

Variability in Preventative Animal Cruelty Legislation in Canada

Capstone Project

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Abstract

Justice for abused and neglected companion animals in Canada vary in each province and territory, ultimately serving inconsistent penalties to offenders. This study critically examines existing literature and provincial and federal legislation on their repercussions to animal welfare. An extensive review of literature suggested that all levels of legislation provide weak justice for domesticated animals across Canada. The content of the literature assessed were evaluated for their reliability and validity. The academic journals selected for this research were then examined to discover coherent themes. After analysis of the existing literature, it was concluded that provincial legislation is more effective in convicting animal cruelty offenders. Meanwhile, the legislation is outdated to coexist with current societal standards. Moreover, populated provinces such as Ontario provide stronger legislation than smaller populated provinces and territories throughout Canada.

Keywords: Animal abuse, case law, companion, domesticated, federal legislation, preventative, provincial legislation, welfare.

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Background - The Problem

Companion animals are dependent on the care provided to them by their human counterparts. Companion animals are identified as, "...typically smaller animals, such as cats, dogs, birds, gerbils, or fish," not to be confused with livestock and wildlife (Phillips, 2015, p.3). British Columbia (BC) adheres to its provincial level of animal cruelty legislation, the *Prevention of Cruelty to Animals Act* (1996). The act is enforced by organizations such as the *British Columbia Society for the Prevention of Cruelty to Animals* (BC SPCA) and law enforcement agencies across the province. BC SPCA special provincial constables are largely responsible for seizing, charging, and arresting animal cruelty offenders (BC SPCA, 2019). At the federal level, the *Criminal Code of Canada* (1985) is a tool used to lay charges and convict animal cruelty offenders with summary or indictable offences.

According to Hunter & Brisbin (2016), there were 6.4 million dogs and 8.5 million cats throughout Canada. A resident of Canada in possession of a companion animal(s) should be concerned for the welfare of their pet(s) as federal, provincial, and municipal legislation all affect them and could have criminal repercussions. The abundance of these companion animals spread throughout the country rely on a precedent and legislation to maintain their health and well-being. Persons convicted of animal abuse or neglect to their animals are continuously let off with lenient charges and rarely face incarceration (Peter Sankoff, 2016). Studies have shown connections between people who abuse animals in adolescence and people who perpetuate interpersonal violence in adulthood (Taylor & Fraser, 2019, p.4). Early predictors of these violent behaviours should not be ignored by society, unfortunately these offences often receive little or no scrutiny from the public.

Animal welfare laws fluctuate across Canada, meaning the severity of charges laid against animal cruelty offenders are not always consistent. The *Criminal Code* gives companion animals a legal status of ‘property.’ Each province and territory hold jurisdiction to amend matters of property due to their legal status set out in the *Canadian Charter* (1867, s 7(1)), however little action has been taken to amend the law as noted in BC’s most recent amendment in 2007 (Fraser, Koralesky, & Urton, 2018). Studies show that federal, provincial, and municipal levels of legislation are weak in their outcomes (Verbora, 2015). From this status of property, companion animals are not granted nearly the same fundamental rights as people (Verbora, 2015).

The purpose of this study was to explore existing preventative animal cruelty legislation. This paper will critically assess legislation in provinces and territories across Canada and conclude the most effective legislation and its elements in promoting the prevention of cruelty to companion animals. Further, this transformative study will also consider whether provincial and territorial legislation are entirely effective in promoting the best possible environment for pets.

Project Rationale

As expressed in the background, this research paper will explore preventative animal cruelty legislation in Canada. There are legitimate concerns of the language used in animal cruelty statutes which is often credited to the low severity convictions given to perpetrators (Walton & Zhang, 2016). Legislation does not give companion animals sufficient living rights due to their legal status. This paper will consider whether the contents in the legislation is effective in providing companion animal welfare. Recommendations and conclusions will

bedrawn regarding gaps in legislation and solutions that would indefinitely strengthen conviction rates.

A review of existing literature reinforced the need to pursue this research. In 2014, the *Canadian Humane Society* and SPCA alone conducted over one-hundred and three-thousand (103,000) animal cruelty investigations (Canadian Federation of Humane Societies, 2014, p.8). BC SPCA peace officers are sworn members who adhere to the *Police Act* (1996) and enforce statutes such as the *Prevention of Cruelty to Animals Act* and section 445 of the *Criminal Code*. Across the province of BC, these thirty (30) full-time peace officers who fill a unique role in law enforcement. The BC SPCA is a non-profit organization which is dependent on donations from the public. One animal cruelty investigation can cost up to ten-thousand (\$10,000) dollars which makes criminal investigations a challenging endeavour for the cruelty society (BC SPCA, 2019).

Unfortunately, *Statistics Canada* (2019) explicitly does not conduct statistics regarding animal cruelty. This ultimately did not allow for further examination for this research. Canadian case law such as *Regina v Tremblay* (2012) and *Regina v Kwissa* (2018), who both assaulted and abused their dogs are just some of the recent examples of animal cruelty offences in BC. Evidently, the media does not broadcast the one-hundred and three-thousand (103,000) annual investigations, which suggested many animal cruelty cases are not given a heading in the local news.

Canada has an impressive population of cats and dogs alone. For many people, the companionship of an animal comes with many health benefits such as alleviating depression and anxiety, and not to mention their adorable appeal (Maharaj, 2016). There are various avenues of study that were mandatory to explore before pursuing this research. Legislation simply aims to

alleviate the distress of animals and provide society with guidelines towards animals in Canada. Firstly, the definition of animal distress was needed to address this research. Animal distress was derived from the definition in the *Prevention of Cruelty to Animals Act* which states, “an animal is in distress if it is (a) deprived of adequate food, water or shelter, (b) injured, sick, in pain or suffering, or (c) abused or neglected,” (s 1(2)(a)(b)(c)). This research was tailored to section (1)(2)(c) of the *Prevention of Cruelty to Animals Act* as it is an infliction of physical force to an animal.

An additional hurdle to this research were the seventeen (17) Acts of provincial level legislation across Canada. Provinces and territories such as Alberta, Newfoundland, and Labrador, and the Northwest Territories have two (2) to three (3) acts of legislation each. Although there is some overlap in federal and provincial laws, provincial legislation generally constitutes stronger provisions for animal welfare than the *Criminal Code*. This is particularly due to the standards of animal care which are not addressed in Canada’s federal legislation (Canadian Federation of Humane Societies, 2019). These statutes were then assessed for their relationships.

Guidelines made this research project more systematic and feasible to assess. This research project set out to achieve the following:

- Retrieve credible and reliable literature;
- Critically appraise the literature provided and its relevance to the legislation;
- Discuss the findings in the literature and legislation;
- Conduct recommendations and conclusions regarding this research project.

This paper was then capable of assessing the outcome by determining the supplementary materials credibility, reliability, and relevance to the research question. This research is hopeful to provide realistic standards for animal cruelty gaps.

Literature Search

Methodology

Due to the nature of this qualitative study, there were no concerns of potential ethical issues. However, ethical issues can be apparent even in qualitative research. It was critical for this research to respect any possible participants of this study. In addition, this study was aware of potential biases and ensured that they did not reflect the outcome of this study. All of the data used in this study were credited to the original owner and publisher to ensure ownership of the literature. Ultimately, there was no information used throughout this study that would cause harm to participants as the data collected is publicly available.

Academic journals supplemented this study to consider elements that made sufficient legislation. Is sufficient legislation one that punishes offenders more severely? Or is sufficient legislation one that protects animals from criminalized people? This study will follow a qualitative methodology to enhance the existing literature.

Creswell (2018) stated qualitative research, "Is an approach for exploring and understanding the meaning individuals or groups ascribe to a social or human problem," (p.4). The qualitative design was the most effective method to collect existing literature of the subject. Although the subject area is limited in primary research, it allowed the researcher to elaborate the urgency to pursue this area of research.

Once the research topic was established, a search of the *Justice Institute of British Columbia's* (JIBC) EBSCOhost and library catalogue was carried out. Academic journals between 2009 to 2019 were assessed to align with the most current federal legislation amendment made to section 445 of the *Criminal Code* in 2008. In addition, provincial legislation was also analyzed to supplement the literature.

Literature was selected based on the researchers evaluation of its reliability and validity of the article. Firstly, the term 'animal cruelty' was reviewed which rendered over seven-thousand (7,000) results. Content providers provided by JIBC were reduced to retrieve under four thousand (4,000) hits such as Full Text, Scholarly Journals, Business Source Complete, SocINDEX, PsycINFO, and MEDLINE. Additional keywords such as, 'Canada' and 'law' were searched which in turn provided twenty-one (21) results. The literature became feasible to review with the manageable quantity. This number of academic journals available was not a surprise due to the little impact animal cruelty has on the majority of the population. Academic journals scouted by Google Scholar were also critically assessed by using the same keywords and dates to provide vital secondary research. For the purpose of this study, eleven (11) academic journals were examined for their reliability and relevance.

Throughout the analysis of the selected literature, it was essential for the researcher to consider the perspective of each article as opposed to articles supporting the purpose of this research purpose. In addition, this research considers both positive and negative results. There was no withholding of facts in order to consider the objectivity of each article. The process of collecting only secondary data made the methodology simpler.

Themes

Upon reviewing the scouted literature regarding animal cruelty legislation and politics, a variety of themes became permeant. Firstly, political climate impacts the movement of governments to strengthen provincial legislation. Federal legislation has not seen many changes in its history. The most current amendment made to the *Criminal Code* in 2008, was credited to the initiatives and efforts of the *Canadian Federation of Humane Societies* (2019). There has been some movement by independent organizations to shift legislation, however it does not exist as an area of concern to politicians. Although there have been links of animal abuse and interpersonal violence, this evidence has still not been sufficient enough to enhance the legislation (Verbora, 2015).

A secondary theme that appeared through this literature search were provincial and territorially governments inability to amend legislation (Fraser, Koralesky, & Urton, 2018). The legal status of animals allows provincial levels of government to amend legislation, moreover in the province of BC, there has not been an amendment since 2007 (*Prevention of Cruelty to Animals Act*, 1996). Ontario had its most recent amendment made to its *Ontario Society for the Prevention of Cruelty to Animals Act* (1990) in 2015, however it only regarded orcas, not companion animals. In relation to the *Criminal Code*, Ontario has not amended its provincial legislation since 2008. These themes of slow progression are apparent in some of Canada's most populated provinces which should be a concern to the the future of welfare for companion animals.

Finally, there is mutual agreement amongst literature that Canada has insufficient legislation to promote companion animal welfare. Thus far in Canadian history, the only efforts to shift legislation have been pro-animal organizations. There has not been an outcry from the

public as many members of the public are simply not educated of the statutes that affect animal welfare (Verbora, 2015). This research exemplifies the need for more research to be done on the gap that leaves so many vulnerable pets victimized.

Political Landscape

As society enhances with technology, Canada has proven to prioritize its legislation to stay well-informed and current with this evolution. A rise in Canadian cyber-crime mandated the *Protecting Canadians from Online Crime Act* (2014). Canada acted quickly on the epidemic that was leaving so many Canadian's victimized. Unfortunately, research suggested the same urgency has not been seen with cruelty to animals. The article "The Political Landscape Surrounding Anti-Cruelty Legislation in Canada," by Antonio Verbora (2015), highlighted significant concerns regarding the governments progression in attaining fair and just legislation for companion animals. This authors qualitative study explained that animal cruelty legislation was initially introduced to Canada in the *Criminal Code* in 1985, however it had not seen any substantial amendments since then.

Provincial legislation had been proven to be more efficacious in convicting animal cruelty offenders as opposed to the *Criminal Code* as noted in the project rationale. Verbora's (2015) article showcased various countries who display exemplary standards of combating animal cruelty. Verbora (2015) stated, "The Criminal Code makes it almost impossible to prosecute animal neglect" (p.46). The *Criminal Code* embeds language and terminology that is controversial to the welfare of animals. In particular, that neglect inflicted on animals must be deliberate. Whereas countries such as the United States do not have to prove the deliberate intent. The message of Verbora's (2015) article provided academic gain of this paper.

Legal Status

As discussed in the political landscape, Canada was sluggish to mimic legislation with higher conviction rates as seen in the United States. A comparative analysis of Canada and the United States provided by Deckha (2011) made recommendations regarding the legal status of companion animals. Noted in his article, preventative animal cruelty legislation is generally insufficient, more so in Canada.

Surprisingly, the United States adapted higher sentencing for animal cruelty perpetrators than Canada. In the United States, the majority of sentences averaged from two (2) to ten (10) years. The 2008 *Criminal Code* was amended for, "...increased potential fines from \$2,000 to \$10,000, and the maximum limit for incarceration from 6 months to 18 months" (Deckha, 2011, p.319).

| Legislation | Fine | Sentence |
|--|---------------------------------|--|
| <i>Prevention of Cruelty to Animals Act, 1996 (B.C)</i> | Not exceeding \$75,000 | Not exceeding two (2) years, or both |
| <i>Criminal Code (cruelty to animals) S.C. 2008, c.12)</i> | Summary: Not exceeding \$10,000 | Summary: Not exceeding eighteen (18) months, or both |
| | Indictable: None | Indictable: Not exceeding five (5) years, or both |

Table 1. Canadian Penalties for Convicted Animal Cruelty Offenders.

The United States were arguably more stern in convicting animal abusers than Canada's summary level with a maximum incarceration of eighteen (18) months and Canada's indictable

maximum incarceration at five (5) years (*Criminal Code*, 1985, s 445(2)(a)(b)). For many Americans, the relationship between human and companion animal is paramount (Deckha, 2011). There are evidently emotional bonds with animal and human counterparts which are supported by rescue and rehabilitation centres. The significance of a domesticated animals legal status and applicable laws played a critical role in this study.

According to Fraser, Koralesky, & Urton (2018), there are methods to create a harmonized systematic approach to animal cruelty across the country. The authors suggested our federal animal protection legislation is limited in scope. The *Canadian Charter* (s 7), "...gives the provinces power to make laws with respect to property and, "...all matters of a merely local or private nature in the province," (Fraser, Koralesky, & Urton, 2018, p.1). In respect to the *Canadian Charter* each province and territory hold jurisdiction over matters of property, that is to say, provinces have jurisdiction over animals.

Effectiveness of Animal Cruelty Efforts

A prominent theme that emerged from the literature search was the current state so many companion animals find themselves in, neglect. In 2014, there was an estimated 278,268 companion animals who received care from shelter facilities (CFHA, 2014).

The definition of "animal" is often associated with all animals such as wildlife and livestock. According to law, a wild animal, farm animal, and a companion animal all have different legal statuses and cruelty charges for people who commit them (Wuerch, Giesbrecht, Knutson, & Wach, 2017). Various exploratory qualitative interviews were conducted to gather subjective experiences for their study of intimate partners and animal abuse. Further, literature suggested, "...perpetrators of violence target companion animals or livestock as a method of

control or revenge over their human victims” (Phillips, 2015, p.3). This suggested that there are various causes for animal abuse perpetrated by people.

To successfully convict an individual of animal cruelty charges, evidence must be successful at trial. Literature suggested that an ‘expert opinion’ would strengthen the evidence pool (Ledger & Mellor, 2018). In many cases, a harmed companion animal may not be inflicted by a human. The credibility and methods of an ‘expert opinion’ have been proven at tribunals (Walton & Zhang, 2016).

The *Criminal Code* ensures there is willful intent behind animal neglect offences. (*Criminal Code*, 1985, s 445). This further serves for a just prosecution. From the *University of Alberta - Faculty of Law* department, author Peter Sankoff (2016) assessed a pivotal case in animal cruelty history, *Regina v Gerling* (2014). The Court was accused of willfully ignoring the *mens rea* element of the animal cruelty offender who willfully neglected their dog breeding facility. In addition, the offender also failed to seek medical attention. Sankoff (2016) noted, “...he thought the animals were doing fine. Although his care for the animals might not have been ideal, he simply had no idea that the animals were suffering, notwithstanding their poor medical condition,” (p.269). Although the *mens rea* was deemed to have been refuted in the facts of *Gerling*, the *acts reus* was apparent. The *Gerling* case acts as a revolutionary case for the prevention of cruelty to animals. It served as a foundation for the gap that existed in animal cruelty legislation.

Critical Appraisal

Political Landscape

Literature regarding the role of politics in the promotion of companion animal welfare played a key role in their succession. From the discussed research in the political landscape, there were suitable themes to aid this research. The academic research led by Verbora (2015) suggested there is slow progressional advancement in animal cruelty legislation. Although there have been heinous broadcasted crimes such as a New Brunswick man who severely beat his five dogs to death with a weapon, it is still not enough to rush politicians to change legislation (Verbora, 2015).

Various authors have argued that Canada is less safe for companion animals than countries such as the Ukraine and the Philippines (Hughes & Meyer, 2000; Sorenson, 2010; Wise, 2003). Consideration was taken as to of why companion animals are not being provided with sufficient protection from animal cruelty. Further, unlike existing animal statuses, Sorenson (2010) stated, "Canada does not even clearly define animal. Unlike others, our cruelty provisions only apply to animals 'kept for a lawful purpose,' so Canada offers almost no protection or wild and stray animals because they are not considered anyone's property," (p.155). These barriers in animal legislation were labeled as "loopholes" as the legislation allows for abusive behaviour to progress even in cases where there is solidified evidence.

In the twelve (12) year time period between the introduction of federal animal cruelty legislation in the *Criminal Code* and the successful amendment in 2008, there had been fifteen (15) Bills successfully presented to Parliament (Skibinsky, 2005). However, there had been no

dedicated body to track any suggested amendments to the *Criminal Code*. Bill C-414 was introduced on April 3, 2012 by Joe Comartin. Verbora (2015) stated that Bill C-414 proposed, "...to amend the Criminal Code by addressing animals as sentient beings, rather than objects, and by expanding the scope of animal offences," (p.49). Although the proposed amendment had a significant concern for animal welfare in that their legal status was illegitimate, it was dismissed after the initial reading (Verbora, 2015).

Green criminology had been a staple in identifying the legal complexities of animal discrimination. In order to definitively comprehend the ideology society has of its animals, the term "speciesism" was assessed. Dunayer (2004) defined speciesism as, "a failure, in attitude or practice, to accord any nonhuman being equal consideration and respect," (p.5). The term speciesism was coined by Richard Ryder who simply stated it to be favouring your own species over another. It was argued to be a form of racism or even sexism (Beirne & South, 2007; Hughes & Meyer, 2000; Sorenson, 2010; White, 2007). The definition was, "a deliberate 'wake-up call' to challenge the morality of current practices where nonhuman animals are being exploited in research, in farming, domestically and in the wild," (p.1). Further, Sorenson (2010) supported that it this form of animal discrimination is quite frankly a prejudice and ignorance to animal suffering where society normalizes it.

Legal Status

Provincial and federal legislation label companion animals as human property (*Criminal Code*, 1985, s 445) (*Prevention of Cruelty to Animals Act*, 1996). In the heavy populated province of Ontario with over 14,000,000 people, Ontario's provincial legislation reigns as one of the most detailed (Statistics Canada, 2019). Ontario's animal cruelty legislation, the *Ontario*

Society for the Prevention of Cruelty to Animals Act (OSPCA) (1990), sets exemplary standards of welfare and requirements for residents in possession of a pet. The Act stated, “Every person who owns or has custody or care of an animal shall comply with the prescribed standards of care, and the prescribed administrative requirements, with respect to every animal that the person owns or has custody or care of” (OSPCA, 1990, s 11.1(1)). In matters of distress, the OSCPA ensures that animals are provided with the necessities of life such as food, water and shelter. It also sets out provisions to be free of pain, suffering, abuse or neglect (OSPCA, 1990, S 1(1)).

Laws that ensure the freedom of distress to animals is contradictory of companion animals legal status as property. According to the section 430(1) of the *Criminal Code*, “Every one commits mischief who wilfully (a) destroys or damages property; (d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property,” (*Criminal Code*, 1985, s 430(1)(a)(d)). A person convicted of such an offence pursuant to this act, “...that cause actual danger to life is guilty of an indictable offence and liable to imprisonment to life,” (*Criminal Code*, 1985, s 430(2)). Scientifically proven in natural history, “both humans and non-humans lived” (Clark, 1999, p.2). If the *Criminal Code* is concerned for the life of humans, then why is legislation not concerned for the welfare of non-humans who live and breathe the same as people? The label of property is undoubtedly a misdefined and countered status.

Held by *Statistics Canada* (2010), almost half of all Canadian homes house a non-human counterpart. There have been studies to prove the level emotional belonging humans have towards companion animals. As a result, when harm or death is inflicted to a person’s pet, there

are peak emotions of suffering and distress (Field, 2009). Companion animals hold a soft spot in the hearts of many people. However, these testimonies have not been enough to change the status of animals. Companion animals are identified as relational beings, rather than beings themselves (Nolen, 2008). As of 2011, there were no cases where there was a non-property status involved. In many cases, the value humans have for an animal relationship remained paramount (Deckha, 2011).

In the United States, the case law, *Morgan v Kroupa* (1997) went on the challenge the property status of animals. This case was the result of the Court, "...refusing to apply the provisions of a lost property statute to the case of a lost dog," (Deckha, 2011, p.25). Ultimately, the Court held that the finder of the canine could keep the dog to promote the public to support stray animals.

Arguably, there has been hesitation from Canadian judges to treat companion animals as personal property. Seen in a Saskatchewan Court, the possibility to apply child custody regulation to animals was thrown out in a statement, "[A] dog is a dog. Any application of principles that the court might normally apply to the determination of custody of children are (sic) completely inapplicable to the disposition of a pet as family property," (*Ireland v Ireland*, 2010 at para 9). Literature suggested that cases such as *Ireland* will typically fail in court. The barrier of this trial was not acted out of spite, but rather fear as expressed by Deckha (2011) that, "...the trial would lead a flood of future animal custody litigation and described the case as a waster of the courts time," (p.28). Conversely, cases have been proven to recognize the value of companion animals in cases such as *Gardiner-Simpson v Cross* (2008) in Nova Scotia (Deckha, 2011). Most notably, courts are considerate to acknowledge the cultural attitudes people have of

their companion animals, and that to many they are not simply property. The safety of companion animals may be at a great risk in the hands of Canadian legislation and there are unfortunately not many protective measure to compensate them (Deckha, 2011).

Effectiveness of Animal Cruelty Efforts

The final theme in this research to be assessed was the ultimate effectiveness of preventative animal cruelty efforts in Canada. Figure two (2) outlines the number of animal shelters dispersed across Canada.

| Province or Territory | Number |
|------------------------------|---------------|
| Alberta | 18 |
| British Columbia | 37 |
| Manitoba | 7 |
| New Brunswick | 10 |
| Newfoundland and Labrador | 7 |
| Northwest Territories | 1 |
| Nova Scotia | 6 |
| Nunavut | 1 |
| Ontario | 47 |
| Prince Edward Island | 1 |
| Quebec | 18 |
| Saskatchewan | 13 |
| Yukon | 2 |
| Total | 168 |

Table 2. Quantity of Humane Society and SPCA shelters in Canada (Adapted from Humane Canada, 2017).

Humane Canada (2017) estimated that there are over 7.4 million dogs and 9.3 million cats residing in Canadian homes in 2017. Organizations such as the *Canadian Federation of Humane Societies* and SPCAs across Canada have been the only group to collect numerical data from animal shelters. When there is a need in the community to rehabilitate animals, there is a rise in the number of shelters.

Most notably, the top two (2) provinces to home animal shelters as recorded in figure two (2) were Ontario and B.C. In a 2017 survey conducted by *Humane Canada* (2017), 1.5% of cats and 3.7% of dogs who were taken into shelters were the result of cases of abuse in Canada. Of the animals who homed animal shelters, 45% of dogs and 60% of cats were adopted out to new homes. While 28% of dogs and 5.4% of cars were returned to their original owners. Unfortunately, 11% of shelter dogs and 17% of shelter cats were euthanized as a result of their stay at an animal shelter. Moreover, it was argued that the euthanasia statistic had significantly dropped in the past five (5) years from 2012 to 2017 (*Humane Canada*, 2017). Canadian literature is proposing that all of Canada's animal cruelty statistics are dropping. However legislation has not made amendments in over eleven (11) years, so what is the rationale for this drop? Although there is no definitive answer to this question available in existing literature, the efforts of organizations such as the SPCA are instigators for the promotion of animal welfare.

Literature suggested that companion animals are commonly given the same care and attention as would a human child. These pets are important contributors to peoples lives and are even as far to be included in wills (Phillips, 2015). The *American Pet Products Manufacturers Association's National Pet Owner's Survey* (2017-2018) estimated the pet industry to be worth

seventy (\$70) billion dollars. In the infamous incident of Hurricane Katrina resulted in hundreds of stranded people staying back as they were not allowed to leave without their pets. It was noted that many people even perished as a result of this commitment to their pets and new legislation was implemented to include companion animals to evacuation orders (*Pets Evacuation and Transportation Standards Act*, 2006) (Phillips, 2015). This literature formulated connections of why members of society care about the outcomes of animal cruelty and why some do not. The progression of animal cruelty statistics steadily dropping which show hope in the future of animal welfare.

The three (3) themes presented in this critical appraisal were valuable to an inherent understanding of animal cruelty not only Canada, but all of North America. The qualitative data assessed was purposely selected to ultimately aid the success of the research problem. Resources such as the BC SPCA (2019) provided insightful information to the literature selected for this appraisal. They highlighted various ways in which they enforced the *Prevention of Cruelty to Animals Act*. Literature was continuously searched for until as Charmaz (2006) stated, to "... stop collecting data when the categories (or themes) are saturated: when gathering fresh data no longer sparks new insights or reveals new properties" (p.189). There were relative themes throughout the academic journals. The themes presented in this paper can be registered to the research question of this study: is there variability in companion animal welfare promotion due to the variance of preventative animal cruelty legislation in Canada?

Discussion

This paper provided a variety of methods to improve or refute animal cruelty legislation. The discussion portion of this paper will explore the defined themes scouted from the critical appraisal to formulate a discussion.

In 2007 and 2008, amendments were made to BC's provincial legislation and Canada's federal legislation. In that time, there were movements from *Canada Humane* (2019) and other pro-animal organizations to amend the existing statutes. Ontario had seen nine (9) amendments to its provincial legislation from 2002 to 2015 (*Ontario Society for the Prevention for Cruelty to Animals*, 1990). Movement has been still since the last amendments, particularly in BC and federal legislation.

Animal shelters act as safe houses for animals who have struggled at the hands of abuse and neglect. The BC SPCA (2019) promotes their, "Speaking for Animals," initiative to help vulnerable animals through the care of staff and volunteers. As shelters populate, there has been a decline in animals in and out of shelters (Humane Canada, 2017). BC SPCA special provincial constables have the same powers to enforce animal cruelty statutes as do municipal law enforcement agencies or the Royal Canadian Mounted Police (RCMP). However, as noted in the project rational, there are only thirty (30) full-time BC SPCA peace officers to investigate an overwhelming abundance of animal cruelty cases in B.C. These peace officers are certainly not numerous enough to respond to the animal cruelty calls received. And not to mention the precautions that must be in place to present a case to a crown counsel considering the financial burden that comes attached to criminal proceedings (BC SPCA, 2019).

Case law in Canada and the United States regarding animal's legal status have been challenged in court rooms. Some judges attest to a companion animal as a special emotional bond to human-kind. While other judges are selective of their decisions in order to set a strict precedent (Deckha, 2011). Legislation in which companion animals are strictly highlighted appear to grant higher recognition to an animals status. Conversely, it is apparent that provinces who constitute independent companion animal legislation while being free of livestock and wildlife had more animal shelters. Although volumes of animal shelters in provinces such as BC and Ontario were higher, this could be entirely a result of grossly populated provinces.

The literature suggested, it would be surprisingly simple for provinces and territories to amend their current legislation to instate more severe punishments against animal cruelty offenders. However, provincial level governments do not appear to jump at the opportunity (Fraser, Koralesky, & Urton, 2018). Many of the provincial level legislators are quite outdated. In addition to politics, the literature suggested that there is little to no primary research conducted around the subject area. Primary preventative animal cruelty research proved insignificant which researchers should pursue.

Recommendations

Subsequent to the critical review of literature of this research paper, various recommendations were formulated to enhance the current practices of animal cruelty efforts.

The recommendation include, but are not limited to:

- (1) Amend current legislation at the federal and provincial level to have harsher fines and sentences;
- (2) Allow organizations such as the BC SPCA, to be included in designing legislation;

- (3) Provide 'expert opinion' to stand as evidence at trial;
- (4) Conduct more primary research to consider the repercussions animal cruelty has on society and;
- (5) Change the 'property' status of companion animals to include basic rights to be free of harm such as humans.

As a common theme in this research, amendments are needed to progress legislation.

The harshest penalty for animal cruelty offenders to date is a five (5) year sentence, but no financial penalty. Regretfully, this sentence is rarely laid and summary convictions of a maximum of eighteen (18) months incarceration are generally favoured (*Criminal Code*, 1985, s 445 (2)(a)(b)). Fines and sentencing should be simultaneous and be consistent with the severity of the crime at hand.

Secondly, organizations such as the BC SPCA are unsung experts in animal cruelty knowledge. Research suggested that much, if not all of animal cruelty statistics come from *Humane Canada* or BC SPCA surveys. As noted, Statistics Canada does not conduct statistics on animal cruelty (Statistics Canada, 2019). With the strengths the SPCA has across the country, they would surely be able to disseminate their knowledge to better the legislation in the interest of animal welfare.

Thirdly, expert opinions would provide sufficient grounds to prosecute animal cruelty charges more harshly. Walton & Zhang (2016) suggested that the subjective experiences of animal experts could potentially provide a revolution in animal cruelty convictions. Considering the benefits of this type of evidence would indefinitely increase the convictions of animal cruelty offenders.

Fourthly, primary research is significantly lacking in the area of Canadian animal cruelty. As evidenced through *Humane Canada* (2019), surveys and reports are conducted to stay current with shelter statistics regarding abuse, neglect, euthanasia, and more. For future researchers, this field of study is in dire need of primary research. Pursuing this research could potentially aid literature to an understanding in combating animal cruelty.

Lastly, and most notably throughout the themes of this paper, the legal status of companion animals is insufficient to provide justice for animals. Case law has suggested that the property status of our companions have been challenged at court rooms. However, judges are hesitant to act on this argument as the courts in Canada are not prepared to take-on animal cruelty cases (Dekha, 2011). At this time in research, it is unclear to definitively state what status would be appropriate for animals. Further, this gap in literature suggests initiatives for further study.

Conclusion

In conclusion, this qualitative study provided evidence that preventative companion animal cruelty legislation at the federal and provincial level are too lenient. The legislation is quite clear and comprehensive, however they ultimately fail to provide companion animals with fair justice. This study hopes to provide federal and provincial level governments with an urgency to assess its legislation.

Literature suggested it would be simple for provincial levels of government to amend their legislation, however this field has not been a topical area of concern. The most current amendment to the *Criminal Code* was made over ten (10) years ago. Society has seen an abundance of evolution since these amendments that need to appropriately coexist with legislation. Changes to the current statutes would ultimately grant more severe sentences and

finer to animal abusers. However, amendments are costly and take time while there are many other pressing issues that are deemed more critical to maintain society. Ultimately, this research is hopeful that companion animals can one day be free from harm and suffering at the hands of abusers.

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