

INTRODUCTION

CHANGING HUMANITY: FIFTEEN YEARS OF PROGRESS IN ANIMAL WELFARE AND PROTECTION

By
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This Introduction outlines policy and societal changes in animal welfare over the last fifteen years. Covering the areas of industrial meat production and the treatment of farm animals, domesticated animals and cruelty, animal testing and laboratory animals, and protection of native species here and around the world, the Introduction documents meaningful policy achievements in each area, as well as accompanying and continuing societal efforts to improve outcomes for animal welfare in the United States and across the world. In addition, the Introduction documents current and future opportunities in the U.S. Congress and in local, national, and international policy to continue progress toward a more humane society.

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I. INTRODUCTION

Fifteen years ago I was invited to write an article about the role of animal welfare in a livable community. At that time, I was a relative newcomer to Congress, but I had quickly determined that my advocacy for humane treatment of animals was inextricably linked to the focus of my career: to make communities more functional, sustainable, and livable.

In that article, I focused on the emergence of animal welfare issues on the political landscape and the growing realization that the health of animals, including those in urban settings, is directly related to the health of the ecosystem for human inhabitants. I wrote about the need for Congress to deal responsibly with animal welfare, standing up where necessary to entrenched special interests and harmful practices such as factory farming.

Since then, the movements for both livable communities and animal welfare have exploded. We've seen the development of streetcars, expansion of light rail systems, and the growing prevalence of cycling in American cities at a pace that would have been nearly inconceivable in the year 2000. This progress on sustainable planning and transportation in the built environment was accompanied by unprecedented developments dealing with animal welfare. Dynamics have shifted in how we view and treat farm animals involved in meat, dairy and egg production, companion animals at home, laboratory animals that undergo scientific and cosmetics testing, and conservation of wild animals in the United States and around the world.

Central to this progress and continued success has been the combination of effective activism, in terms of both policy and popular opinion, which has led to a meaningful integration of animal welfare into the American political, commercial, and social mindset. Animal welfare has moved from the periphery of public dialogue into a more central role. Now, more than ever before, Americans are making decisions about what products to buy and what services to use based, in no small measure, on the impacts to our fellow creatures on this planet. Business leaders, politicians, and academics have become much more deeply involved in this movement; their far-reaching relationships, more complex and interconnected, give hope that this dialogue and progress will continue long into the future.

We must understand this important dynamic: we all share finite space on this planet. Providing protection for every living creature at home and abroad, on land, at sea, and in the air, is one of our most fundamental challenges. What matters for the survival of a single species, matters for us all. People are beginning to understand that this effort, like the imperative to combat climate change, is serious business and part of a larger whole. Increasingly, they are acting on it.

This Introduction will outline the policy and societal changes over the last fifteen years in animal welfare. In each area, these improvements in the treatment of our fellow creatures have and will continue

to contribute meaningfully to the welfare and livability of our own communities. Our work, however, does not stop at celebrating what has been done to date. This Introduction also outlines current and future opportunities in Congress and beyond as part of a broad animal welfare agenda that continues to progress.

II. INDUSTRIAL MEAT PRODUCTION AND THE TREATMENT OF FARM ANIMALS

For generations, there existed a certain standard and expectation about how animals should be treated. The massive-scale, wanton cruelty that we see in the form of gestation crates, factory production of chickens, or the appalling operation of feedlots was unknown. People had more personal connections to the animals they tended. While certainly many were taken for granted and treated in a cruel fashion, those animals were all, in a sense, ‘free-range,’ allowed to lead healthier, more normal lives with better diets. They were given opportunities to move and propagate naturally. People knew, saw, and tended animals themselves, generally in a more ‘natural’ environment and in smaller numbers.

It was markedly different from what we now see, where too many operations treat animals as mere cogs in a chain of production. With the advent of large-scale, industrialized production, every facet of the life of the chicken, cow, or pig is engineered or mechanized.¹ Factory farming has grown to be a massive industry that subjects animals to unthinkable experiences and presents serious environmental, health, and safety risks on a scale unimaginable in earlier times. It has also forced tens of thousands of small farmers out of business while industrial-scale agriculture grows.² For example, from 1982 to 2012, the number of hog and pig operations in the U.S. dropped from 315,095 to 55,882; yet, the number of hogs sold more than doubled.³ In 1982, the maximum farm size used in the U.S. Department of Agriculture’s (USDA) agriculture census data for hog sales was 1,000.⁴ In 2012, 91% of U.S. hog sales came from farms with 5,000 or more hogs.⁵

The pursuit of an idealized ‘product’ with maximum profit but minimum variation may produce cheaper food, but the overall cost is

¹ See Bernard E. Rollin, *Farm Factories: The End of Animal Husbandry*, in THE CAFO READER 6, 6–8 (Daniel Imhoff ed., 2010) (describing the confinement of livestock in industrial animal agriculture and how it differs from traditional animal husbandry).

² Tom Philpott, *Squeezed to the Last Drop: The Loss of Family Farms*, in THE CAFO READER, *supra* note 1, at 176, 176–181 (describing the economic impact that consolidation of the agriculture industry has had on small family farmers).

³ Compare BUREAU OF THE CENSUS, U.S. DEP’T OF COMMERCE, 1982 CENSUS OF AGRICULTURE 16 tbls.29 & 30 (1984) (displaying a high number of hog and pig farms) [hereinafter 1982 CENSUS], with NAT’L AGRIC. STATISTICS SERV., U.S. DEP’T OF AGRIC., 2012 CENSUS OF AGRICULTURE 22 tbl.20 (2014) (finding a much lower number of hog and pig farms, but higher hog and pig sales than the 1982 census) [hereinafter 2012 CENSUS].

⁴ 1982 CENSUS, *supra* note 3, at 17 tbl.32.

⁵ 2012 CENSUS, *supra* note 3, at 22 tbl.20.

high. In treating animals like machines, we stress and punish them with inhumane handling and cruelty. This stressful environment can create unsafe or emotionally challenging conditions for workers, which poses risks to them as well as to overall public health.⁶ The overuse of antibiotics in factory farming has also been linked to antibiotic resistance in humans, leading to infections and other adverse health consequences.⁷

Industrial-scale farming also degrades the environment by creating manure lagoons and discharging polluting effluent.⁸ Producing large quantities of meat is extremely water-intensive compared to other food crop production.⁹ At current export levels, we are in essence shipping vast quantities of water overseas in the form of beef.¹⁰ Large-scale meat production also releases greenhouse gases into the warming atmosphere.¹¹ Eighteen percent of global human-caused greenhouse gas emissions result from feed cultivation and production, factory farm energy use, processing and packaging, land use, and feed and manure breakdown.¹² In the U.S., greenhouse gas emissions from

⁶ See *Myth: Industrial Food is Healthy*, in THE CAFO READER 69–71 (Daniel Imhoff ed., 2010) (describing the health threats that factory farming poses for workers, consumers, and neighboring communities).

⁷ CENTERS FOR DISEASE CONTROL & PREVENTION, U.S. DEP'T OF HEALTH AND HUMAN SERV., ANTIBIOTIC RESISTANCE THREATS IN THE UNITED STATES 5, 11 (2013), <http://www.cdc.gov/drugresistance/threat-report-2013/pdf/ar-threats-2013-508.pdf> [<https://perma.cc/WXQ7-A5KF>] (accessed Feb. 28, 2016).

⁸ U.S. GOV'T. ACCOUNTABILITY OFF., GAO/RCED-99-205, ANIMAL AGRICULTURE: WASTE MANAGEMENT PRACTICES 1 (July 26, 1999); ROLF U. HALDEN & KELLOGG J. SCHWAB, ENVIRONMENTAL IMPACT OF INDUSTRIAL FARM ANIMAL PRODUCTION 5, 13 (Nov. 14, 2006), http://www.ncifap.org/_images/212-4_envimpact_tc_final.pdf [<https://perma.cc/DA9B-CRVU>] (accessed Mar. 14, 2016); *The Sources and Solutions: Agriculture*, U.S. ENVTL. PROTECTION AGENCY, <http://www.epa.gov/nutrientpollution/sources-and-solutions-agriculture> [<https://perma.cc/8R4E-KT4V>] (Mar. 1, 2016) (accessed Mar. 14, 2016).

⁹ Kyle Kim, *Water Leaves a 'Footprint' in Our Food; Here's How It Works*, L.A. TIMES, <http://www.latimes.com/visuals/graphics/la-g-food-water-footprint-20150410-htmlstory.html> [<https://perma.cc/EG5P-X82R>] (Apr. 17, 2015) (accessed Feb. 21, 2016); Kyle Kim, *452 Gallons of Water Were Used to Make This Plate*, L.A. TIMES, <http://graphics.latimes.com/food-water-footprint/> [<https://perma.cc/P2JA-ET87>] (Apr. 7, 2015) (accessed Feb. 21, 2016).

¹⁰ *Beef Industry Statistics*, NAT'L CATTLEMEN'S BEEF ASS'N, <http://www.beefusa.org/beefindustrystatistics.aspx> [<https://perma.cc/NS69-QYF8>] (2015) (accessed Feb. 21, 2016); *Cattle & Beef: Statistics & Information*, U.S. DEPT. AGRIC. ECON. RES. SERV., <http://www.ers.usda.gov/topics/animal-products/cattle-beef/statistics-information.aspx> [<https://perma.cc/G96S-XEVX>] (Jan. 20, 2016) (accessed Feb. 21, 2016).

¹¹ *Livestock Environment and Development: The Role of Livestock in Climate Change*, FAO, <http://www.fao.org/agriculture/lead/themes0/climate/en> (accessed Feb. 21, 2016).

¹² *Id.*; *Greenhouse Gas Emissions from Animal Agriculture*, HUMANE SOC'Y OF THE U.S., <http://www.humanesociety.org/assets/pdfs/farm/hsus-fact-sheet-greenhouse-gas-emissions-from-animal-agriculture.pdf> [<https://perma.cc/W5JZ-3H7C>] (accessed Feb. 23, 2016); THE LIVESTOCK, ENVIRONMENT AND DEVELOPMENT INITIATIVE, FAO, LIVESTOCK'S LONG SHADOW: ENVIRONMENTAL ISSUES AND OPTIONS 112 (2006), <http://www.fao.org/docrep/010/a0701e/a0701e00.HTM> [<https://perma.cc/RHH3-Y26B>] (accessed Feb. 23, 2016).

agriculture, including animal agriculture, have increased by about 17% since 1990.¹³

By producing healthier, better-treated animals, we reduce suffering, lessen our impact on the natural world, and produce better outcomes for human health.

Progress and Work Yet to Be Done

There have been encouraging developments in our society's awareness of these problems. As a native of Portland, Oregon, I can relate to the very first episode of the TV show *Portlandia* when a restaurant server was interrogated about the conditions under which a chicken entrée was raised. Although the show exaggerates reality, the underlying message is no passing fancy. Those who eat animal products are increasingly aware of, sensitive to, and insistent about humane treatment.

In response, restaurants and food suppliers are advertising, and increasingly enforcing, animal welfare standards for their menu items.¹⁴ Even the giants of fast food and retail, like McDonald's, Burger King, and Wal-Mart, are hearing this deep public concern.¹⁵ Their customers care about the impacts of the products they purchase, and many of them are insisting on better treatment by, for example, eliminating pork gestation crates and requiring cage-free egg production.¹⁶ Changes by these companies help create an economy where agribusiness is incentivized to move toward a more humane and sustainable approach to agriculture. These are massive-scale transformations. For example, McDonalds' annual purchase of roughly two billion cage-free eggs will have a huge impact on North America's egg industry.¹⁷ Similar commitments from other companies like Costco, Taco Bell, and Starbucks will only accelerate these changes.

This changing market demand is welcome news for farmers who favor more humane agriculture but are at a competitive disadvantage with large and heavily subsidized factory farms. Many farmers, appalled by how they see animals treated, have discovered mechanisms of production and marketing that allow their operations to be both

¹³ *Climate Change: Sources of Greenhouse Gas Emissions*, U.S. ENVTL. PROTECTION AGENCY, <http://www3.epa.gov/climatechange/ghgemissions/sources/agriculture.html> [https://perma.cc/BS5Q-BYX5] (Feb. 23, 2016) (accessed Mar. 14, 2016).

¹⁴ Stephanie Strom, *After Suspending Supplier, Chipotle Takes Pork Off Menu in 600 Stores*, N.Y. TIMES, Jan. 14, 2015, at B8.

¹⁵ Andrew Martin, *Burger King Shifts Policy on Animals*, N.Y. TIMES, Mar. 28, 2007, at C1; Bruce Horovitz, *Wendy's Steps up Animal Welfare Standards*, USA TODAY, <http://usatoday30.usatoday.com/money/consumer/2001-09-06-wendy.htm> [https://perma.cc/NJ2P-JYRU] (Sept. 5, 2001, 10:32 PM) (accessed Mar. 15, 2016).

¹⁶ Strom, *Chipotle Takes Pork Off Menu*, *supra* note 14; Stephanie Strom, *McDonald's Plans a Shift to Eggs from Only Cage-Free Hens*, N.Y. TIMES, Sept. 9, 2015, at B3.

¹⁷ Strom, *McDonald's Plans a Shift to Eggs from Only Cage-Free Hens*, *supra* note 16.

more humane and more profitable, especially if they had a level playing field.¹⁸

As awareness shifts, government should help support these changes. While we have much work to do in furthering these policies, it is important to note the progress already made. Congress has enacted modest increases in funding to support more humane confinement systems, and has highlighted the need for additional enforcement of humane slaughter laws through language included in appropriations bills.¹⁹ We have passed appropriations bills that prevent horse slaughter plants from operating on U.S. soil, effectively stopping that practice throughout the country.²⁰ Congress also held hearings and adopted appropriations language encouraging the USDA to end the practice of slaughtering “downer” cattle—those too sick, injured, or weak to stand and walk—after an undercover investigation of a plant that supplied beef to the National School Lunch Program revealed abuse of these animals as workers tried to get them through the inspection process.²¹ In response, the Food Safety and Inspection Service issued a proposed rule in May 2015 that would end this inhumane practice, which can also create health risks when infected meat enters the food supply.²² Moreover, the Food & Drug Administration (FDA) recently issued new rules to regulate the use of antibiotics on animals.²³ In the future, we will need to go further. While there are statutes requiring certain standards for transporting farm animals across state lines and requiring certain livestock to be quickly rendered insensible to pain before being slaughtered, the forces at work protecting factory farming practices are entrenched and animals still face significant cruelty. In fact, farm animals used for food and fiber, or related research, are exempt from coverage under the Animal Welfare Act, which sets minimum standards of care and treatment for many animals bred for commercial sale, used in research, and exhibited to the

¹⁸ David Vinjamuri, *Tyson Foods and Piglet Abuse: Is Ethical Behavior Profitable?*, FORBES, <http://www.forbes.com/sites/davidvinjamuri/2012/05/11/tyson-foods-and-piglet-abuse-is-ethical-behavior-profitable/#292908863524> [https://perma.cc/7FHZ-YD45] (May 11, 2012) (accessed June 7, 2016).

¹⁹ Michael Markarian, *Lawmakers Speak Up for Animals in Spending Bills*, HUMANE SOC’Y LEGIS. FUND, http://blog.hslf.org/political_animal/2016/03/lawmakers-speak-up-for-animals-in-spending-bills.html [https://perma.cc/S7D7-ZUMH] (Mar 25, 2016) (accessed June 7, 2016); Michael Markarian, *Highlights for Animals From the 113th Congress*, HUMANE SOC’Y LEGIS. FUND, http://blog.hslf.org/political_animal/2014/12/2014-hslf-highlights-from-congress.html [https://perma.cc/4WDS-7RZR] (Dec. 23, 2014) (accessed June 7, 2016).

²⁰ Consolidated Appropriations Act of 2014, Pub. L. No. 113-76, § 745, 128 Stat. 5, 41.

²¹ *Hallmark/Wesland Meat Recall Before the S. Subcomm. on Agric., Rural Dev., Food & Drug Admin., & Related Agencies, Comm. on Appropriations*, 110th Cong. 1–2 (2008) (statement of Sen. Herb Kohl).

²² Requirements for the Disposition of Non-Ambulatory Disabled Veal Calves, 80 Fed. Reg. 27,269 (proposed May 13, 2015) (to be codified at 9 C.F.R. pt. 309).

²³ 21 C.F.R. pts. 514 & 558 (2015).

public.²⁴ These standards must be expanded and made more humane to reflect society's changing values.

Additionally, Congress should support market expansion for those small and mid-sized farmers who seek to practice more sustainable, humane agriculture with policies that promote research and conservation. We must supply resources for beginning farmers to enter and stay in business, supporting the integrity of their business model rather than undercutting it. By establishing basic standards of care and supporting more humane farming, we can improve the lives of animals and reduce the impacts of factory farming on society.

III. DOMESTICATED ANIMALS AND CRUELTY

Violence and cruelty to animals are problems in and of themselves, but they are also often linked to other criminal activity and abusive behavior. Numerous studies have shown that violence against animals is connected to violence against humans as well.²⁵ Abuse of pets is a strong predictor of domestic violence and can be an indicator of other types of distress, such as mental illness or substance abuse.²⁶ Research compiled by the Humane Society of the United States (HSUS) found that of those arrested for animal abuse, 65% had also been arrested for battery against another person.²⁷ Another study found that of thirty-six convicted murderers, nearly half admitted to having tortured animals when they were younger.²⁸ Animal cruelty has also been recognized as a warning sign for at-risk youth.²⁹

Aggressive reporting, investigation, and prosecution of animal crimes can help take dangerous criminals off the street, many of whom have been or would be violent towards people. It is imperative that we treat animal cruelty with the same seriousness given other violent crimes, with policies to address signs of violence in youth and allow early intervention by law enforcement.

Progress and the Work Yet to Be Done

The public is increasingly impassioned about combating animal cruelty, particularly for domesticated animals. In American society, where about 44% of households own a dog and 35% have a cat, pets and other domesticated animals are of prime importance and are often

²⁴ 7 U.S.C. § 2131 (2013).

²⁵ *Animal Cruelty and Human Violence*, HUMANE SOC'Y OF THE U.S., http://www.humanesociety.org/issues/abuse_neglect/qa/cruelty_violence_connection_faq.html [<https://perma.cc/JT6B-LQFF>] (Apr. 25, 2011) (accessed Feb. 18, 2016).

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ Mary L. Randour, *Including Animal Cruelty as a Factor in Assessing Risk and Designing Interventions*, 2004 PROC. OF PERSISTENTLY SAFE SCHOOLS, 103; Frank R. Ascione, *Animal Abuse and Youth Violence*, U.S. DEP'T OF JUSTICE: JUVENILE JUSTICE BULLETIN, Sept. 2001, <https://www.ncjrs.gov/pdffiles1/ojjdp/188677.pdf> [<https://perma.cc/3F8S-6YDJ>] (accessed June 7, 2016).

considered almost members of the family (as opposed to property).³⁰ Indeed, when asked whether, if stranded on a desert island, people would prefer their pet or a fellow human as a companion, over half chose the pet.³¹ The number of dogs and cats entering shelters annually has decreased by over 38% since 1973, and half to two-thirds of them are adopted each year.³² Americans pay attention to stories like Mitt Romney traveling with his dog on the top of his car,³³ and YouTube videos and other social media are awash with popular opposition to abuse and neglect of companion animals. A notable volume and variety of state legislation has been introduced related to dogs and other pets, and dozens of bills have been passed to improve living conditions and recognize the special role these animals play in our lives.³⁴

Fifteen years ago, an important part of our animal cruelty agenda was focused on the barbaric practice of animal fighting. Dogfighting, while illegal in every state, was still pervasive.³⁵ Cockfighting, too, while legal in some jurisdictions, was still rampant.³⁶ In response, we increased penalties, strengthened enforcement, and built awareness about these inhumane practices, which often go hand in hand with other crimes such as drug use and illegal gambling.³⁷ Since 2000, sev-

³⁰ *Pets by the Numbers: U.S. Pet Ownership, Community Cat and Shelter Population Estimates*, HUMANE SOC'Y OF THE U.S., http://www.humanesociety.org/issues/pet_over_population/facts/pet_ownership_statistics.html (accessed Feb. 18, 2016); Joyce Tischler, *Have Americans' Attitudes Towards Animals Changed?*, ANIMAL LEGAL DEF. FUND <http://aldf.org/blog/have-americans-attitudes-towards-animals-changed/> (June 12, 2009) (accessed Feb. 18, 2016).

³¹ *Pets by the Numbers*, *supra* note 30.

³² See Tischler, *supra* note 30 (showing that the number of animals entering shelters in the U.S. has decreased from 13 million to 6–8 million in the last forty-three years and that 4 million are adopted yearly).

³³ Philip Rucker, *Mitt Romney's Dog-on-the-Car-Roof Story Still Proves to Be His Critics' Best Friend*, WASH. POST, https://www.washingtonpost.com/politics/mitt-romneys-dog-on-the-car-roof-story-still-proves-to-be-his-critics-best-friend/2012/03/14/gIQA2LxCS_story.html [<https://perma.cc/HL4U-CGRF>] (Mar. 14, 2012) (accessed Feb. 18, 2016).

³⁴ Jesse McKinley, *Dog-Related Bills Flood Albany as Major Legislation Stalls*, N.Y. TIMES, <http://www.nytimes.com/2015/06/12/nyregion/dog-related-bills-flood-albany-as-major-legislation-stalls.html> [<https://perma.cc/3EX8-DYX2>] (June 11, 2015) (accessed Feb. 18, 2016).

³⁵ See *Dogfighting a Booming Business, Experts Say*, CNN, <http://www.cnn.com/2007/US/07/18/dog.fighting/> [<https://perma.cc/P64E-LLCM>] (July 19, 2007, 9:32 PM) (accessed Feb. 23, 2016) (explaining that dogfighting was illegal in all fifty states in 2007 and yet there was evidence that dogfighting was, in fact, increasing).

³⁶ See Brian Ross, *Washington Keeps Cockfighting Legal in Three States*, ABC NEWS, <http://abcnews.go.com/WNT/story?id=131142&page=1> [<https://perma.cc/36WN-NG6M>] (Mar. 30, 2001) (accessed Feb. 23, 2016) (explaining how cockfighting was a billion dollar a year industry in the three states where it remained legal in 2001).

³⁷ See Chad Sisneros, *Dogfighting Fact Sheet*, HUMANE SOC'Y OF THE U.S., http://www.humanesociety.org/issues/dogfighting/facts/dogfighting_fact_sheet.html?credit=web_id98058733;%20 (Jan. 15, 2014) (accessed Feb. 18, 2016) (demonstrating how positive steps taken by the government such as making dogfighting a federal offense incentivizes local police forces to investigate cases and how increasing attention on the issue can lead to citizen participation in bringing the practice to a halt).

eral states have made dogfighting a felony, and now all 50 states treat it as such, matching federal law.³⁸ Cockfighting is now also illegal in every state, and most states prohibit individuals from even being a spectator at a cockfight.³⁹ Forty-two states, including Utah, have passed felony cockfighting laws.⁴⁰ This progress at the state level echoes action in Congress: in 2002, Congress closed a loophole that had allowed cockfighting in some states;⁴¹ in 2007, the animal fighting prohibition in the Animal Welfare Act was upgraded from a misdemeanor to a felony;⁴² in 2008, the maximum penalty was further increased to up to five years jail time;⁴³ and in 2014, we established misdemeanor penalties for animal fighting spectators.⁴⁴ The Federal Bureau of Investigation's (FBI) decision, beginning in 2016, to track cruelty to animals in its nationwide Uniform Crime Report will provide useful data to assess trends moving forward.⁴⁵ Incidents of these practices have declined as society intensifies its focus on the horrific details of these contests and punishment for animal fighting activities has been brought to the nation's attention. One example is the high-profile prosecution and conviction of football quarterback Michael Vick for dogfighting activities.⁴⁶ He spent almost two years in prison, was publicly humiliated, and has never regained his footing as a premier athlete.⁴⁷ His punishment is a lesson not just for Mr. Vick himself, but also for people across the country involved in inhumane sporting practices.

In addition to animal fighting, Congress has made progress against the horrific practice of 'animal crush' videos, which show the

³⁸ *Id.*; see also *Animal Cruelty Facts and Statistics*, HUMANE SOC'Y OF THE U.S., http://www.humanesociety.org/issues/abuse_neglect/facts/animal_cruelty_facts_statistics.html (Aug. 31, 2015) (accessed Feb. 23, 2016) (noting that all states currently include felony provisions in their animal cruelty laws).

³⁹ *Animal Cruelty: Cockfighting*, AM. SOC'Y FOR THE PREVENTION OF CRUELTY TO ANIMALS, <https://www.aspc.org/animal-cruelty/other-animal-issues/cockfighting> [<https://perma.cc/9TV9-LLDZ>] (June 11, 2015) (accessed Feb. 18, 2016).

⁴⁰ See *South Dakota Lawmakers Enact Stronger Animal Cruelty Penalties*, HUMANE SOC'Y OF THE U.S., http://www.humanesociety.org/news/news_briefs/2014/03/south-dakota-lawmakers-enact-stronger-animal-cruelty-penalties-031414.html (Mar. 14, 2014) (accessed Feb. 18, 2016) (announcing that South Dakota was the forty-first state to increase the penalty for cockfighting to a felony); UTAH CODE ANN. § 76-9-301.3 (West 2015) (becoming the forty-second state to pass a felony law for cockfighting as of 2015).

⁴¹ Animal Welfare Act, Pub. L. No. 107-171, § 10202, 116 Stat. 491-492 (2002); Richard Simon, *Cockfighting: Trying to Close a Loophole, Lawmakers Bet on a Farm Bill Making it a Crime to Take Game Roosters Over State Lines*, L.A. TIMES, <http://articles.latimes.com/2002/may/05/nation/na-fight5> [<https://perma.cc/R2JH-KM3P>] (May 5, 2002) (accessed June 8, 2016).

⁴² Animal Fighting Prohibition Enforcement Act of 2007, H.R. 137, 110th Cong. (2007) (enacted).

⁴³ Animal Welfare Act, Pub. L. No. 110-234, § 14207, 122 Stat. 1461-1462 (2008).

⁴⁴ Animal Welfare Act, Pub. L. No. 113-79, § 12308, 128 Stat. 990-991 (2014).

⁴⁵ *Animal Cruelty Facts and Statistics*, *supra* note 38.

⁴⁶ *United States v. Michael Vick*, No. 3:07CR00274-004, 2007 U.S. Dist. WL 4305442, at *1 (E.D. Va. Dec. 10, 2007).

⁴⁷ *Id.* at *2.

intentional crushing, burning, drowning, suffocating, and impaling of live animals.⁴⁸ In 2010, we made their production and distribution in interstate commerce illegal.⁴⁹

Another bright spot is the attention paid to the animals that provide service to our military and law enforcement. Penalties were strengthened for deliberately injuring or killing federal law enforcement animals.⁵⁰ Congress has passed laws that first allowed, then encouraged, retired military dogs to be adopted rather than euthanized as was the previous practice.⁵¹ Memorials have been created for dogs that served this country alongside soldiers and to highlight the special role that service dogs can play in helping veterans with Post-Traumatic Stress Disorder.⁵² In the wake of Hurricane Katrina, where many individuals stayed in New Orleans to avoid abandoning their pets and did not have the option to evacuate with them, Congress passed the Pets Evacuation and Transportation Act to require state and local agencies to consider the needs of pets as part of disaster planning.⁵³

These are only a few examples of laws and policies that have been enacted that recognize that the creatures with which we share our communities, and who live in our care, deserve to be treated without cruelty. More can be done. We should pass laws that make cruel acts to animals illegal, rather than being limited to the distribution of videos that feature those acts. We can take action to prevent cruel training practices for horses, such as Tennessee Walking Horses who are often taught to lift their feet through the painful practice of ‘soring’ in which their forelegs are intentionally wounded to encourage an exaggerated gait.⁵⁴ By continuing to limit animal cruelty, we can create a stronger, more livable society.

IV. ANIMAL TESTING AND LABORATORY ANIMALS

For decades, society has used animals in the testing of cosmetic products, chemicals, and medicines to determine their effectiveness and safety for human use.⁵⁵ Many of these tests have contributed to

⁴⁸ 18 U.S.C. § 48 (2014).

⁴⁹ Animal Crush Video Prohibition Act of 2010, Pub. L. No. 111-294, 124 Stat. 3177 (2010).

⁵⁰ 18 U.S.C. § 1368 (2014).

⁵¹ 10 U.S.C. § 2583 (2014).

⁵² National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, § 2877, 122 Stat. 563, 563–64 (2008).

⁵³ Pets Evacuation and Transportation Standards Act of 2006, Pub. L. No. 109-308, 120 Stat. 1725 (2006).

⁵⁴ *What is Soring? Important Facts About this Cruel Abuse*, HUMANE SOC’Y OF THE U.S., http://www.humanesociety.org/issues/tenn_walking_horses/facts/what_is_soring.html (Apr. 28, 2015) (accessed Feb. 23, 2016).

⁵⁵ NAT’L RESEARCH COUNCIL, SCIENCE, MEDICINE, AND ANIMALS 21 (2004), http://www.ncbi.nlm.nih.gov/books/NBK24656/pdf/Bookshelf_NBK24656.pdf [<https://perma.cc/8UGL-9K87>] (accessed Mar. 15, 2016).

important scientific advances and have improved human health.⁵⁶ Many have also caused significant animal suffering.⁵⁷

The challenge is to constantly work to achieve the right balance—to ensure that any test on animals is performed humanely and only when no equivalent alternative exists. Simultaneously, we must work to expand the sophistication and availability of those alternatives, with the hope that one day no animal will have to suffer pain or fear on behalf of human safety. Not only will this decrease animal suffering, but it can also create more uniform and accurate results. Studies have found that animal stress levels and differing traits among individual animals can create unintended variables in scientific data that can be reduced or eliminated with non-animal alternatives.⁵⁸ In the meantime, consumers have a right to know the origins of the products, medicines, and chemicals they use to give them the ability to make informed decisions, choose products that are not tested on animals, and encourage the scientific community to develop alternatives.

Progress and the Work Yet to Be Done

Concern over the condition of animals used in testing products is increasingly on the public radar, and people are making their opinions known. For cosmetics testing, the practice is now simply unacceptable to most people. A 2013 poll by the Humane Society found that more than two-thirds of voters are opposed to using animals to test cosmetics.⁵⁹ Women, the primary consumers of cosmetic products, are opposed to animal testing of cosmetics in even greater numbers.⁶⁰ There are many identified testing alternatives and compounds already known to be safe which can be used as ingredients in new products.⁶¹ Some alternative methods are more humane, faster to perform, less costly, and provide more reliable results than tests performed on live animals.⁶² People are using cruelty-free shopping guides and practicing compassionate consumption by purchasing products that make use

⁵⁶ *Id.*

⁵⁷ *Id.* at 29.

⁵⁸ Aysha Akhtar, *The Flaws and Human Harms of Animal Experimentation*, 24 CAMBRIDGE Q. OF HEALTHCARE ETHICS 407, 408, 415 (2015); Jonathan P. Balcombe et al., *Laboratory Routines Cause Animal Stress*, 43 J. AM. ASS'N FOR LABORATORY ANIMAL SCI. 42, 43 (2004).

⁵⁹ Press Release, HUMANE SOC'Y OF THE U.S., New Poll Shows Majority of Americans Strongly Oppose Animal Testing for Cosmetics (Mar. 12, 2013), http://www.humanesociety.org/news/press_releases/2013/03/american-poll-cosmetic-animal-testing-031213.html (accessed Mar. 15, 2016).

⁶⁰ *Id.*

⁶¹ *Alternatives to Animal Tests*, HUMANE SOC'Y OF THE U.S., http://www.humanesociety.org/issues/cosmetic_testing/facts/alternatives_animal_tests.html (Feb. 8, 2013) (accessed Feb. 23, 2016).

⁶² *Id.*

of these alternatives and have therefore not been tested on animals.⁶³ Reacting to these trends, a large number of cosmetic companies have voluntarily adopted alternative test methods.⁶⁴

Several other countries around the world are leading the way on this issue. The European Union, the largest cosmetics market on the globe, as well as Israel, New Zealand, and India have banned both the testing of cosmetics on animals and the sale or import of new cosmetics that were tested on animals.⁶⁵ Several other nations have bans under discussion or are supporting development of alternative methods.⁶⁶ The U.S. should follow suit.

Similarly, there is growing awareness about animals used in agricultural experiments to benefit the meat industry. In January 2015, the *New York Times* published a scathing, Sunday-edition, front-page report describing abuses at the U.S. Meat Animal Research Center in Nebraska.⁶⁷ The article was met with public outcry and instigated action by the federal government and Congress.⁶⁸ In the final spending bill that passed in December 2015, Congress directed the Agricultural Research Service (ARS) to ensure that its approximately fifty facilities, including the U.S. Meat Animal Research Center, comply with Animal Welfare Act standards while also providing new funding for inspections of those facilities and withholding 5% of the ARS budget until specific animal protections are in place.⁶⁹

⁶³ *Animal-Friendly Shopping Tips*, HUMANE SOC'Y OF THE U.S., http://www.humanesociety.org/issues/cosmetic_testing/compassionate_consumer/take_action.html (accessed Feb. 23, 2016).

⁶⁴ Kati Chitrakorn, *Is the Global Cosmetics Market Moving Towards a Cruelty-Free Future?*, BUSINESS OF FASHION, <http://www.businessoffashion.com/articles/intelligence/is-the-global-cosmetics-market-moving-towards-a-cruelty-free-future> [https://perma.cc/DX44-W96P] (Jan. 13, 2016, 5:58 PM) (accessed Mar. 1, 2016); Abbey Ellin, *Leaving Animals Out of the Cosmetic Picture*, N. Y. TIMES, http://www.nytimes.com/2011/12/29/fashion/expanding-efforts-to-keep-cosmetics-testing-from-animals.html?_r=1 [https://perma.cc/86GM-D2WZ] (Dec. 28, 2011) (accessed June 8, 2016).

⁶⁵ 2009 O.J. (L 342) 62; Gabe Fisher, *Import Ban on Animal-Tested Products Goes Into Effect*, TIMES OF ISR., <http://www.timesofisrael.com/import-ban-on-animal-tested-products-goes-into-effect/> [https://perma.cc/6A3S-9YC9] (Jan. 1, 2013) (accessed Feb. 23, 2016); Animal Welfare Amendment Act (No 2) 2015, s 37 (N.Z.); Press Release, Humane Soc'y Int'l, HSI's Be Cruelty-Free India Makes History as India Bans Import of Animal Tested Cosmetics (Oct. 14, 2014), http://www.hsi.org/news/press_releases/2014/10/animal-tested-cosmetics-import-ban-india-101414.html (accessed Feb. 23, 2016).

⁶⁶ *Creating a Cruelty-Free World: Ending Animal Testing for Cosmetics*, HUMANE SOC'Y INTERNATIONAL, <http://www.hsi.org/issues/becrueltyfree/facts/infographic/en/> (accessed June 8, 2016).

⁶⁷ Michael Moss, *U.S. Research Lab Lets Livestock Suffer in Quest for Profit*, N.Y. TIMES, <http://www.nytimes.com/2015/01/20/dining/animal-welfare-at-risk-in-experiments-for-meat-industry.html> [https://perma.cc/EW87-XXS9] (Jan. 19, 2015) (accessed Feb. 23, 2016).

⁶⁸ Michael Moss, *Lawmakers Aim to Protect Farm Animals in U.S. Research*, N.Y. TIMES, <http://www.nytimes.com/2015/02/05/dining/lawmakers-aim-to-protect-farm-animals-in-us-research.html> [https://perma.cc/M4YU-KDDBR] (Feb. 5, 2015) (accessed Feb. 23, 2016).

⁶⁹ Michael Markarian, *With Omnibus Bill, a Big Year of Progress for Animals, Especially in Research*, HUMANE SOC'Y LEGIS. FUND: ANIMALS & POLITICS, <http://>

While animals are still used regularly in scientific and medical research, we have seen some movement toward the use of non-animal alternatives. In multiple appropriations bills, Congress has included both language and funding to encourage the Environmental Protection Agency (EPA) and National Institutes of Health (NIH) to develop alternatives to chemical and medical testing on animals.⁷⁰ Congress approved language requiring the Department of Defense (DoD) to examine alternatives to the tests it currently conducts on animals, and to develop a strategy to transition away from the use of live animals in medical training and studies of treatment options for certain combat injuries.⁷¹ In 2011, the Army stopped testing nerve agents on monkeys.⁷²

We have also seen the standards and treatment of animals used in research improve over time. NIH stopped allowing federally funded researchers to obtain animals from Class B—or ‘random source’ dealers—who often treat animals inhumanely and even sell stolen pets into research.⁷³ In 2015, Congress also prohibited USDA from licensing or relicensing any Class B dealers.⁷⁴

One of the most marked areas of success in this arena are the improved standards and practices regarding chimpanzees—primates often used in experiments due to their close similarities to humans. Building on a successful legislative effort to create and fund a national chimpanzee sanctuary in the 106th and 107th sessions, Congress passed the Chimp Haven is Home Act in 2007 to ensure that chimps retired into the national chimpanzee sanctuary system cannot be used in the future for research.⁷⁵ In 2015, the U.S. Fish and Wildlife Service listed captive and wild chimpanzees as endangered under the Endangered Species Act (ESA).⁷⁶ This classification will protect these ani-

blog.hsflf.org/political_animal/2015/12/with-omnibus-bill-a-big-year-of-progress-for-animals-especially-in-research.html [https://perma.cc/78TH-HNRK] (Dec. 18, 2015) (accessed Feb. 23, 2016).

⁷⁰ Michael Markarian, *Animals in Research: A Look Back at the First Session of the 114th Congress*, HUMANE SOC’Y LEGIS. FUND: ANIMALS & POLITICS, http://blog.hsflf.org/political_animal/animals-in-research/ [https://perma.cc/3AKK-5JJB] (Jan. 19, 2016) (accessed Mar. 16, 2016).

⁷¹ Ernesto Londoño, *Military Is Required to Justify Using Animals in Medic Training After Pressure from Activists*, WASH. POST, https://www.washingtonpost.com/world/national-security/military-is-required-to-justify-using-animals-in-medic-training-after-pressure-from-activists/2013/02/24/9b19e4ee-7d3e-11e2-82e8-61a46c2cde3d_story.html?hpid=Z4 [https://perma.cc/FG5F-UC2E] (Feb. 24, 2013) (accessed June 8, 2016).

⁷² Brian Vastag, *Army to Phase out Use of Animal Nerve-Agent Testing*, WASH. POST, https://www.washingtonpost.com/national/health-science/army-agrees-to-phase-out-use-of-animal-nerve-gas-testing/2011/10/13/gIQA1p1PiL_story.html [https://perma.cc/Z5MX-GK73] (Oct. 13, 2011) (accessed Mar. 16, 2016).

⁷³ Markarian, *Animals in Research*, *supra* note 70.

⁷⁴ *Id.*

⁷⁵ Chimp Haven is Home Act, Pub. L. No. 110-170, 121 Stat. 2465 (2007).

⁷⁶ Endangered and Threatened Wildlife and Plants; Listing All Chimpanzees as Endangered Species, 80 Fed. Reg. 34,500 (June 16, 2015) (to be codified at 50 C.F.R. pt. 17).

mals from harassment and disturbance, including medical experiments.

Going forward, we should continue to encourage our government and research institutions to promote and use alternatives to animal experimentation wherever possible without posing a detriment to human health or safety.

V. PROTECTING NATIVE SPECIES HERE AND AROUND THE WORLD

The health of wildlife, particularly native species, is directly linked to the health of the broader ecosystems that humans inhabit around the world. The environments that support native wildlife also supply the water, air, and land we depend upon for our own survival. Protecting native habitats and their ecological processes in the U.S. will not only sustain wild creatures, but will also retain the ecosystem balance and functions upon which our society relies. Water and air pollution creates health challenges for not only aquatic species, but also for humans. Invasive species threaten native plant, fish, and wildlife species across the country, often as a result of careless human action.

Abroad, the multi-billion dollar illegal wildlife trade has serious environmental and social costs.⁷⁷ Wildlife poaching takes a tremendous toll not just on wildlife, but also on communities by funding criminal syndicates and extremists like Darfur's Janjaweed militias and Somalia's Al-Shabaab.⁷⁸ Many of the criminals involved in poaching and trafficking are also linked to trafficking of drugs, weapons, and people.⁷⁹ President Obama has called wildlife poaching and trafficking an "international crisis" that is "fueling instability and undermining security" and has established a presidential task force to address the issue.⁸⁰ Additionally, the *New York Times* published a multi-part exposé on the high seas showing how illegal, unreported, and unregulated fishing often goes hand in hand with labor abuse, even slavery, for deckhands and seasonal workers.⁸¹

Humanity is inexorably linked to natural resources, and what is unsustainable for our fellow creatures is unsustainable for us, too.

⁷⁷ International Affair, *Illegal Wildlife Trade*, U.S. FISH & WILDLIFE SERV., <http://www.fws.gov/international/travel-and-trade/illegal-wildlife-trade.html> [https://perma.cc/QA35-DPJ6] (accessed June 8, 2015).

⁷⁸ Jody Rosen, *Animal Traffic*, N.Y. TIMES MAG., <http://www.nytimes.com/2014/09/05/t-magazine/animal-trafficking-black-market.html> [https://perma.cc/36WM-54R3] (Sept. 5, 2014) (accessed Mar. 17, 2016).

⁷⁹ *The U.S. #IvoryCrush at Times Square*, U.S. FISH & WILDLIFE SERV., <http://www.fws.gov/le/elephant-ivory-crush.html> [https://perma.cc/25ET-K5KV] (updated July 20, 2015) (accessed Feb. 23, 2016).

⁸⁰ Exec. Order No. 13648, 78 Fed. Reg. 40,621 (July 5, 2013).

⁸¹ Ian Urbina, *'Sea Slaves': The Human Misery That Feeds Pets and Livestock*, N.Y. TIMES, <http://www.nytimes.com/2015/07/27/world/outlaw-ocean-thailand-fishing-sea-slaves-pets.html> [https://perma.cc/36SK-YCGB] (July 27, 2015) (accessed Mar. 17, 2016).

Progress and Work Yet to be Done

While there is still a robust U.S. black market trade in big cats and numerous other exotic animals and their trophies, there is also a growing realization of the negative consequences of this trade.⁸² With global attention and support for increased protection of elephants from poaching, the U.S. Fish and Wildlife Service (FWS) conducted two major ‘crush’ operations to destroy illegally trafficked ivory seized by the agency.⁸³ Other governments have followed suit in Europe, Africa, Asia, and the Middle East.⁸⁴ In a huge recent victory, both China and the U.S. vowed to ban their domestic ivory trade.⁸⁵ Congress also authorized grants and funding to conserve endangered chimpanzees, bonobos, gorillas, elephants, rhinos, tigers, and other endangered species around the world.⁸⁶ Legislation has also barred interstate commerce of lions, tigers, leopards, cheetahs, jaguars, and cougars for the pet trade.⁸⁷

Simultaneously, public outcry, particularly following the illegal slaughter of Cecil the lion in Zimbabwe, helped motivate more than forty airlines to create or enforce bans on shipping trophies of African lions, elephants, buffalo, rhinos, and leopards.⁸⁸ In December 2015, FWS listed African lions as ‘threatened’ under the ESA, ensuring greater protection for the few remaining in the wild.⁸⁹ The noose is slowly tightening around these outrageous, barbaric practices and the people involved in trafficking.

In addition, the federal government has made significant progress toward more humane policies in its regulation of invasive species, scientific research, and predator control. For instance, members of Congress have tried to shine the spotlight on the enigmatic Wildlife Service, an agency responsible for killing more than 3 million native

⁸² Rosen, *supra* note 78.

⁸³ *The U.S. #IvoryCrush at Times Square*, *supra* note 79.

⁸⁴ *Id.*

⁸⁵ Simon Denyer, *China to Ban Ivory Trade Within a Year or so as Pressure Mounts on Hong Kong*, WASH. POST, https://www.washingtonpost.com/world/china-to-ban-ivory-trade-within-a-year-or-so-as-pressure-mounts-on-hong-kong/2015/10/21/4c96c5e4-7683-11e5-a5e2-40d6b2ad18dd_story.html [<https://perma.cc/LRB6-3AP9>] (Oct. 21, 2015) (accessed Feb. 17, 2016).

⁸⁶ *Multinational Species Conservation Acts*, U.S. FISH & WILDLIFE SERV., <http://www.fws.gov/international/laws-treaties-agreements/us-conservation-laws/multinational-species-conservation-acts.html> [<https://perma.cc/9FBH-5NE3>] (accessed Mar. 17, 2016).

⁸⁷ *Captive Wildlife Safety Act: What Big Cat Owners Need to Know*, U.S. FISH & WILDLIFE SERV., <https://www.fws.gov/le/pdf/CaptiveWildlifeSafetyActFactsheet.pdf> [<https://perma.cc/3NKX-BCNS>] (Aug. 2007) (accessed June 8, 2016).

⁸⁸ *More than 40 Airlines Adopt Wildlife Trophy Bans After Cecil the Lion’s Death*, HUMANE SOC’Y OF THE U.S., http://www.humanesociety.org/news/news_briefs/2015/08/airlines-trophy-bans-082615.html?referrer=https://www.google.com/ [<https://perma.cc/N7JT-UEZ6>] (Aug. 26, 2015) (accessed June 8, 2016).

⁸⁹ Endangered and Threatened Wildlife and Plants: Listing Two Lion Subspecies, 80 Fed. Reg. 80,000 (Dec. 23, 2015) (to be codified at 50 C.F.R. pt. 17).

animals per year with little oversight.⁹⁰ In another example, FWS banned importation of four species of constrictor snakes under the Lacey Act to help prevent damage to native wildlife and habitat from these invasive species.⁹¹

As we continue making progress on issues domestically, wildlife, forests, and oceans around the globe are facing increasing threats. The same industrial methodology that took hold of meat and egg production in the U.S. has been applied with a vengeance in countries overseas.⁹² This industrial model has perhaps the most profound impact on our oceans. A main source of protein for the human diet and the food chain for innumerable species are being threatened as companies across the world strip-mine the oceans, depleting fish stocks and discarding vast quantities of 'by-catch.'⁹³ A significant portion of seafood traded in international markets is harvested by illegal, unreported, and unregulated fishing activity, and yet many countries look the other way.⁹⁴ The U.S. is one of the most lucrative seafood markets in the world.⁹⁵ If we enforce standards in our own fishing industry and deny market access to those who cheat and abuse, it will have profound implications.

The ocean provisions negotiated under U.S. leadership in the recently completed Trans-Pacific Partnership are perhaps the strongest

⁹⁰ Julie Cart, *Congressmen Question Costs, Mission of Wildlife Services Agency*, L.A. TIMES, <http://articles.latimes.com/2014/jan/04/local/la-me-wildlife-killing-20140105> [https://perma.cc/L759-SZKV] (Jan. 4, 2014) (accessed Mar. 17, 2016).

⁹¹ Injurious Wildlife Species; Listing Three Anaconda Species and One Python Species as Injurious Reptiles, 80 Fed. Reg. 12,702 (Mar. 10, 2015) (to be codified at 50 C.F.R. pt. 16); see also 18 U.S.C. § 42 (2004) (Lacey Act's injurious wildlife provision).

⁹² E.g., CHENDONG PI ET AL., INST. FOR AGRIC. AND TRADE POL'Y, FAIR OR FOWL? INDUSTRIALIZATION OF POULTRY PRODUCTION IN CHINA 11 (2014), http://www.iatp.org/files/2014_02_25_PoultryReport_f_web.pdf [https://perma.cc/DF2R-ZA3Y] (accessed Mar. 17, 2016) (describing the Chinese poultry industry as "going through rapid industrialization, characterized by intensification of farming, horizontal consolidation and vertical integration").

⁹³ *The Campaign*, OCEANA, http://oceana.org/ourcampaigns/promote_responsible_fishing/campaign [https://perma.cc/J9RG-EL6L] (accessed Feb. 17, 2016); *Waste Not, Want Not: Minimizing Bycatch Helps Fish Populations and Fisherman*, PEW CHARITABLE TRUSTS, <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/03/waste-not-want-not> [https://perma.cc/ZY9Z-9NGA] (updated June 17, 2015) (accessed Mar. 17, 2016).

⁹⁴ Darryl Fears, *Seafood Study: Up to 32% Imported to U.S. is Caught Illegally*, WASH. POST, https://www.washingtonpost.com/national/health-science/seafood-study-up-to-32-percent-imported-to-us-is-caught-illegally/2014/04/20/3ceeabe0-c04d-11e3-bcec-b71ee10e9bc3_story.html [https://perma.cc/2QQ4-7AAZ] (Apr. 20, 2014) (accessed June 8, 2016); NOAA Fisheries, *IUU Fishing – Frequently Asked Questions*, NAT'L OCEANIC AND ATMOSPHERIC ADMIN., <http://www.nmfs.noaa.gov/ia/iuu/faqs.html> [https://perma.cc/NSB5-XZU5] (accessed June 8, 2016).

⁹⁵ See *Fisheries of the United States, 2012: A Statistical Snapshot of 2012 Fish Landings*, NAT'L OCEANIC AND ATMOSPHERIC ADMIN., https://www.st.nmfs.noaa.gov/Assets/commercial/fus/fus12/FUS_2012_factsheet.pdf [https://perma.cc/EN5U-8GL4] (2012) ("In 2012, U.S. commercial fishermen landed 9.6 billion pounds of seafood valued at \$5.1 billion.").

framework for international action to date.⁹⁶ There will be inevitable challenges ahead with enforcement, but ultimately, international agreement, cooperation, and strong enforcement, along with American leadership, will be key to protecting our oceans.

Particular species are being targeted as well. Although shark finning was banned in the U.S. in 2000, entities across the globe are still finning sharks and leaving the wounded animals to die.⁹⁷ Japan, Norway, and Iceland flout the 1946 whaling convention by continuing whaling for “scientific” purposes.⁹⁸ There are also impacts on habitat: fragile marine ecosystems, such as coral reefs, are being devastated by damaging fishing gear and pollution.⁹⁹ These practices threaten our oceans, which are ever more fragile due to climate change. Such trends are growing on an unimaginable scale, and we must crack down further on these practices in the U.S. and globally to ensure the continued health of our ocean ecosystems.

On land, tropical forests face challenges similar to those threatening the oceans. Vast stretches of rainforests are being clear cut and burned for quick, illegal harvest and creation of unsustainable palm oil plantations in Asia, Latin America, and West Africa.¹⁰⁰ This irreplaceable loss of habitat for rare and endangered species, destruction of wildlife corridors, and reduced biodiversity upsets important ecological balances.¹⁰¹ The resulting damage undercuts often fragile local governments and indigenous populations.

⁹⁶ See Press Release, Off. U.S. Trade Rep., Summary of the Trans-Pacific Partnership Agreement ¶ 20 (Oct. 2015), <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2015/october/summary-trans-pacific-partnership> [<https://perma.cc/PY7R-VWZF>] (accessed Mar. 17, 2016) (offering a brief outline of ocean protections built into the TPP); see also Peter Neill, *The Trans-Pacific Partnership (TPP) and the Ocean*, HUFFINGTON POST: HUFFPOST GREEN, http://www.huffingtonpost.com/peter-neill/the-trans-pacific-partnership-tpp-and-the-ocean_b_7496326.html [<https://perma.cc/LEB6-R6CW>] (updated June 2, 2015) (accessed Mar. 17, 2016) (commenting that the fact that “ocean issues are included in this proposed international agreement at all is to be celebrated”).

⁹⁷ Caty Fairclough, *Shark Finning: Sharks Turned Prey*, SMITHSONIAN OCEAN PORTAL, <http://ocean.si.edu/ocean-news/shark-finning-sharks-turned-prey> (2015) (accessed Mar. 17, 2016).

⁹⁸ *The Truth About ‘Scientific’ Whaling*, INT’L FUND FOR ANIMAL WELFARE, <http://www.ifaw.org/united-states/our-work/whales/truth-about-%E2%80%99scientific%E2%80%99-whaling> [<https://perma.cc/9BY7-CDEV>] (2016) (accessed Feb. 17, 2016).

⁹⁹ Peter Baker, *We Must Do More to Save Deep-Sea Corals*, PEW CHARITABLE TRUSTS, <http://www.pewtrusts.org/en/research-and-analysis/analysis/2015/12/08/msa-40-we-must-do-more-to-save-deep-sea-corals> [<https://perma.cc/PP99-8S7C>] (Dec. 8, 2015) (accessed June 8, 2016).

¹⁰⁰ *Palm Oil & Biodiversity Loss*, WORLD WILDLIFE FUND, http://wwf.panda.org/what_we_do/footprint/agriculture/palm_oil/environmental_impacts/biodiversity_loss/ [<https://perma.cc/QQS3-TMKF>] (2016) (accessed Feb. 17, 2016); Joe Cochrane, *Indonesia’s Orangutans Suffer as Fires Rage and Businesses Grow*, N.Y. TIMES, <http://www.nytimes.com/2016/04/06/world/asia/indonesia-orangutan-borneo-fires.html> [<https://perma.cc/9ARA-F38C>] (Apr. 5, 2016) (accessed June 8, 2016).

¹⁰¹ Rhett A. Butler, *Greening the World with Palm Oil?*, MONGABAY, <http://news.mongabay.com/2011/01/greening-the-world-with-palm-oil/> (Jan. 26, 2011) (accessed Mar. 8, 2016).

VI. A VISION FOR THE FUTURE

Events and trends over the last decade and a half illustrate both significant progress and serious challenges as problems have mutated in the face of regulation, as well as societal and environmental pressures. Unfortunately, some of these new challenges arise when actors confront new rules and create workarounds—sometimes even more devastating than the original problem. As citizens, whether as activist, consumer, or member of Congress, we must remain vigilant and nimble to adapt to and address these changes.

The long-term challenge is to build on this foundation, move forward on domestic policies, and expand the vision and network of consumers, governments, and industries investing in humane practices in the U.S. and around the world. We must also fight those who give lip service but maintain their cruel practices, misleading the public and continuing to profit. Just as the fossil fuel industry has invested heavily in disputed science to distract from the scientific consensus on climate change, so too in the animal welfare context have industries attempted to shift concern away from human and animal health and environmental sustainability.¹⁰² Instead, apologists for animal cruelty stress issues of consumer choice, government interference, and extreme animal welfare zealotry.¹⁰³ Ironically, opposition to animal welfare reduces consumer choice and interferes with the market.

With success and progress comes more awareness and initiative to bolster the work to date through domestic laws and policies. Many bipartisan bills have been introduced in the 114th Congress to further an animal welfare agenda for domestic animals, farm animals, animals in testing, and wild native species, helping the U.S. lead the way on some issues and catch up to the rest of the world on others.¹⁰⁴ The following examples are some of the best opportunities to continue making progress at the legislative level.

The *Animal Welfare in Agricultural Research Endeavors (AWARE) Act* removes a loophole in the Animal Welfare Act (AWA) that exempts farm animals used for agricultural research at federal

¹⁰² Eric Lipton, *Food Industry Enlisted Academics in G.M.O. Lobbying War, Emails Show*, N.Y. TIMES, <http://www.nytimes.com/2015/09/06/us/food-industry-enlisted-academics-in-gmo-lobbying-war-emails-show.html> [https://perma.cc/R5ZL-5W5G] (Sept. 5, 2015) (accessed Mar. 8, 2016).

¹⁰³ See, e.g., Wesley J. Smith, *Animal Rights Zealotry Hates Animal Welfare*, NAT'L REV.: HUM. EXCEPTIONALISM, <http://www.nationalreview.com/human-exceptionalism/423163/animal-rights-zealotry-hates-animal-welfare-wesley-j-smith> [https://perma.cc/BKY5-KKJ3] (Aug. 27, 2015, 12:27 PM) (accessed Mar. 8, 2016) (arguing that the example of a “zealot/professor” spray-painting a stone sign on campus demonstrates that ‘animal rights’ activists are detrimental to the ‘animal welfare’ movement).

¹⁰⁴ See *Legislative Agenda for the 114th Congress*, AM. VETERINARY MED. ASS'N, https://www.avma.org/Advocacy/National/Congress/Documents/AVMA_Legislative_Agenda_114th_Congress.pdf [https://perma.cc/H3J6-SQWT] (updated Jan. 13, 2016) (accessed Mar. 17, 2016) (listing all of the animal-based legislation for the 114th Congress).

government facilities to ensure that these animals receive the basic care required under the AWA.¹⁰⁵

The *Captive Primate Safety Act* amends the Lacey Act by adding nonhuman primates to the list of animals that cannot be traded and transported across state lines as pets.¹⁰⁶ This does for primates what the Captive Wildlife Safety Act (passed unanimously in 2003) did for big cats.¹⁰⁷

The *Pet and Women Safety (PAWS) Act of 2015* expands federal domestic violence protections to include safeguards for the pets of abuse victims on a national level and provides grant money for domestic violence shelters to better accommodate families with pets.¹⁰⁸

The *Preventing Animal Cruelty and Torture (PACT) Act* strengthens the animal crush video law and prohibits those same extreme acts of animal cruelty when they occur in interstate or foreign commerce.¹⁰⁹

The *Humane Cosmetics Act* criminalizes conducting or commissioning cosmetics animal testing in the U.S.¹¹⁰ The Act also prohibits selling, offering for sale, or transporting any cosmetics in interstate commerce if the final product or any component was developed or manufactured using animal testing.¹¹¹

The *Prevent All Soring Tactics (PAST) Act of 2015* stops the cruel soring of Tennessee Walking Horses and related breeds.¹¹² By amending the Horse Protection Act to end the failed system of industry self-policing, it would ban the use of devices associated with soring, strengthen penalties, and criminalize the actual soring of a horse for the purpose of showing or selling the animal.¹¹³

The *Horse Transportation Safety Act of 2015* prohibits a person from transporting a horse in interstate commerce in a motor vehicle (except a vehicle operated exclusively on a rail or rails) containing two or more levels stacked on top of one another.¹¹⁴

The *Safeguard American Food Exports (SAFE) Act of 2015* bans domestic horse slaughter and stops the export of horses for slaughter abroad.¹¹⁵

The *Battlefield Excellence through Superior Training (BEST) Practices Act* requires the Secretary of Defense to use only human-based methods for training members of the Armed Forces in the treatment of severe combat injuries.¹¹⁶

¹⁰⁵ H.R. 746, 114th Cong. (2015); S. 388, 114th Cong. (2015).

¹⁰⁶ H.R. 2920, 114th Cong. (2015).

¹⁰⁷ S. 269, 108th Cong. (2003) (codified at 16 U.S.C. 3371).

¹⁰⁸ H.R. 1258, 114th Cong. (2015); S. 1559, 114th Cong. (2015).

¹⁰⁹ H.R. 2293, 114th Cong. (2015); S. 1831, 114th Cong. (2015).

¹¹⁰ H.R. 2858, 114th Cong. (2015).

¹¹¹ *Id.*

¹¹² H.R. 3268, 114th Cong. (2015); S. 1121, 114th Cong. (2015).

¹¹³ *Id.*

¹¹⁴ H.R. 1282, 114th Cong. (2015); S. 946, 114th Cong. (2015).

¹¹⁵ H.R. 1942, 114th Cong. (2015); S. 1214, 114th Cong. (2015).

¹¹⁶ H.R. 1095, 114th Cong. (2015); S. 587, 114th Cong. (2015).

The *Global Anti-Poaching Act* supports global anti-poaching efforts, strengthens the capacity of partner countries to counter wildlife trafficking, and designates major wildlife trafficking countries.¹¹⁷ This bill passed the House in November 2015.¹¹⁸

The Big Cat Public Safety Act amends the Captive Wildlife Safety Act to prohibit the private possession and breeding of big cats, with exemptions for larger facilities such as zoos, sanctuaries, state colleges, and universities.¹¹⁹

None of these bills are especially controversial and all would receive strong votes from both parties if brought to the floor for consideration. In fact, their approval could serve as a unifying force in a Congress beset with controversy.

Animal welfare is a non-partisan issue. The political party of an individual seldom outweighs a love of animals, a sense of moral obligation to our fellow creatures, and a belief that there is no room for animal abuse and cruelty in our society. Passage of bills like these not only creates a better world, both for our animals and communities, but could help Congress function better by building trust and relationships among those who do not normally work well together.

VII. CONCLUSION

Reviewing the progress in animal welfare protection during the last fifteen years, there is no doubt the tide has turned. While there remains much to do, we are winning the struggle against cruelty and animal exploitation through legislation, administrative action, and consumer behavior.

On a global scale, the challenges are even greater and the progress more tenuous. Species are endangered through wanton slaughter and destruction of habitat. Oceans are being strip-mined by heavily subsidized and reckless fishing practices. Iconic species like elephants and rhinoceroses are being hunted to near extinction by trophy hunters and poachers. Human activity, when combined with deforestation, rampant development, and global warming, threatens habitats on a scale unimaginable even to our grandparents.

Continued progress in the U.S. is critical to the global solution. We know what to do, and in this country, we are showing how it is done. Harnessing the forces of international treaties, global market behavior, and increasing public awareness will work toward these solutions, but only if combined with enhanced capacity for sustainable economic development in rapidly developing countries. This will be harder, more time consuming and costly, than our efforts thus far. The results, how-

¹¹⁷ H.R. 2494, 114th Cong. (2015).

¹¹⁸ *Id.*

¹¹⁹ H.R. 3546, 114th Cong. (2015).

ever, will be so much more satisfying and worth the effort. Our recent progress and the agenda for action in Congress, the political arena, and the American marketplace should give everyone encouragement that this is a challenge we can meet and a planet we can save.