

3.1 Politics, Law, and Grasping the Evidence in Fur Farming: A Tale of Three Continents

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Farming played a vital role in the development of humankind by freeing up time for hunter-gatherers to develop their intellect and society.¹ However, since the postwar period, intensive farming practices have focused on the production of cheap animal products in great quantity at the cost of sweeping aside concerns for animal welfare.² Fur farming sits at the pinnacle of these concerns because it produces luxury items that appeal to human vanity rather than a need. Use of fur neither adds to human intellect nor makes any meaningful contribution to society.

This essay discusses the practice of fur farming through an examination of differing regulatory frameworks and their underpinning socio-legal³ context across three continental areas. Europe, North America, and Asia/Oceania are responsible for the vast majority of both the production of and the market for fur. Most of this discussion centers on mink because they are the largest source for fur.

Fur-farming production and the trade in fur products appear to be in a perpetual state of flux, with industry production figures illustrating extreme volatility. However, despite occasional rises due to changes in fashion, the general trend appears to be downward, especially in Europe with bans in 14 countries by 2022 as indicated in Table 1.⁴

Despite producing a controversial “luxury” item, fur farming often has escaped regulation in some parts of the globe, even where those jurisdictions have legislated in other areas such as animal experimentation, food production, and slaughter. Restrictions are now possible for the first time in China, where legislators have been reluctant to protect animal welfare despite evidence of growing concern among the population.⁵ Other countries have long since banned fur farming or are about to do so. One question asked here is whether any consistent patterns of regulatory control are emerging in the regulation of fur farming.

¹ Richard Leaky and Roger Lewin, *Origins Reconsidered: In Search of What Makes Us Human* (London: Abacus Books, 1992), 351.

² Simon Brooman and Deborah Legge, *Law Relating to Animals* (London: Cavendish, 1997), 171.

³ “Socio-legal” scholars examine law in context—for example, political, social, and environmental—in order to critique an existing situation.

⁴ See https://www.furfreealliance.com/wp-content/uploads/2022/01/Facts-on-fur-farming-legislation_Fact-sheet-3.pdf Accessed February 17, 2022

⁵ Yangzi Sima and Siobhan O’Sullivan, “Chinese Animal Protection Laws and the Globalization of Welfare Norms,” *International Journal of Law in Context* 12, no. 1 (2016): 1–23.

Emerging scientific evidence, discussed in detail as this essay continues, indicates that the animals used in fur production suffer to an even greater degree than many other farmed animals - the animals remain inherently wild animals, even when in captivity. Is regulation keeping up with emerging scientific evidence regarding wild animal suffering or environmental damage? Finally, does fur farming suffer from the lack of ethical coherence in terms of wild animal welfare?⁶

This study aims to reveal the overall regulatory trends in worldwide fur production. It assesses the effectiveness of regulation in light of concerns over the farming of animals who are unsuited to close confinement. In addition, an examination of these areas might reveal how much politics and culture play a part in the extent of regulation and might reveal why further regulatory control has been difficult to enact. What can we learn from an overview of international control? Are previous assumptions—for example, about the chief culprits being fur farmers in China—entirely accurate? Is a consensus approach to regulation likely? What is the best way forward to improve the welfare of these animals?

Main Centers of the Fur Trade

The first contentious issue that becomes apparent when examining the fur trade is the difficulty in obtaining accurate figures for worldwide production. For example, during research for this essay, the attempt to obtain figures for five years earlier (2015) uncovered differing estimates that varied from the figure given in Table 1 by five to fifteen million. Therefore, Table 1 shows an approximation based on recent figures available for mink farming, but the numbers' accuracy is doubted in the absence of reliable data in this area. It is troubling that an industry involving so many animals has such an apparent lack of transparency regarding the number of animals involved.

Table 1: Worldwide Mink Farming Production⁷

(Note: Gaps indicate no reliable figures found.)

	2013	2014	2015	2016
Global	87 million		72 million	70 million

⁶ Gareth Spark, "Protecting Wild Animals from Unnecessary Suffering," *Journal of Environmental Law* 26 (2014): 473–94.

⁷ Figures are approximate and based on several worldwide sources.

China	40 million	35 million	18 million	20 million
USA/Canada	6.3 million	6.2 million	7.5 million	7.5 million
Denmark		18 million	18.6 million	18 million
Eastern Europe			16 million	15 million
European Union		41 million	45.4 million	35 million

Despite the difficulty in obtaining reliable figures, it is possible to draw some initial conclusions from the available data in Table 1. The first is that the overall production of fur fell during 2013–15. This was due to greater consumer concerns over welfare, particularly in important production areas such as China, where consumer awareness and recognition of animal welfare is growing.⁸ Other key observations are the confirmation of the European Union as the growing center of worldwide fur production and the rise of eastern Europe as a major producer of fur. The figures confirm that a relatively small country, Denmark, is a major player in the world fur markets well beyond what might be explained by domestic demand. The aforementioned downward trend may not be continuing, however, since the anti-fur group Fur for Animals estimates that the total number of animals killed for their fur in 2019 was over 80 million.⁹ Therefore, an overall downward trend is difficult to establish conclusively.

These basic observations are important because where production takes place in global terms has a bearing on the welfare standards experienced by animals raised in the close confinement conditions of fur farms. For example, Europe has well-established animal welfare standards in comparison to other areas of production such as China, where regulation is in its infancy. Therefore, can we assume that the EU situation is less of a concern than the one in China? The production of fur is a combination of farming, marketing, and markets. Each influences the other, so that production involving suffering occurs only because someone, somewhere in the world, wants to buy a fur.

It is not possible to discuss the welfare standards and legal approach of every fur-farming nation in this space. However, looking at regulations in certain areas brings out the overall trends, contradictions, and uncertainties that arise in this contentious area of modern

⁸ Sima and O’Sullivan, “Chinese Animal Protection Laws,” 2.

⁹ Respect for Animals, “Statistics,” accessed February 17, 2022, <http://www.respectforanimals.org/statistics/>.

farming. Analysis of worldwide fur-farming production and markets leads to the conclusion that three main “centers” are particularly useful in analyzing the overall socio-legal situation for animals used in fur production.

Europe is the major producer and market for fur production and a continent of stark contrasts in relation to how countries view the moral acceptability of the industry. The UK, Austria, and Croatia have banned fur farming, whereas countries such as Denmark defend the practice vociferously, and new producers are emerging in eastern Europe. As the hub of worldwide fur farming, Europe demands inclusion in this discussion.

The United States and Canada have contrasting approaches and are historical locations of fur farming in traditional “frontier” locations. The USA has introduced novel ways to regulate fur farming such as a “Humane Care award program” and labeling according to origin and species, which aim to allow consumers to choose according to welfare standards. The USA is also notable for high-profile anti-fur activity, as shown by the release of 38,000 mink into the wild from the Lang mink farm in Minnesota in July 2017. The USA is worthy of inclusion because it allows for discussion of new approaches to regulation and whether they are successful. Canada is unusual among advanced nations in its apparent historical reluctance to regulate fur farming. It has a long-standing history of trapping, rather than farming, fur animals. Its animal welfare laws are weak in the area of fur farming. Considering the USA and Canada together is useful because of the existence of very different approaches in neighboring countries with large markets for fur and many shared cultural links.

Together the areas comprising Asia and Oceania make up the second-largest area of production and illustrate significant differences in approaches to animal welfare and fur farming in particular. China might have been included in its own right as a discussion point since it has a particularly strong presence in both the production of and the market for fur. However, discussing China along with Australia allows a contrast with Australia, where there is a strong focus on welfare and consumer rights in relation to fur. New Zealand also can be included here because it has effectively dissipated the market for mink by banning the import of these animals, thereby making it almost impossible to farm them with no new stock able to be imported

Table 2: Summary of Fur-Farming Regulations and Issues

Country/Region	Summary of Regulation and Control of Fur Farming
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USA	Regulated at state rather than federal level, so control varies. Most anticruelty laws exempt fur-farmed animals. Regulation is weak in most areas. Exceptions include California, where tight regulation of conditions made production costs prohibitive and a ban on fur trapping was introduced in 2019 (for implementation in 2023). The federal Fur Products Labeling Act requires details of place of origin and species. Controversially, interference with fur farming is considered terrorism under the federal Animal Enterprise Terrorism Act.
Canada	No federal law—but mink and foxes are covered by the National Farm Animal Care Council’s Codes of Practice on fur farming.
Europe (including countries not in the EU)	<p>Council of Europe’s European Convention for the Protection of Animals Kept for Farming Purposes, adopted in 1976.¹⁰</p> <p>Animals must be kept according to their species needs according to scientific knowledge. Commentators suggest that this should effectively ban fur farming.</p>
European Union	<p>European Union Directive 98/58/EC of 20 July 1998 concerning the Protection of Animals Kept for Farming Purposes.¹¹</p> <p>No animal may be kept for fur farming if it is detrimental to the animal’s welfare. It has been suggested that this should effectively ban fur farming.</p> <p>Several countries have banned fur farming, such as the United Kingdom (2000), Austria (2004), the Czech Republic (2019), Croatia (phasing out by 2027), Belgium (by 2023), and the Netherlands (by 2024). In 2019 the Republic of Ireland voted to do likewise, and others are considering doing the same.¹²</p>

¹⁰ Council of Europe, European Convention for the Protection of Animals Kept for Farming Purposes (Strasbourg, France, March 10, 1976), 1–6.

¹¹ Council of the European Union, “Council Directive 98/58/EC of 20 July 1998 concerning the Protection of Animals Kept for Farming Purposes,” *Official Journal of the European Union*, L 221 (1998).

¹² Eurogroup for Animals and Fur Free Alliance, “The Environmental Impact of Fur Farming,” 2015, accessed May 19, 2020, http://www.tierschutz.com/pelz/toxic_fur/pdf/environmental_impact_fur_farming.pdf.

China	Regulation is extremely weak. There have been new moves to introduce controls, but these are highly unlikely to match the level of regulation seen in other countries.
New Zealand/Australia	New Zealand prohibits the import of mink, effectively banning mink farming. Lack of labeling laws. Australia has a very limited market and is a strong campaigner against fur farming.

The Use (and Abuse) of Science in Fur Farming

Before any conclusions are drawn about the socio-legal status of worldwide fur farming, it is necessary to summarize the scientific evidence in this area. In recent years, with the call for animal welfare claims to be evidence-based rather than reliant on anthropomorphic views of animal behavior, scientific evidence has burgeoned, answering the call.¹³

The farming of fur animals has, historically, attracted less criticism than the trapping of free-living fur animals.¹⁴ However, the farming of, effectively, undomesticated animals continues to attract significant criticism on the basis that the animals involved are naturally less able to adapt to the necessary conditions of confinement. Confinement seriously compromises their natural behavior and leads to the development of psychological disorders, casting doubt on the morality of using them in intensive confinement farming. A 2001 report on animals kept for fur farming, published by the European Commission’s Scientific Committee on Animal Health and Animal Welfare, concluded that “these species, in comparison with other farm animals, have been subjected to relatively little active selection, except with respect to fur characteristics. There has thus been only a limited amount of selection for tameness and adaptability to captive environments.”¹⁵

Other studies have looked at the wider environmental impact of fur farming. One study in Canada concluded that as “fur production is intensely polluting, energy-consumptive and an otherwise unnatural process, fur cannot be considered an environmentally friendly

¹³ Brooman and Legge, *Law Relating to Animals*, chap. 1.

¹⁴ Robert Garner, *Animals, Politics and Morality* (Manchester: Manchester University Press, 2004), 191.

¹⁵ Scientific Committee on Animal Health and Welfare, *The Welfare of Animals Kept for Fur Production* (European Commission, December 12–13, 2001), 185, accessed May 20, 2020, https://ec.europa.eu/food/sites/food/files/safety/docs/sci-com_scah_out67_en.pdf.

product.”¹⁶ In Europe, a report by the Eurogroup for Animals concluded that the climate change impact of mink fur is five times that of wool and that fur products contain carcinogens and other hazardous substances potentially detrimental to human health.¹⁷ Therefore, fur farming shares many of the traits identified with animal farming more generally, as a large polluter that unnecessarily increases global emissions in a trade whose major function is the generation of profit.¹⁸

The fur industry now seeks to use science to defend its practice. For example, the pro-fur lobbying group Fur Europe has championed its “WelFur science-based assessment program,” introduced in 2009, which professes to be the “world’s most advanced animal welfare assessment program.”¹⁹ Its overall claim is that science proves that fur farming in the EU is adequately protected by scientifically monitored welfare standards in areas of concern such as the development of negative emotions, appropriate housing systems, and allowing for natural behavior. The group proposes that clean conditions of care (e.g., lack of flies) and a “nutritious diet” are evidence of good practice and humane conditions.

Tensen suggests that the farming of foxes and mink may decrease illegal poaching.²⁰ However, Tensen’s article does not examine the danger that increased availability of fur products may stimulate demand in the market, leading to more poaching and captures of free-living animals, as witnessed in the case of ivory and rhino horns.²¹ Instead, Tensen relies on evidence from a 1937 book concerning the breeding of fur animals.²²

In response to the “scientific approach” of WelFur, Respect for Animals published *The Case against Fur Factory Farming* in 2015.²³ This report presents evidence that species’ needs are not met on fur farms. It suggests that the welfare of animals used in fur farming is severely compromised, and animals remain unable to perform many of their natural

¹⁶ Humane Society of the United States, “Toxic Fur: The Impacts of Fur Production on the Environment and the Risks to Human Health,” January 29, 2009, 5, accessed May 19, 2020, <https://www.scribd.com/document/38836299/Toxic-Fur>.

¹⁷ Eurogroup and Fur Free Alliance, “Environmental Impact of Fur Farming.”

¹⁸ Ramona Ilea, “Intensive Livestock Farming: Global Trends, Increased Environmental Concerns, and Ethical Solutions,” *Journal of Agricultural & Environmental Ethics* 22 (2009): 153–67.

¹⁹ Fur Europe, “WelFur: Science-Based Animal Welfare Programme,” 2017, <http://www.fureurope.eu/video/welfur-science-based-animal-welfare-assessment/>.

²⁰ Laura Tensen, “Under What Circumstances Can Wildlife Farming Benefit Species Conservation?,” *Global Ecology and Conservation* 6 (2016): 286–98.

²¹ Elizabeth Bennett, “Legal Ivory Trade in a Corrupt World and Its Impact on African Elephant Populations,” *Conservation Biology* 29, no. 1 (2015): 54–60.

²² Frank Ashbrook, *The Breeding of Fur Animals* (Washington, DC: US Government Printing Office, 1937).

²³ Heather Pickett and Stephen Harris, *The Case against Fur Factory Farming: A Scientific Review of Animal Welfare Standards and “WelFur”* (Respect for Animals, 2015), accessed May 19, 2020, <http://www.furfreealliance.com/wp-content/uploads/2015/11/Case-against-fur-farming.pdf>

behaviors, despite claims that they have improved diets and clean environments. The report's authors maintain that WelFur's approach fails, for example, to address serious limitations of current housing, does not meet existing minimum standards, involves dubious slaughter practices, and would be misleading if used as a basis for a labeling system. The report concludes that it is "impossible for the needs of mink and foxes to be met by the fur industry. A ban is the only viable solution."²⁴ WelFur's claim that it deals with welfare concerns should be viewed with skepticism as it does not carry the weight of scientific evidence. The same problem may apply in relation to labeling in the United States because labeling as to origin may have a limited impact on the overall welfare of fur-farmed animals.

Is Fur Farming Morally Justifiable?

Evidence showing the poor conditions experienced by fur animals has fueled consistent criticism. Perhaps the most shocking evidence arose from film footage of the live skinning of animals in China published by Swiss Animal Protection in 2005. No one on either side of the debate appears to support these barbaric scenes of suffering. Groups such as WelFur distance themselves from those practices, claiming that their animals have never lived in the wild, that they are better at coping with captive conditions, thereby allaying moral concerns. The question arises whether different killing techniques make this fur-farming morally acceptable.

This essay takes the position that the weight of scientific evidence leads to an inevitable conclusion that all animals confined and slaughtered for fur will be unable to express natural behaviors—for example, the desire of mink to swim—and that fur farming is a large contributor to environmental damage. When these factors are measured against fur farming's claimed benefits in supplying items for the fashion industry and a limited amount of employment, the practice cannot be considered "essential" in any normal meaning of the word.²⁵ Given the weight of evidence, the inevitable conclusion is that fur farming is morally unjustifiable in light of its inherent animal suffering and environmental damage, and the question should move to how to phase out its existence.

Counterarguments include Arney and Piirsalu's conclusion that the moral argument is based upon "the rather weak position of not harming furry animals with appealing faces."²⁶

²⁴ Pickett and Harris, *The Case against Fur Factory Farming*, 7.

²⁵ Nibedita Jena, "Animal Welfare and Animal Rights: An Examination of Some Ethical Problems," *Journal of Academic Ethics* 15 (2017): 377.

²⁶ David Arney and Peep Piirsalu, "The Ethics of Keeping Fur Animals: The Estonian Context," *Proceedings of the Latvian Academy of Sciences, Section B: Natural, Exact, and Applied Sciences* 71, nos. 1–2 (2017): 80.

With the greatest of respect to those authors, it is suggested here that this conclusion runs contrary to a significant body of scientific evidence and the weight of moral discourse.

The basic principles behind concern for animals used in farming generally were elucidated in the 1965 Brambell report. These principles are accepted as the minimum measure of morality in many countries. When the natural instincts and behaviors of animals such as mink are taken into account, this consideration adds weight to the suggestion that fur farming is morally unacceptable:

Modern, intensive animal production methods most markedly increase the responsibility of those who use them towards the animals in the charge. If any creature is wholly and continuously under control, we believe that this total human responsibility must be acknowledged, and that there is widespread public concern that it be seen to be acknowledged. Changing patterns of husbandry may mean varying degrees of frustration and discomfort to animals whose normal patterns of behavior are still imperfectly understood.²⁷

In 2001, the Scientific Committee on Animal Health and Animal Welfare noted that “these species, in comparison with other farm animals, have been subjected to relatively little active selection, except with respect to fur characteristics. There has thus been only a limited amount of selection for tameness and adaptability to captive environments.”²⁸ The weight of evidence is conclusively against there being any moral justification for fur farming. Thus, labeling (as in the USA) and pro-fur farming marketing campaigns such as WelFur do little to change this moral position.

Some Conclusions from This Tale of Three Continents

1. It is time to implement a “precautionary principle” in relation to fur-farming law

The proponents of animal welfare have always been saddled with a high burden of proof when making the case against fur farming and other misuse of animals. The argument goes something like this (I paraphrase): “If you want to change long-established practice in the use of animals, then you have to prove your case beyond all reasonable doubt. We make our

²⁷ Francis William Rogers Brambell, *Report of the Technical Committee to Enquire into the Welfare of Animals Kept under Intensive Livestock Husbandry Systems* (1965), para. 46.

²⁸ Scientific Committee, *The Welfare of Animals Kept for Fur Production*, 185.

living from it and have been doing this for such a long time that you must adduce strong evidence that irrefutably supports your contention to change the law.”

However, studying the nature of the potential harm should lead to a different approach according to studies in the related field of environmental ethics, where it is suggested that the pace of change is often slower than desirable and that law fails to keep pace with evidence. Kriebel et al. argue that there are areas where there is residual doubt about ultimate proof and that competing science can always reveal a certain ambiguity or uncertainty that often results in no change to the status quo. They suggest the use of a precautionary principle in gray areas where the harm–benefit analysis is uncertain. The burden of proof should fall on those who are engaging in and seeking to continue with a potentially damaging policy or practice.²⁹

Using this approach would radically affect fur farming. The introduction of a “science-based” argument such as WelFur clearly has the potential to muddy the waters so that those favoring a ban will find it more difficult to alter dubious practices. However, using the precautionary principle in fur farming is entirely reasonable in light of evidence of significant welfare concern. The reasoning behind applying the principle to cases of environmental concern should surely apply even more so to cases of the suffering of sentient beings. Using the precautionary principle shifts the burden of proof and is highly pertinent in many areas where animal welfare problems persist. It asks those producing fur to prove that the human need to wear animal skins outweighs the evidence of animal suffering in captive fur-farming environments.

A word of caution on the potential use of the principle is that it is likely to come up against the same resistance that is encountered when concerns are raised over the captive housing of undomesticated animals—convincing governments to implement the principle may be difficult. However, it does have the benefit of wide global support that has seen it applied in law in cases of, for example, overfishing, North Sea pollution, and ozone depletion.³⁰

2. *The weight of animal welfare and environmental evidence counters unconvincing claims of the industry*

The fur trade has been remarkably resilient in the face of evidence of suffering that has caused consumer demand to fall. Figures reveal that demand has often recovered as new

²⁹ David Kriebel et al., “The Precautionary Principle in Environmental Science,” *Environmental Health Perspectives* 109, no. 9 (2001): 871–76.

³⁰ Kriebel et al., “The Precautionary Principle,” 871.

markets emerge and regulators fail to take full cognizance of scientific evidence in relation to suffering. It is in some ways remarkable that the industry has survived for so long—a testament to strong lobbying and a willing fashion market.

Whereas markets drive demand, it is widely acknowledged that animal welfare and policy need to be guided by evidence: “Advances in knowledge of animal behavior and biology support the belief that many animals are sentient and have complex social behaviors, a means of communication and some demonstration of self-awareness . . . as a result . . . we are forced to consider the moral implications of our interactions with animals.”³¹ More recently, the fur industry’s moves toward countering science with the pseudo-scientific evidence of WelFur have tended to deflect evidence that undomesticated animals have intrinsic desires, habits, and behaviors that cannot be met in highly confined conditions. A spokesman for WelFur suggests that free-living animals are different from the captive-bred animals used in fur farming³²—but this does not address continued evidence that the latter animals self-harm and show signs of mental distress. WelFur does not counter a key criticism that fur farms do not cater to any need, nor does the scheme answer concerns regarding environmental damage caused by the industry. WelFur is a marketing strategy created to counter criticism and used to bolster fur’s acceptability in the fashion market.

Another problem with the scientific evidence used by the pro-fur lobby is that it is selective in examining welfare concerns. For example, Korhonen et al.’s evaluation of the euthanasia of farmed foxes concludes that electrical stunning is a humane method of euthanasia.³³ While a scientific approach is welcome, this conclusion falls into the common trap of failing to put the whole life cycle of farmed foxes into perspective. Suffering can occur at many stages of an animal’s life cycle, from birth to slaughter.

Focusing on only one element of this life cycle may skew moral considerations toward a false result, as seen in the case of religious slaughter.³⁴ Full ethical evaluation can occur only where all potential areas of concern are considered, such as the conditions in which the

³¹ Carla Brown, “Animal Welfare: Emerging Trends in Legislation,” in *Report of the Whale Welfare and Ethics Workshop* (2011), 57, held 22/23 March 2011, Eden Project, Cornwall, United Kingdom <https://www.awionline.org/sites/default/files/uploads/documents/ml-whalewelfareethicsworkshopreport-101111.pdf#page=57>

³² Cited in Rachel Bale, “Fur Farms Still Unfashionably Cruel, Critics Say,” *National Geographic*, August 17, 2016, accessed May 19, 2020, <https://www.nationalgeographic.com/animals/article/wildlife-china-fur-farming-welfare>.

³³ Hannu Korhonen, Sigitas Cizinauskas, and Ranno Viitmaa, “Evaluation of the Traditional Way of Euthanasia of Farmed Foxes from an Animal Welfare Point of View,” *Annals of Animal Science* 9, no. 1 (2009): 73–87.

³⁴ Simon Brooman, “In Search of the Missing Ingredient: Religious Slaughter, Incremental Failure, and the Quest for the Right to Know—A Response to Anna Joseph,” *Journal of Animal Ethics* 6, no. 2 (2016): 153–63.

animal is raised, how the animal is treated up to slaughter and transported to slaughter, and the way in which the animal was allowed to express his or her natural habits and behaviors. These factors all need consideration in an open and honest evaluation of evidence. Perhaps one solution for evaluating evidence would be to open up fur farming to greater scrutiny by local councils on welfare that would include membership from academic and welfare groups and so extend a system for other farming suggested by Mejdell.³⁵

3. *Is education a better tool to reduce fur-farming than legislation?*

The United Kingdom became the first country in Europe to ban fur farming with the Fur Farming (Prohibition) Act 2000. The time limit imposed for compliance was three years. Thus came an end to the farming of 1.3 million animals for pelts annually in the UK, with only the by-products of meat production exempted. The ban followed a public consultation by the government that confirmed widespread support for the measure. Public awareness of and disquiet at the suffering of fur-farmed animals followed a concerted campaign by groups such as Respect for Animals that managed to gain a commitment to act from an incoming government.

However, the question is whether the same pattern leading to a ban is repeatable in other parts of the world. The United Kingdom has a long history of leading animal welfare regulation, starting with its historic introduction of an Act to Prevent the Cruel and Improper Treatment of Cattle in July 1822 by Richard Martin.³⁶ Other countries are less open to introducing animal welfare legislation, and considerable work will need to be done.

In China, for example, there are significant cultural barriers and economic imperatives that make complete prohibition difficult to achieve, since there are different priorities.³⁷ In situations such as this, the best that might be achieved is regulation to significantly reduce suffering.³⁸ In the EU, there is a much more realistic chance of prohibiting fur farming in the near future. The momentum appears to be swinging conclusively in the direction of countries banning the practice outright, although fluctuations in demand have seen the emergence of new fur-farming production in eastern Europe. There may also be a downside to consider—how would welfare advocates react if all fur were imported from areas with weaker

³⁵ Cecilie Marie Mejdell, “The Role of Councils on Animal Ethics in Assessing Acceptable Welfare Standards in Agriculture,” *Livestock Science* 103, no. 3 (2006): 292–96.

³⁶ Brooman and Legge, *Law Relating to Animals*, 44.

³⁷ Peter J. Li, “Animal Suffering in China,” *Animal Sentience: An Interdisciplinary Journal on Animal Feeling* 1, no. 7 (2016): 8.

³⁸ Sima and O’Sullivan, “Chinese Animal Protection Laws,” 21.

regulation? The answer may lie in the approach of the UK that, in 2021, began consultation to potentially ban fur imports so targeting the market, as well as production.

The fur-fashion industry, from production to sale, is not responding to the evidence that emerges from animal welfare science—even though EU Directive 98/58/EC is clear that conditions need to be adjusted if the keeping of an animal is clearly detrimental to the animal’s welfare.³⁹ However, where law-makers fail to intervene effectively, an educated consumer can alter the future of fur farming by reducing demand for products produced with inherent cruelty. In addition, educating those in the industry may also provide part of the answer. There is a strong moral case not only to exert consumer or legislative pressure, but to educate those in the industry to avoid fur. As Nathaniel Beard suggests,

ultimately . . . the continuation of ethical fashion lies with the people engaged within it. Education initiatives, such as the establishment of an MA in Ethical Fashion by the University of the Creative Arts, aims [*sic*] to ensure that future generations of fashion professionals and decisions makers develop a prolonged passion for ecofashion to take with them into the industry.⁴⁰

Education has the power to reach where governments fear to tread. In this regard, the emergence of new discipline-based law courses that address issues around animal welfare will also help.⁴¹ These have the potential to educate the next generation of decision makers, generate evidence, create partnerships for action between academia and industry, and examine the issues through networks of academic activity. It will fall on governments to act, but they are likely to be driven to do so by educated voters who demand change.

4. The European paradox needs to be challenged.

The European Union, or perhaps more accurately, Europe, contains perhaps the greatest paradox in the case of fur farming. Europe boasts a host of animal welfare-conscious nations, animal protection laws, and organizations campaigning for animal welfare. The United Kingdom is the birthplace of much animal welfare legislation, as shown by government reactions to the Brambell report, which influenced the introduction of legislation to protect

³⁹ Council of the European Union, “Council Directive 98/58/EC.”

⁴⁰ Nathaniel Dafydd Beard, “The Branding of Ethical Fashion and the Consumer: A Luxury Niche or Mass-Market Reality?,” *Fashion Theory* 12, no. 4 (2008): 464.

⁴¹ Simon Brooman, “Creatures, the Academic Lawyer and a Socio-Legal Approach: Introducing Animal Law into the Legal Education Curriculum,” *Liverpool Law Review* 38, no. 3 (2017): 243–57.

farmed animals in many countries. China attracts attention because of poor conditions in the housing, treatment, and slaughter of fur animals. Although it is suggested that China is the area in need of most improvement, its global influence is not as great as Europe's.⁴²

The continent of Europe plays the leading role in the worldwide fur-farming industry. It is home to the highly influential International Fur Federation, which lobbies strongly for the industry, and is the location of a significant percentage of fur production. It is home to the biggest global fur-fashion houses making it both the crucial hub for designers who create the demand for fur, alongside those who provide the market with pelts.

At the same time, Europe has laws in place that already could have made fur production in Europe obsolete. Chief among these is Article 3 of the European Convention for the Protection of Animals Kept for Farming Purposes: "Animals shall be housed and provided with food, water and care in a manner which—having regard to their species and to their degree of development, adaptation and domestication—is appropriate to their physiological and ethological needs with established experience and scientific knowledge."⁴³ This is amended in the case of the EU by a European Union directive (98/58/EC) that gives further detail regarding the protection given to animals in the EU itself: "No animal shall be kept for farming purposes unless it can reasonably be expected . . . that it can be kept without detrimental effect on its health or welfare."⁴⁴

Vaqué suggests that this creates a positive duty to act where animals cannot be kept without detrimental effects on their welfare.⁴⁵ But the European Union has failed to enforce existing legislation against fur farming. It appears that the European Court of Justice has ignored scientific evidence on the ability of fur-farmed animals to express their natural behavior. Only consumer demand, affected by evidence of poor animal welfare, appears to halt the market for fur.

In 1997, the EU introduced a protocol to its treaties that stated the following:

In formulating and implementing the Community's agriculture, transport, internal market and research policies, the Community and the Member States shall pay full

⁴² Lesley Peterson, "Summary of Fur Laws and Fur Production," Animal Legal and Historical Center, Michigan State University College of Law, 2010, accessed May 19, 2020, <https://www.animallaw.info/intro/fur-production-and-fur-laws>.

⁴³ Council of Europe, European Convention. (The Council of Europe is a pan-European body that encompasses countries within the European Union and those outside it.)

⁴⁴ Council of the European Union, "Council Directive 98/58/EC."

⁴⁵ Luis González Vaqué, "The Cloning of Animals for Farming Purposes in the EU: From Ethics to Agri-Food Law," *European Food and Feed Law Review* 9, no. 4 (2014): 223.

regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.

A failure to act in the case of fur farming may be explained by the fact that the suffering of fur-farmed animals is part of the “cultural tradition” in those countries. If so, this state of affairs could justify almost any treatment, no matter how cruel. It is concluded here that in Europe cruel fashion has not been adequately scrutinized under existing law. This has been recognized for a considerable time.⁴⁶

Conclusion

The weight of scientific evidence is against fur farming, despite attempts to confuse decisive science with marketing campaigns such as WelFur. However, fur farming continues to thrive to a large extent because some governments face cultural barriers to introducing legislation, and others are influenced by strong lobbyists. The fashion industry plays an extensive role in driving the global market in fur, its approach fluctuating from occasional consumer-driven distaste and eco-consciousness to blatant championing of fur.

This essay reveals a paradox in that Europe is the originator of the strongest legislation against fur farming yet maintains its undoubted status as the hub of the fur market. It provides a home to the large fashion houses and is the point of origin for fur-production marketing strategies. The paradox is enhanced by the presence of legislation that could, if properly enforced, ban fur farming in Europe. The existence of fur farming appears to be contrary to Council of Europe and EU provisions that specifically require that farming practices take adequate account of the natural habits of the species involved. Those in the industry claim that they take adequate account of species requirements, but convincing evidence that weighs heavily against this claim continues to emerge.

Perhaps it will take something as significant as the global pandemic of 2020 to bring an end to fur farming. It was reported in May 2020 that coronavirus is passed between farm workers and mink, thereby illustrating the dangers we face in interfering with the lives of undomesticated animals for superfluous benefits.⁴⁷ Thousands of animals were slaughtered as

⁴⁶ Andrew Linzey, “The Ethical Case for European Legislation against Fur Farming,” *Animal Law* 13 (2006): 147.

⁴⁷ Helen Briggs, “Coronavirus: Calls to Shut Down ‘Dirty Fur Trade,’” *BBC*, May 5, 2020, accessed May 21, 2020, <https://www.bbc.co.uk/news/science-environment-52535075>.

a result. The move towards banning fur-farming and preventing the suffering of animals in this dubious luxury market is gathering pace, but action to protect human beings happens extremely quickly. If fur-farming affects human health directly it will come under intense pressure. However, if human interest does not reduce the practice, campaigns against fur may follow the experience of previous animal welfare campaigns such as whaling, seal culling, bearbaiting, use of leghold traps, experimentation on higher primates, and foxhunting. Significant change requires education of both consumer and those in the market for fur - to allow the emergence of what is evident and clear – fur-farming is barbaric and needs to stop.

Bibliography

- Arney, David, and Peep Piirsalu. “The Ethics of Keeping Fur Animals: The Estonian Context.” *Proceedings of the Latvian Academy of Sciences, Section B: Natural, Exact, and Applied Sciences* 71, nos. 1–2 (2017): 78–80.
- Ashbrook, Frank. *The Breeding of Fur Animals*. Washington, DC: US Government Printing Office, 1937.
- Bale, Rachel. “Fur Farms Still Unfashionably Cruel, Critics Say.” *National Geographic*, August 17, 2016. Accessed May 19, 2020.
<https://www.nationalgeographic.com/animals/article/wildlife-china-fur-farming-welfare>.
- Beard, Nathaniel Dafydd. “The Branding of Ethical Fashion and the Consumer: A Luxury Niche or Mass-Market Reality?” *Fashion Theory* 12, no. 4 (2008): 447–67.
- Bennett, Elizabeth. “Legal Ivory Trade in a Corrupt World and Its Impact on African Elephant Populations.” *Conservation Biology* 29, no. 1 (2015): 54–60.
- Brambell, Francis William Rogers. *Report of the Technical Committee to Enquire into the Welfare of Animals Kept Under Intensive Livestock Husbandry Systems*. 1965.
- Briggs, Helen. “Coronavirus: Calls to Shut Down ‘Dirty Fur Trade.’” *BBC*, May 5, 2020. Accessed February 17, 2022. <https://www.bbc.co.uk/news/science-environment-52535075>.
- Brooman, Simon. “Creatures, the Academic Lawyer and a Socio-Legal Approach: Introducing Animal Law into the Legal Education Curriculum.” *Liverpool Law Review* 38, no. 3 (2017): 243–57.
- . “In Search of the Missing Ingredient: Religious Slaughter, Incremental Failure, and the Quest for the Right to Know—A Response to Anna Joseph.” *Journal of Animal Ethics* 6, no. 2 (2016): 153–63.
- Brooman, Simon, and Deborah Legge. *Law Relating to Animals*. London: Cavendish, 1997.

- Brown, Carla. "Animal Welfare: Emerging Trends in Legislation." In *Report of the Whale Welfare and Ethics Workshop*, 57. 2011, held 22/23 March 2011, Eden Project, Cornwall, United Kingdom <https://www.awionline.org/sites/default/files/uploads/documents/ml-whalewelfareethicsworkshopreport-101111.pdf#page=57>
- Council of Europe. European Convention for the Protection of Animals Kept for Farming Purposes. Strasbourg, France, March 10, 1976.
- Council of the European Union. "Council Directive 98/58/EC of 20 July 1998 concerning the Protection of Animals Kept for Farming Purposes." *Official Journal of the European Union*, L 221 (1998).
- Eurogroup for Animals and Fur Free Alliance. "Overview of National Legislation on Fur Farming in Europe." 2015. Accessed February 17, 2022. <http://www.furfreealliance.com/wp-content/uploads/2016/11/Overview-of-national-legislation-on-fur-farming-in-Europe-1.pdf>.
- . "The Environmental Impact of Fur Farming." 2015. Accessed February 17, 2022. http://www.tierschutz.com/pelz/toxic_fur/pdf/environmental_impact_fur_farming.pdf.
- Fur Europe. "WelFur: Science-Based Animal Welfare Programme." 2017. See <https://www.sustainablefur.com/animal-welfare/>
- Garner, Robert. *Animals, Politics and Morality*. Manchester: Manchester University Press, 2004.
- Humane Society of the United States. "Toxic Fur: The Impacts of Fur Production on the Environment and the Risks to Human Health." January 29, 2009. Accessed February 17, 2022. <https://www.scribd.com/document/38836299/Toxic-Fur>.
- Ilea, Ramona. "Intensive Livestock Farming: Global Trends, Increased Environmental Concerns, and Ethical Solutions." *Journal of Agricultural & Environmental Ethics* 22 (2009): 153–67.
- Jena, Nibedita. "Animal Welfare and Animal Rights: An Examination of Some Ethical Problems." *Journal of Academic Ethics* 15 (2017): 377–95.
- Kriebel, David, Joel Tickner, Paul Epstein, John Lemons, Richard Levins, Edward L. Loechler, Margaret Quinn, Ruthann Rudel, Ted Schettler, and Michael Stoto. "The Precautionary Principle in Environmental Science." *Environmental Health Perspectives* 109, no. 9 (2001): 871–76.
- Korhonen, Hannu T., Sigitas Cizinauskas, and Ranno Viitmaa. "Evaluation of the Traditional Way of Euthanasia of Farmed Foxes from an Animal Welfare Point of View." *Annals of Animal Science* 9, no. 1 (2009): 73–87.

- Leaky, Richard, and Roger Lewin. *Origins Reconsidered: In Search of What Makes Us Human*. London: Abacus Books, 1992.
- Li, Peter J. “Animal Suffering in China.” *Animal Sentience: An Interdisciplinary Journal on Animal Feeling* 1, no. 7 (2016): 8–11.
- Linzey, Andrew. “The Ethical Case for European Legislation against Fur Farming.” *Animal Law* 13 (2006): 147.
- Mejdell, Cecilie Marie. “The Role of Councils on Animal Ethics in Assessing Acceptable Welfare Standards in Agriculture.” *Livestock Science* 103, no. 3 (2006): 292–96.
- Pickett, Heather, and Stephen Harris. *The Case against Fur Factory Farming: A Scientific Review of Animal Welfare Standards and “WelFur.”* Respect for Animals, 2015. Accessed February 17, 2022. <http://www.furfreealliance.com/wp-content/uploads/2015/11/Case-against-fur-farming.pdf>.
- Peterson, Lesley. “Summary of Fur Laws and Fur Production.” Animal Legal and Historical Center, Michigan State University College of Law, 2010. Accessed February 17, 2022. <https://www.animallaw.info/intro/fur-production-and-fur-laws>.
- Respect for Animals. “Statistics.” Accessed May 19, 2020. <http://www.respectforanimals.org/statistics/>.
- Scientific Committee on Animal Health and Welfare. *The Welfare of Animals Kept for Fur Production*. European Commission, December 12–13, 2001. https://ec.europa.eu/food/system/files/2020-12/sci-com_scah_out67_en.pdf. Accessed February 17, 2022.
- Sima, Yangzi, and Siobhan O’Sullivan. “Chinese Animal Protection Laws and the Globalization of Welfare Norms.” *International Journal of Law in Context* 12, no. 1 (2016): 1–23.
- Spark, Gareth. “Protecting Wild Animals from Unnecessary Suffering.” *Journal of Environmental Law* 26 (2014): 473–94.
- Tensen, Laura. “Under What Circumstances Can Wildlife Farming Benefit Species Conservation?” *Global Ecology and Conservation* 6 (2016): 286–98.
- Vaqué, Luis González. “The Cloning of Animals for Farming Purposes in the EU: From Ethics to Agri-Food Law.” *European Food and Feed Law Review* 9, no. 4 (2014): 223–32.