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There is a common belief in our society that animals are protected under the law. The truth is that animals are treated as property in our legal system, so any protection is very limited and only applies to a very limited extent for some animals.

Overview of Legislation

There are two primary kinds of Canadian legislation that enforcement agencies can use when the question of animal abuse and suffering arises. The first is the Criminal Code of Canada, which has two sections dealing with cruelty to animals. The laws in the Criminal Code apply across the country.

The second kind of legislation that somewhat addresses animal suffering is provincial legislation which establishes the provincial SPCA, or otherwise addresses animal protection or welfare. Provincial laws vary somewhat across the country.

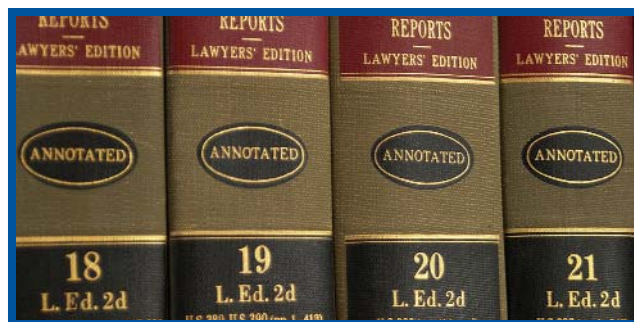
Unfortunately, both the Criminal Code and the various provincial laws deal with animal cruelty in a retroactive fashion – punishing only certain kinds of harmful behaviour only after it has occurred. They do little to prevent abuse or suffering from occurring in the first place.

There are a range of problems with all of these laws that prevent them from effectively protecting animals, including wild animal pets. In addition to being punitive, rather than preventative, the offences are very limited and punishments are minimal.

Individual municipalities throughout Canada are, in most cases, empowered to control what animals are kept within their boundaries and under what conditions. By establishing bylaws that restrict or prohibit the keeping of certain kinds of wild animals as pets, municipalities can address nuisance, public safety and animal welfare problems.

The Criminal Code of Canada

The Criminal Code contains all of Canada's criminal laws, including two sections meant to address cruelty to animals. These provisions are very modest in scope, most of them dating back to 1892. When it comes to the abuse and suffering of wild animals kept as pets the problem with respect to the law is not that there are isolated incidents that could be subject of particular charges. Criminal laws are meant to address specific incidents. Criminal laws however, are not the way to address ongoing institutionalized practices that are widespread in particular industries, such as the pet trade. The problem is not that specific animals are abused or suffering at one point in time, but rather the whole way of life that is imposed upon all of these animals all of the time.



Provincial Animal Protection Laws

Provincial animal protection legislation is not an effective way of addressing the problems inherent in the wild animal pet trade. For example, the Ontario Society for the Prevention of Cruelty to Animals (OSPCA) Act provides the authority for humane societies to assist animals in certain circumstances. OSPCA inspectors and agents are authorized to take certain actions in respect of animals that are determined to be in "distress." The fact that OSPCA powers only come into force once an

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Wild Animals Are Not Adequately Protected By Law

Provincial Animal Protection Laws

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animal is suffering is just one of the many limitations inherent in our current legal approach to animals.

Other problems include the fact that the abuse and suffering of wild animal pets often occurs behind closed doors on private property where there are no witnesses and that enforcement authorities are often unable to identify distress and suffering in wild animals.

CITES

The Convention on International Trade in Endangered Species of Flora and Fauna (CITES) affects the trade in certain species of flora (plant life) and fauna (animal life) in Canada and elsewhere. CITES establishes a permitting system that seeks to control the international trade in certain wild plants and animals for their parts and derivatives. Canada has passed its own legislation to implement CITES: the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPRITA). Neither CITES, nor WAPPRITA, except in very limited cases, address

the conditions under which animals that are lawfully brought into a country must be kept. Animals that were caught in the wild prior to the ratification of CITES by Canada in 1975 are typically exempt from CITES rules, as are most captive-bred animals.

Note: CITES only controls species that are threatened by trade and not by other factors.

Municipal Bylaws

Due to the limited way our current federal and provincial laws deal with the many problems generated by private citizens keeping wild animals as pets, many municipalities have chosen to pass bylaws that restrict or prohibit the keeping of certain kinds of animals. These bylaws often address all of the nuisance, public safety and animal welfare problems associated with wild animal ownership.



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