-Eating)* (Deobureo Soom Press 2007); Myeon-Hee Han, *A Bioethical Approach to Bosintang Culture*, [http://www.voice4animals.org/bbs/board.cgi?id=bbs1&action=print\\_view&gul=104](http://www.voice4animals.org/bbs/board.cgi?id=bbs1&action=print_view&gul=104) (May 17, 2002).

<sup>231</sup> BBC News, *Barcelona Votes to End Bullfights*, <http://news.bbc.co.uk/2/hi/europe/3605225.stm> (Apr. 6, 2004).

<sup>232</sup> BBC News, *High Court Upholds Ban on Hunting*, [http://news.bbc.co.uk/2/hi/uk\\_news/politics/4214327.stm](http://news.bbc.co.uk/2/hi/uk_news/politics/4214327.stm) (Jan. 28, 2005).

<sup>233</sup> Radford, *supra* n. 135, at 116.

<sup>234</sup> Feffer, *supra* n. 182.

<sup>235</sup> Christopher Shays, *Animal Welfare: Its Place in Legislation*, 12 *Animal L.* 1, 3 (2005); Cal. Pen. Code §§ 598(c), 598(d).

<sup>236</sup> Feffer, *supra* n. 182.

<sup>237</sup> See Kim, *supra* n. 78 (a comment by the offender in a 2004 animal cruelty case).

## VI. CONCLUSION

Caught in the conflict over their status as companion and livestock animals, dogs in Korea occupy a peculiar place in legal and social realms. Most Koreans are unable to understand what sets dogs apart from other livestock animals. They see the campaign against dog meat as a cultural imperialist threat.

Indeed, despite mounting pressures from animal protectionists within and abroad, Korea's virtually unregulated dog meat industry remains intact. With a lack of political commitment, the ban on sale of dog meat imposed in the early 1980s was never enforced. The original APA, entailing the only legal provisions to protect the welfare of slaughter dogs, was a law on paper only. Trapped in the dog meat controversy, the animal protection regime has been unable to promote any significant legal development. The Amendment Act 2007, the first amendment to the APA since 1991, is unlikely to produce any substantial improvement of manners and conditions in which slaughter dogs are reared and slaughtered. Meanwhile, the government leaves open the policy option of legalizing dog meat by classifying dogs as livestock for possible future adoption. Animal protectionists fight back, but with insufficient public support.

The analysis, from a socio-legal perspective, has revealed that legal changes strengthening animal protection law will only come when the dog meat controversy is resolved, which in turn requires socio-cultural internalization of the norm against consumption of dog meat. The main barrier to genuine social acceptance of the norm is how the eating of dog meat is socially defined as being part of culture and how the debate is framed as a clash between cultures in Korea. Only when these barriers are redefined and reframed will legal measures to ban dog meat and improve animal welfare standards follow. Legal and social challenges are closely interrelated.<sup>238</sup> One will not be resolved without the other.

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<sup>238</sup> See e.g. Susan Finsen, *Introduction: Obstacles to Legal Rights for Animals: Can We Get There from Here?*, 3 *Animal L.* i, iii-iv (1997); David Favre, *Integrating Animal Interests into Our Legal System*, 10 *Animal L.* 87, 97 (2004) (discussing the idea that, in principle, law can lead public opinion; the legal and social realms are inextricably connected, and laws are themselves highly influential in forming people's moral perspectives, but that, in practice, without a considerable degree of social progress, legal development is unlikely to take place; the law generally tends to follow the development of various sentiments within society).