

# Advocating for Animals: A Guide to Legislative Advocacy

Written in collaboration with:





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# An Introduction to Legislative Advocacy

Advocating for Animals:  
A Guide to Legislative Advocacy

CALF | Collier Animal  
Law Forum

## Introduction

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# Introduction

**Animal advocates engage in a large repertoire of actions to try and influence legislation. Animal advocates are especially known by the public for their social campaigns, which aim to raise awareness about animal protection issues.**

However, the strategy of animal advocates can also include legislative advocacy, defined as “efforts to influence the introduction, enactment, or modification of legislation.”<sup>1</sup> Legislative advocacy is an umbrella term used to describe many forms of advocacy aimed at those with legislative powers. The most common form of legislative advocacy is direct lobbying. The distinction between general legislative advocacy and lobbying can be difficult to parse, but is important for the purposes of this resource. Direct lobbying refers to any work designed to shape legislation through contact with legislators, their offices, or other government officials. Legislative advocacy is the pursuit

of legislative change, with direct lobbying encompassing a narrower, jurisdictionally defined type of legislative advocacy. Legislative advocacy can include attending a city council meeting and speaking up about a particular issue, or writing a letter to the editor of a local paper, or hosting a protest. Such advocacy is not necessarily lobbying that needs to be reported to the government, depending on the parameters of lobbying in the government system you are working in. Because each jurisdiction has specific rules and requirements for lobbying, it is important to research the relevant regulations before beginning this work.

<sup>1</sup> *Texas Coalition to Abolish Death Penalty, Advocacy 101, Citizen Action Guide (2010)*, available online: <https://tcadp.org/wp-content/uploads/2010/07/Legislative-Advocacy-101.pdf>



# 1. Types of Legislative Advocacy: Lobbying

**Lobbying, or attempting to shape legislation through contact with legislators, their offices, or other government officials, is one of the most powerful ways to make legislative change.**

No matter one's age, occupation, or political affiliation, citizens of democratic government systems may contact legislators regarding issues they want to be addressed. By hearing directly from constituents via lobbying, legislators and key decision-makers can assess and prioritise the concerns of the individuals they represent. Lobbying itself can take many forms, including emailing, calling, and meeting with legislators to express opinions or to convince them to champion an issue. This section of the resource focuses on how to go about securing meetings with legislative offices, how to lobby successfully, and the importance of building relationships with legislators. The following subsections provide step-by-step directions for lobbying legislators while providing tips and tools for successful advocacy.

## 1.1. Get Informed: The Issue

Before starting lobbying, advocates should have a firm grasp on the issue they are working on so as to handle lobbying meetings with confidence. If you have a rudimentary understanding of what you would like to regulate and the corresponding issues to be addressed but want more information, it is recommended to seek out experts on the topic. Advocates can reach out to an organisation that does work on the issue and see if they can provide proper language, statistics, and background information. At the very least, advocates can use online search engines to obtain more details about the issue, how it can be regulated, and why regulating it in the manner you desire is optimal. Advocates should keep in mind that lobbying is not about talking to legislators about a general subject; rather, lobbying is about approaching them with a specific action they should take. (For more on action prioritisation, see "Prioritising Policies for Advocacy.")

Advocates should research which, if any, other NGOs are actively engaged with legislators in your cause area. If a more well established or resourced organisation is already lobbying

legislators in the area you care about, it may be more effective to work in collaboration, volunteer your time to the other organisation, or choose a different "ask". When doing this research consider NGOs outside of the Animal Protection Movement, for instance those working in climate, social justice, worker's rights or health. Building a coalition around your cause, particularly if it addresses the demands of a broad range of groups, can be an effective means to build traction for your cause. These other organisations may have existing relationships with legislators that can be leveraged.

## 1.2. Get Informed: Legislators

Next, advocates should decide which legislators to contact. When lobbying on the federal/ EU, or state/national level, advocates can search for Members of Congress, or Parliaments who serve the applicable jurisdictions (for example, the US Congress and the European Parliament). Advocates interested in a local campaign can also research their city council members and other relevant official bodies like bureaus, county structures, and regional governments. No matter what level of government advocates work within, it is a good idea to reach out to their own legislators first, particularly in the U.S., for a few reasons. Constituents hold a special power in their relationship with legislators because lawmakers are more inclined to prioritise the causes constituents care about and listen to what they have to say. Furthermore, if legislators that do not represent advocates ask if the advocates have already reached out to their own legislators, the advocates should be able to respond affirmatively with what their legislators said (or a good reason why they have not contacted them.) With the resources available online, advocates can quickly learn who their legislative leaders are, their party affiliation, what issues they care about, and what committees they sit on. In some jurisdictions, online resources will provide legislative representatives' voting history, and whether





they are up for re-election anytime soon.

Once advocates have a broader understanding as to who their legislators are, they can search for more specific information, such as whether these legislators supported or opposed an animal protection issue in the past; or whether they sponsored, co-sponsored, or voted on any legislation connected to an animal protection topic (for instance, Votesmart.org is a great resource for obtaining this information about legislators in the US). When beginning this research, it is a good idea for advocates in the U.S. to start with the legislators that represent them and assess if they seem open to supporting the advocate's cause. Then, advocates can expand the search by surveying the other legislators in the relevant legislative branch. Here are a few questions advocates can try and answer: Are there any politicians who are particularly interested in this issue, or have expressed support for animal welfare causes? Who (or what committee) will this legislative proposal most likely be sent to? In addition to tracking the information of one's own legislators, it is recommended that advocates identify other decision-makers who might be good to have in one's corner and keep a written reminder of why these legislators might support the cause.

Lastly, before reaching out to schedule the lobbying meeting, advocates should make sure to know the rules related to lobbying in the relevant jurisdiction (city, state, state or Member State, federal government). The EU and its 27 Member States, as well as the U.S. federal government and all 50 states have lobbying disclosure and registration requirements, which often include the number of hours lobbied and the nature of the lobbying activity allowed without registering or reporting. Advocates need to determine whether their activities meet the definition of lobbying and whether those activities need to be reported. For example, here are the definitions of lobbying in the city of Portland and state of Oregon, and the EU:

- Portland: "Attempting to influence the official action of City officials. Lobbying includes time spent preparing emails and letters and preparing for oral communication with a City official." (Portland, Oregon, Municipal Code § 2.12.020 (2022).)
- Oregon: "Influencing, or attempting to influence, legislative action through oral or written communication with legislative officials, solicitation of executive officials or other persons to influence or attempt to influence legislative action or attempting to obtain the goodwill of legislative officials." (Or. Rev. Stat. Ann. § 171.725)

- EU: "Activities carried out by interest representatives with the objective of influencing the formulation or implementation of policy or legislation, or the decision-making processes of the signatory institutions or other Union institutions, bodies, offices and agencies [...]. Covered activities [...] include inter alia: "(a) organising or participating in meetings, conferences or events, as well as engaging in any similar contacts with Union institutions; (b) contributing to or participating in consultations, hearings or other similar initiatives; (c) organising communication campaigns, platforms, networks and grassroots initiatives; (d) preparing or commissioning policy and position papers, amendments, opinion polls and surveys, open letters and other communication or information material, and commissioning and carrying out research." (Article 3, Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a Mandatory Transparency Register, 2021 OJ (L 207) 1–17.)

If one's lobbying activities meet the threshold that triggers the jurisdiction's disclosure and registration requirements, they must register and accurately track and report their lobbying activities.

### 1.3. Contacting Legislators

When getting in touch with legislators, it is important to know there is a good chance the legislator will not be available to meet with directly. Legislators usually have policy advisors, assistants, members of the cabinet, or other office staff members who meet with constituents and relay information to the legislators. No matter who you are offered a meeting with, it is recommended to agree to meet with them. By building a positive relationship with a lower-level legislative staff member or assistant, they may forward the issue to other staff members, assistants or the legislator. Also, because legislative advocacy is a long-term strategy, consider that junior staff members and assistants may one day become senior staff members with more power to support the cause. It is also common for junior legislative staff members to shift positions to other governmental bodies and connecting with that other audience via a junior staffer ally might be just what is needed for a successful legislative campaign. Additionally, someone's title or status may not accurately reflect their ability to help propel the issue forward. And, of course, educating anyone within the legislative realm about the issue is likely to help, whereas missed opportunities cannot. It is usually a good idea to contact multiple relevant legislators at once.





Some relationships may progress more quickly than others, and some legislators might be persuaded by the knowledge that others support your cause.

After deciding which legislators to contact, advocates must decide how to initiate the conversation: email or call the legislator's office. Email is the quickest and often most effective way to request a meeting with legislators. Email allows advocates to thoughtfully plan out what they would like to discuss with the legislator and provides the opportunity to make a good first impression. When crafting the initial outreach email to legislators, it is highly recommended to be clear about the topic to be discussed and who will attend the requested lobbying meeting. In your correspondence, you can express gratitude for the work and/or voting record of the legislator that aligns with your own values. Advocates should also make sure to use the legislators' title (e.g., Senator Jones, Representative Smith, Member of the European Parliament Dupont) and a respectful, positive, and appreciative tone. If you can, attach or summarise a one-page or other concise document laying out any information that the legislator's staff can read beforehand. Sending this information in the initial outreach email saves advocates and the legislative staff time during the lobbying meeting and allows the legislative office to more deeply inquire about the issue and the request. That being said, be strategic about what to leave for the in-person discussion. Sometimes, but not always, it is better to omit certain disadvantages of one's opinion or proposal from the initial email and wait to see if the legislative staff asks about the downsides. If an advocate has good responses for the downsides, they may want to offer both the concern and the response before the meeting. However, advocates should be cautious withholding disadvantages of their proposal later in your engagement with legislators. Legislative advocacy is about building relationships, so it may be harmful to the relationship if a legislator later finds out there are downsides to your proposal that you have not informed them. Instead you should critically look at your proposal for shortcomings and issues and prepare your response.

When attempting to schedule a meeting with a legislator's office, be flexible about the timing but forward about the request at hand. Advocates may propose specific dates and times to meet in the coming weeks and ask if any of those options work for the legislative office. Advocates can show that they are respectful of the legislator's time by adding that if none of those times work for the legislator, they are willing to do whatever is best for their office. Hopefully, a legislative assistant replies sooner rather than later. But

legislative staff members can have ten or fifteen meetings a day and simply not have the bandwidth to respond right away. Before sending a request for a meeting, it is useful to check the legislative calendar—are the legislators in session, actively making laws? If so, they could be particularly busy. Lobbying requires patience, and the legislative office may not respond for a little while. Meetings can also be scheduled and cancelled (maybe even more than once) given the hectic nature of the lawmaking process. If it has been two full weeks since an advocate originally reached out and they still have not heard back from the legislator's office, it is appropriate to politely follow back up and see if they have time to schedule a meeting. Because delay is so common, it is important to start this process well before any decision-making deadlines approach. The legislative office will need considerable time to schedule the meeting, consider the request, and follow up as appropriate.

#### 1.4. Preparing for the Meeting

If the legislative office schedules a meeting with the advocate, the advocate should organise all pertinent information before the date of the meeting. Because lobbying meetings tend to run rather short (ten to thirty minutes), preparing for the meeting is where most of the legislative advocacy lies. Advocates may bring a notepad with specific pieces of information they want to be sure to convey (or might forget). It may also be helpful to print persuasive yet succinct materials to give the legislative staffer during the meeting (things that have not already been shared). This material is often a one-page fact sheet or draft bill. You can create a visually interesting one-pager by including pictures, graphs and diagrams. These documents help the legislative staffer gauge how much thought the advocate has put into this proposal and can save them the time and energy of doing research on their own. However, do not take it personally if they have critiques or substantial edits for the draft bill, as legislators tend to write legislation themselves. Also do not be surprised if it appears they have not read any of the materials sent to them before the meeting. Sometimes, they do not have time to prepare for these meetings because they are already engaged with many other matters. Other times, they may have read the materials, but want to hear what the constituent has to say about the issue. It is also possible that the legislator and their staff are not well informed about your cause area as a legislator's brief is wide ranging. The purpose of your one-page fact sheet or bill is to provide the essential information for a legislator to decide whether to support your efforts.

When assembling these materials, ask





yourself: what is my measure of success for this lobbying meeting? Success might be receiving interest from that office in working on this issue further. But success can also be introducing yourself or a nonprofit organisation you work with and briefly raise the legislative office's awareness on the issue. It is recommended to set reasonable expectations for the meeting as well as being intentional about your long-term goals and ensuring that your materials and demeanour enable your vision of success.

### 1.5. Meeting with Legislators

The COVID-19 pandemic permanently changed the ways in which we communicate with one another, including meeting with legislators. Traditionally, individuals or groups could request in-person meetings with elected officials to lobby them on a particular issue. But since March 2020, in-person meetings are not always feasible. Instead, advocates may receive information about how to have a phone call or video conference call with a legislative staffer. Virtual meetings can be just as effective as in-person meetings and require an equal amount of practice. They can even be far more convenient as they avoid the need to travel to the legislator's office. No matter the setting, advocates should speak confidently and clearly about their issue to communicate effectively. Practising the short presentation as well as answers to anticipated questions helps get there.

If the meeting is in-person, research the distance and time of travel, modes of available transportation, parking accommodations and costs (if applicable), as well as rules pertaining to building access, as most parliaments

require visitors to complete a registration and security check. If the meeting is virtual, check a few days before the meeting for suitable technology and accounts, making sure you have the right software uploaded to your computer and that it is up to date. Also consider where to conduct a virtual meeting, keeping in mind lighting, noise, and backgrounds. Whether the meeting is virtual or in-person, wear professional attire and maintain eye contact as much as possible.

If the meeting includes more than one constituent or advocate, it is crucial to assign roles for each person ahead of time. One person can be the facilitator, who introduces the individuals who requested the meeting, briefly states the issue, and facilitates the conversation throughout the meeting. Another person can be the storyteller, who uses their power as a constituent and personal connection to the issue to amplify the urgency or weight of what needs to be conveyed, or the expert, who presents the legislator with the issues and proposed solutions. And if someone wants to attend the meeting but not lead the conversation, they can always be the notetaker who is responsible for recording the legislative staffer's responses, or the person who can share certain facts or information.

When the meeting is about to start, advocates will find themselves waiting outside an office, in a virtual waiting room, or staring at their phone anticipating a call. Whichever situation presents itself, be sure to arrive earlier than the designated meeting time. As introductions begin (name, home location, relevant affiliations), remember that this is likely not the legislative staffer's first meeting of the day. Do not speak too quickly or assume they are

familiar with the issue. At the same time, avoid condescension and meet the legislator where they are. If feelings of fear and intimidation arise as the meeting begins, remember: this is simply a conversation. Advocates are there to share information, make a case for a specific action, and see how the legislative staffer reacts. Listen closely to the staffer's responses and concerns and address them honestly and positively. Never make anything up on the spot. By sharing information that is inaccurate, advocates reduce their chances of being seen as credible. Instead, when unsure of what to say, advocates should let them know they will do some research and follow up with the legislator's office after the meeting to properly answer their question.

With introductions out of the way, it can be helpful to start the conversation with something the legislator cares about that can segue into your topic. Sharing facts, data, or stories that relate to the issue and resonate with the legislators' interests signify that the advocate knows the legislator well and is aligned with their values. In the animal welfare context, this usually means laying out a diverse array of arguments for the cause. For example, if an advocate wants to put forward a bill to regulate the dairy industry in their state and their legislator is a known environmental advocate, discussing the link between dairy production and climate change can incentivize that legislator to view the issue as politically significant from the beginning of the conversation. Advocates do not have to ignore issues of animal welfare altogether in the pursuit of finding common ground but attempting to guilt or scare the legislator into action will likely not be effective. Therefore, it is recommended to describe the reasons why the issue is important from several perspectives depending on your interlocutor's concerns, political positions, and background.

While conveying the overarching message to the legislator, also keep these recommendations in mind:

- If the advocate sent the legislators' office any materials ahead of time, do not read them aloud during the meeting. Advocates should always avoid reading from their notes directly and instead practise what they want to say to the legislator at least a few times before the meeting.
- Concisely deliver the main points, without a PowerPoint or visual aid, while maintaining a comfortable dialogue. (Be prepared for the possibility that you will be meeting for a short time, with no equipment to project slides.)
- Acknowledge viewpoints that are contradictory to the legislator's opinions

or actions. This is a strategic choice and is not always the right one. But it can show under the right circumstances that the advocate considered perspectives beyond their own, did their homework, and saved the legislative staffers the time of looking into opposing arguments on their own.

- If the legislator or their staffer makes an argument you don't agree with, stay calm, don't become emotional and disagree respectfully. It is likely you will need support from legislators from across the political spectrum, demonstrating you can work with a legislator on one issue while respectfully disagreeing on another may be necessary for the success of your cause.
- It is usually advantageous to mention the other legislators you are speaking to and who are supportive of your cause or proposed bill. Legislators are more likely to support a bill if they are aware their peers are also supportive.

Before the meeting ends, make the "ask" the meeting was set up for—whether that is supporting a proposed bill, setting up an informational hearing, sponsoring a proposed bill, or some other legislative action. In formulating this request, create a clear and concise description of exactly what the legislator should do and why. Legislative staffers rarely have the capacity to make commitments on the spot, they will likely respond that their office is either not interested or will review the proposal in more depth and reach back out when they can. If the meeting goes well and the legislative staffer engages with the issue, advocates may also ask the legislative staffer if they have any strategic advice to move the proposal or cause forward. From there, thank the legislative staffer for their time and consideration, and leave the meeting with the knowledge that you are making concrete steps towards improving the lives of animals. It is not recommended to ask for pictures or to post about meetings on social media. Instead, advocates should reserve these types of actions for official meetings and campaign actions. If advocates want to communicate about their meetings, they can do so in a way that does not identify who they met with.

## 1.6. Following Up with Legislators

Lobbying for one's cause does not end simply because the first lobbying meeting is over. Lobbying is all about long-term relationship building. Advocates can nurture the connection by following up and demonstrating not only that the issue discussed is important, but that they are friendly and easy to work with. After the meeting ends, send a thank you



note or email to the legislative staffer. If the staffer asked for any additional information during the meeting, or if the advocate offered any, the advocate should promptly get back to them with that information. For that reason, advocates should always make sure to allocate time after a meeting to prepare follow up documentations that the interlocutors will likely ask, as some of these documents will require time to research and put together. If the legislative staffer seemed in favour of the advocate's stance, the advocate should reiterate their request and thank them for their support. If the staffer was noncommittal or outright opposed to the advocate's stance, the advocate should repeat their key points and encourage them to support or consider the ask. Sometimes, advocates can ask legislators who are unsupportive not to oppose the proposal. When keeping an eye on this legislator's activity, be sure to thank them for any votes or legislative actions they take that endorse the cause or other relevant, good causes. And if there has been no traction on the issue since the initial meeting, consider whether to reach out again to remind them of the discussion, restate the ask, and thank them once more.

### 1.7. Other Avenues to Make Your Voice Heard

For a plethora of reasons, setting up a meeting with a legislative office is not always desirable or feasible. However, advocates can still lobby legislators on issues they care about. Advocates can email or call the legislator's office, attend local government meetings such as town hall meetings and public forums, and

testify at hearings or city council meetings. When emailing or calling, it is recommended that advocates see if they can talk to a staffer that is involved in or familiar with the issue, as staffers tend to have designated areas of work within their offices, like environment or business. Advocates should identify the reason for the communication clearly and early on, mention why the issue is important, and should not forget to make the specific action request in the email or call. Additionally, when possible, advocates should avoid copying template outreach emails. Making the communication personal, genuine, and narrative-based increases the likelihood that the contact will be noted and even responded to. Similar advice applies for a phone call, which can be equally if not more productive than an email. Talking with a legislative office over the phone provides the potential for advocates to learn what the staffer thinks in response to the request and pick up cues as to what the next steps should be, and in a more timely manner than email.

Lastly, advocates that want to avoid the pressure of leading a lobbying meeting can attend and/or testify at city council meetings, public forums, and bill hearings in jurisdictions where these public consultations processes exist, such as the US and certain EU Member States. Furnishing advice or thoughts on these pathways of legislative engagement could fill an entirely different legislative resource, and there are plenty of accessible resources available to learn more about speaking at public forums or hearings in the different jurisdiction.



## 2. Types of Legislative Advocacy: Ballot Initiatives, Official Petitions, and Referendums

**The initiative and referendum are common in not just the U.S., but other countries like Switzerland, France, Italy, Ireland, and Australia.**

Once you have identified how you would like to advocate for animals using the initiative or referendum process available in your area, identify how you can contribute. Even if you have never heard about ballot initiatives or referendums before, you can have a role in executing a successful ballot measure. Successful ballot measures require conducting and sharing research, writing out the proposal, working with public officials to circulate the proposal, hosting speaker panels, running public education campaigns, gathering signatures, and fundraising. There are countless ways to help a ballot measure campaign and just by being a registered voter, you have already completed an important first step in using this electoral device to advocate for animals.

### 2.1. Ballot Initiatives and Referendums in the US

Ballot initiatives in the US are a valuable means for citizens to bypass their local or state legislature by putting proposed statutes, ordinances, or constitutional amendments directly onto ballots. The initiative process has the power to create, edit, or repeal local and state laws or amend local charters and state constitutions. This process is often encoded in U.S. state constitutions, and is available to registered voters in twenty-six states. Often discussed in tandem with the initiative process is the referendum process, which refers to citizens voting on whether to uphold or repeal a law that successfully passed through the legislature. Both the initiative and referendum processes are discussed below, beginning with the initiative process. Neither process is a good first step. If advocates pursue these options without first having tried the legislative route, they are not likely to be successful.

The initiative process takes on two central forms: direct and indirect. The direct process is much more common and involves qualifying proposals being put on the ballot for citizens to vote on. In the indirect process, however,

the proposal is sent to the legislature for legislators to approve or reject the proposal. If the proposal is rejected during this indirect process, the initiative proposal goes on the ballot for voters to make the ultimate decision. And if the legislature approves the proposal, there is no need for further work.

With no federal laws governing the ballot initiative process, advocates rely on state election laws for rules regulating how a proposal may qualify for ballot placement. No uniform set of requirements exist, but there are a few key steps that are widely used for the direct initiative process. The group responsible for the proposal must first file the proposed petition with a designated state official who will review the petition and ensure adherence to relevant statutory requirements (title, summary language, single issue, location in the law and on the ballot, etc.). Once a ballot title and summary are agreed upon, advocates may seek the required number of signatures supporting the initiative's placement on the ballot. With enough signatures, the organising group may submit the petition to a state elections official who will verify the signatures acquired. If the quantity of signatures is deemed valid, the initiative goes on the ballot (or, for the indirect initiative process, the proposal is sent to the legislature). The typical requirement is that once the initiative is on the ballot, it must be approved by a majority vote for it to be enacted. These steps provide a general roadmap to the initiative process, but jurisdictions have different parameters for each part of the process. All states mandate that citizens gather registered voters' signatures for an initiative to be put on the ballot, but elements like the number of signatures, the geographic location of signed voters, and the timeframe for collecting signatures varies by jurisdiction.

The referendum process in the US is similar to the initiative process in that a measure is placed on a ballot because of a voter petition. In contrast, however, the popular referendum provides voters with the opportunity to repeal an act of the legislature (or sometimes to recall



a legislator or government official). If voters do not approve of a law passed by legislators, those voters may gather signatures to put the law up for a popular vote. Often, voters have a ninety-day window from when the law is passed to obtain enough signatures. With the signatures gathered and verified, the issue is placed on the ballot and voters may decide the law's fate. If voters decide to keep the law, it will take effect as scheduled. But if voters vote against the law, the law is voided and will not take effect. Twenty-four U.S. states permit referendums, with most of those states also allowing initiatives. Compared to initiatives, referendums are much more rare.

Referendums can either be optional or obligatory. Optional referendums entail the process just described, where a law is subjected to a popular vote because enough voters petitioned for that opportunity. Obligatory referendums occur when statutes or constitutions mandate that certain types of legislative action undergo a popular vote. For example, constitutional amendments proposed by legislators will be subject to the obligatory referendum in most U.S. states. Bond issues, tax questions, and other narrow matters are usually the type of matters that give rise to obligatory referendums.

Although there is no ballot initiative process at the federal level, state ballot measures are responsible for significant policy change across the U.S., including raising the minimum wage, enacting marriage equality laws, and decriminalising marijuana. Ballot measures have offered the opportunity to make enormous strides for nonhuman animals. A movement-defining 2018 California ballot measure called Proposition 12 prohibited the confinement of breeding pigs, calves raised for veal, and egg-laying hens below a specific number of square feet. Proposition 12 reaches not just California producers and consumers, but producers across the country who may not sell noncompliant animal products from out-of-state. Some call Proposition 12 the strongest law in the U.S. for protecting farmed animals. The far-reaching impact of Proposition 12 has not been without backlash. Indeed because the impact of the change to farming practices is largely felt outside of California, the pork industry has retaliated - stalling the implementation of the measure - by challenging the bill's legality in several courts. The challenge has reached the highest court in the U.S. legal system, the Supreme Court of Justice, who will rule on the fate of the measure. However, national notoriety is not needed to utilise the ballot initiative process to improve the lives of animals. Four states have banned greyhound racing and gestation crates, three have banned cockfighting, and two have banned canned hunts using ballot measures. Advocates throughout the U.S. have tackled and successfully regulated trapping, hunting, puppy mills,

and other animal-related topics with ballot measures. Advocates can continue this work by identifying a need for animals in their municipality or state and working on a ballot initiative or referendum to properly address it. Advocates interested in organising a ballot initiative or referendum campaign should check their local jurisdiction for whether these electoral tools are available.

## 2.2. The European Citizens' Initiative (ECI)

Certain European jurisdictions also provide the possibility for citizens to initiate referendums, by which a minimum number of citizens can put a legislative proposal to the vote. Additionally, at EU level, since 2009, EU citizens can also officially request the European Commission – the executive branch of the EU – to enact legislation within its field of competence. They can do so through an official petition mechanism called the European Citizens' Initiative (ECI). Specifically, EU citizens must gather at least one million signatures in at least seven EU Member States. Unlike referendums and ballot initiatives though, ECIs merely call on the European Commission to enact legislation, as ECIs do not directly result in the adoption of legal acts. Although the European Commission is not bound to answer positively to an ECI, the European Commission still has to provide an answer as to why it decides not to enact legislation requested through an ECI. An example of a successful ECI is the "End the Cage" ECI, which seeks to prohibit the use of cages in EU animal agriculture.





## 3. Other Forms of Advocacy

**The purpose of this resource is to provide a foundation of knowledge for individuals interested in legislative advocacy, but there are plenty of other forms of advocacy that are equally valuable to the pursuit of animal protection.**

This section briefly explores a few of those methods of advocacy to remind you that even if legislative advocacy is not ultimately what you decide to pursue, there are countless other ways to help animals. Your organisation may even have the capacity to undertake multiple forms of advocacy, or work in concert with other organisations, as a plurality of tactics can be the most effective way to bring about change.

### 3.1 Litigation

Litigation refers to the process of settling disputes in the public court system. Animal law litigators file lawsuits against individuals or companies to protect animals, by relying on existing statutes and common law rulings to formulate claims of action. When they win lawsuits, litigators are capable of not just defending the interests of specific animals, but also creating new rights and sources of protections for all kinds of animals. Justice v. Vercher, a case filed by the Animal Legal Defense Fund (ALDF), showcases the potential power animal law litigation holds for the future of human-animal relationships. ALDF filed the case in Oregon State Court in 2018 on behalf of an abused horse named Justice. In seeking the costs of Justice's ongoing medical care and compensation for his pain and suffering, ALDF hopes to establish with this case that animals have a legal right to sue their abusers in court.

It is also important to note that lawsuits are typically brought for violation or vindication of rules enshrined in laws, and so represent an essential mechanism to improve enforcement of existing laws. Litigation-based efforts have contributed to improving enforcement of existing legislation in the EU for instance, where the European Commission (the EU's executive branch) sued certain EU countries for failing to comply with the ban on non-enriched battery cages and the requirement to stun animals prior to their bleeding.

Litigation can be a powerful tool for change

especially in Common law countries, such as the UK, the US, Australia, and New Zealand, where court rulings can have the same legal value as law – unlike civil law countries, where court rulings tend to have a lesser legal value compared to laws.

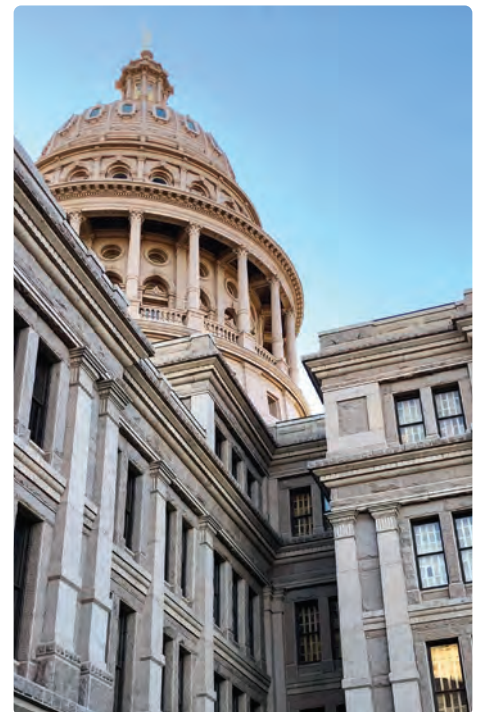
### 3.2 Administrative Advocacy

Administrative law regulates the operation and procedures of government agencies. In the U.S., agencies that govern the use and protection of animals include the Food and Drug Administration (FDA), the National Oceanic and Atmospheric Administration (NOAA), the U.S. Department of Agriculture (USDA), the U.S. Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service (FWS), and many more.<sup>2</sup> Agencies such as these promulgate regulations, which are rules that government agencies put in place to implement statutory law. Advocates can influence the formation or application of these rules to improve or save animal lives. For example, advocates can help ensure that the protections outlined for threatened aquatic species under the U.S. Endangered Species Act regulations are in fact being enforced to the best of our government's ability.

In the EU, agencies do not have rulemaking power, and only the European Commission can enact regulations, under the form of delegated acts and implementing acts, which are adopted in committees of experts from all 27 Member States. These delegated and implementing acts specify the ways in which EU law should be implemented. If not in the U.S. or EU, you should research your relevant national agencies to determine what powers they have, and whether they are a suitable target for your advocacy.

### 3.3. Scientific Research

Animal scientists and social scientists have made remarkable strides in the last few decades in proving that many animals, including many aquatic species, are sentient,



<sup>2</sup> A comprehensive list of state agencies governing the use and protection of animals can be found online at: <https://www.usaha.org/federal-and-state-animal-health>

vital to the ecosystems they inhabit, and that the pollution and degradation that accompanies animal exploitation have detrimental impacts on humans' ability to thrive on earth. Advocates of all kinds use these scientifically significant findings to lobby for legislation, strengthen arguments in court, and develop management and production practices that safeguard animals and their homes. A terrific example highlighting the importance of scientific research to animal protection is the recent amendment to the United Kingdom's Animal Welfare (Sentience) Bill. The Foundations of Animal Sentience project published strong scientific evidence indicating that Cephalopod Molluscs and Decapod Crustaceans can experience pain and distress.<sup>3</sup> Based on the findings of that report, the UK government expanded the scope of the Animal Welfare (Sentience) Bill to include all animals from these groups, including octopuses, squid, crabs, lobsters, crayfish, and cuttlefish.

### 3.4. Corporate Outreach

Advocates working within the corporate outreach space do several things, including ensuring companies are complying with existing animal protection laws and encouraging businesses to implement meaningful protections to reduce animal suffering. Corporate outreach advocates communicate directly with industry members to convince them that it is in their best interest to willingly change their internal production methods and procedures. Such advocates often focus on specific requests, such as adopting improved standards of care, enhancing certification requirements, and offering plant-based alternatives.

The Humane League's work is one example of the power of corporate outreach. As of early 2016, the Humane League's corporate campaigners secured commitments from over 200 companies to transition to cage-free systems for birds within ten years. These commitments are estimated to prevent the suffering of 225 million hens from battery cage confinement every year.<sup>4</sup> Advocates across the globe are participating in corporate campaigns like this one, which tangibly improve the lives of millions of animals on an annual basis.

### 3.5. Social Campaigns

Lastly, we have social campaigns as a tool for change. Social campaigns are a method of mobilising individuals and groups to take action for animals. Such actions can include a variety of tactics, like initiating a letter writing campaign, collecting signatures for petitions, and coordinating social media campaigns to pressure relevant targets.

An example of the power of social organising is the movement to end the breeding and captivity of orcas in aquariums and marine parks. The 2013 documentary *Blackfish*, in conjunction with mass calls of action on social media, led SeaWorld's stock market price to drastically fall<sup>5</sup> and the state of California to pass a bill prohibiting killer whale captivity, breeding, and trade. The public education and pressure campaign created substantive legal and industry improvements for orcas in the U.S., and may have helped later successful efforts in Canada and elsewhere, indicating the capacity social campaigns have to make change for animals.



<sup>3</sup> Jonathan Birch et al., *Review of the Evidence of Sentience in Cephalopod Molluscs and Decapod Crustaceans* (London School of Economics, 2021), available online: <https://www.lse.ac.uk/business/consulting/reports/review-of-the-evidence-of-sentiences-in-cephalopod-molluscs-and-decapod-crustaceans>

<sup>4</sup> Marinella Capriati, *Cause Area Report: Corporate Campaigns for Animal Welfare* (Founder Pledge, 2018), available online: <https://www.founderspledge.com/downloads/fp-animal-welfare>

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## 4. Methods of Legislative Advocacy: Which is Right for You?

**This resource has covered several available methods of legislative advocacy: voting, lobbying for city or state legislation, and ballot initiatives. Now it is time to assess which method of advocacy suits you best for your work.**

The following section will talk broadly about the advantages and disadvantages of the methods of legislative advocacy explored in this resource, and hopefully empower you to see how you as an individual can get involved in legislative campaigns.

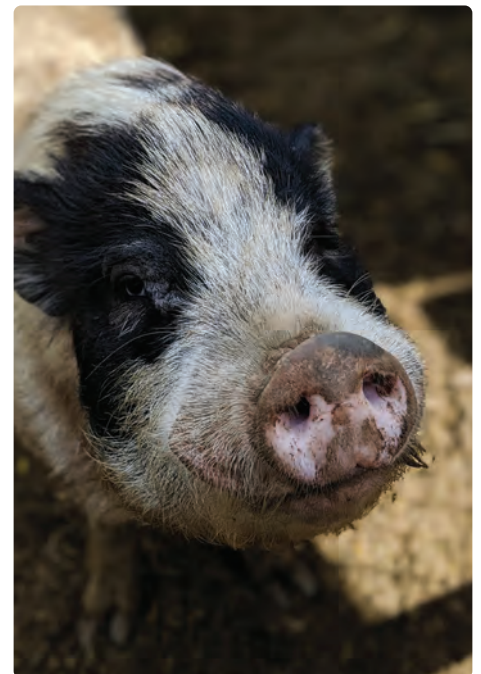
### 4.1. Lobbying for City & State Legislation

Unlike voting, lobbying for city or state legislation requires a tremendous amount of time and resources. Advocates involved in city or state legislative campaigns must have the expertise to draft or amend legislation, build relationships with legislative offices, pay for campaign materials, and amass public support to achieve success. Do not be intimidated by the prospect of legislative campaigning. Lobbying for city or state legislation is never a solo task—you are always working as a part of a collective effort. And even if you feel as though you do not possess the requisite experience or resources to contribute, remember that there are sources of guidance and support to help you become a valuable member of a legislative campaign team. If you are interested in drafting new legislation or amending existing legislation but have never done it before, you can contact local advocacy groups, nonprofit organisations, and legislative professionals who can provide insight about how to get started. A relevant resource is the Collier Animal Law Forum,<sup>6</sup> which lists positive examples of laws and policies adopted around the world. If you have funds to share but not time or energy, you can donate directly to campaigns or organisations fighting for the legislative change you want to see. Or if you simply have a few minutes of your day to spare, you can support an ongoing campaign by contacting your local representative and letting them know how they can best align with your values as a constituent. Successfully advocating for city and state legislation requires many individuals taking on supportive roles, which anyone can do.

Because of the time and resource intensive nature of lobbying, typically those with more power end up having their voices heard more. Advocates lobbying the U.S. federal government for public interest purposes are outnumbered by business interests sixteen to one.<sup>7</sup> Wealthy individuals and industries take advantage of an electoral process that favours campaign contributions and the ability to consistently flood congressional offices with information.<sup>8</sup> Because political systems are rigged for the benefit of a few select classes of people, it may feel like your voice is not strong enough to measure up. But the power imbalances at play should incentivize you to get involved, not deter you. Without individuals proposing legislative ideas and lobbying lawmakers to enact them, business interests will only grow while minority perspectives and values will be ignored. The legislative system is not meant to be gatekept, and by getting involved in one or more steps in the lobbying process, you will help rectify the representational disparities that perpetuate the suffering of human and non-human animals.

### 4.2. Ballot Initiatives

Ballot initiatives are distinct as a form of legislative advocacy because they are not available everywhere. Only about half of U.S. states allow their citizens to propose statewide ballot measures, while thousands of cities and counties allow them. Outside of the U.S. only Columbia, Croatia, Ecuador, Hungary, Italy, Lichtenstein, Philippines, Slovakia, Slovenia, Switzerland, and Taiwan have binding referendums on demand. When the ballot initiative process is available, it provides a game-changing opportunity to make up for lack of issue interest or prioritisation from the legislature. Ballot initiatives also allow citizens to exercise more control over a proposed measure's content, framing the language as desired without influence from political tensions or compromise. Because of this inherent freedom in the initiative process, advocates can propose bolder, one-of-a-kind



<sup>6</sup> Available online at <https://calflaw/>.

<sup>7</sup> Lee Drutman, *A Better Way to Fix Lobbying*, *Issues in Government Studies* (June 2021), available online: [https://www.brookings.edu/wp-content/uploads/2016/06/06\\_lobbying\\_drutman.pdf](https://www.brookings.edu/wp-content/uploads/2016/06/06_lobbying_drutman.pdf)

<sup>8</sup> *Ibid.*



measures that change the lives of millions of animals (like California's Proposition 12).

These advantages of ballot initiatives come with their drawbacks as well. Only one lawmaker is needed to introduce a bill, whereas volunteers need to collect thousands of signatures for a measure to qualify for the ballot—which can be just as expensive or time consuming as lobbying for city or state legislation. Only a limited number of decision-makers need to be persuaded to pass a city or state legislation, compared to thousands if not millions of voters. Additionally, because proposed ballot initiatives are less common than bills, ballot initiatives bring greater risks of political setbacks. These disadvantages do not mean that ballot initiatives are not worthwhile alternatives to other forms of legislative advocacy. Rather, it means creating a ballot measure proposal requires a lot of work. Before putting in resources to gather signatures, it is thus recommended to conduct a poll of prospective voters early in the process and ensure there is enough support for your cause. Organisations should also go over

their available finances, volunteers, and other resources that will make or break the success of a ballot measure campaign. There is also the possibility of supporting an existing ballot initiative campaign, which can be as impactful as starting one.

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Written in collaboration with:



The European Institute  
for Animal Law & Policy

ACHIEVING BETTER TREATMENT FOR ANIMALS

# Legislative Advocacy in the EU

1. Competence of the EU in Regulating Animal Welfare
2. National Advocacy Efforts versus EU Advocacy Efforts
3. The EU Institutions
4. The EU Pre-Legislative, Legislative, and Post-Legislative Processes
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5. How to Engage with the EU Institutions
  - 5.1. Traditional Ways of Engaging with the Legislature
  - 5.2. Other Ways of Engaging with the Legislature
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Advocating for Animals:  
A Guide to Legislative Advocacy

Coller Animal  
Law Forum

**CALF**



# 1. Competence of the EU in Regulating Animal Welfare

**The EU is an international legal system to which 27 countries adhere to – the EU Member States. By way of a series of treaties binding the EU Member States, these 27 countries have transferred power to enact and implement legislation to the EU in a certain number of fields of law.**

Such a mandate to legislate is limited, meaning that the EU can only adopt legislation in these fields for which the Member States have agreed to transfer their power.

In their mandate to the EU, Member States have not allowed the EU to legislate on animal welfare. However, Member States have agreed that EU law should recognise animals as sentient beings and require that the EU and the Member States take into account their welfare in certain policy fields, including agriculture and fisheries. Specifically, article 13 of the the EU Treaty on the Functioning of the European Union (TFEU), which serves as one of the EU's constitutional treaties, states:

“In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full 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.”

The duty to take into account animal welfare in EU and national laws and policies includes one exemption: cultural and traditional practices. Practices such as bullfighting, cockfighting, or slaughter without stunning for religious purposes are considered cultural and traditional practices.

Another significant limitation of Article 13, TFEU is that such a provision does not explicitly allow the EU to regulate the treatment of farmed animals; but instead merely requires the EU to take into account the welfare of animals. In other words, the TFEU does not create a “competence” for the EU to enact legislation in the field of animal welfare.

The Court of Justice of the European Union, which is tasked with interpreting EU law (see section below), confirmed the EU's lack of

competence in enacting legislation related to animal welfare in several cases, in 1986,<sup>1</sup> 2001,<sup>2</sup> and 2017.<sup>3</sup>

Despite this limitation, the EU Institutions have provided common standards on farm animal welfare. This legislation was adopted on the EU's competence in enacting common standards in agricultural production, on the basis that differentiated rules across EU countries might create unfair competition for businesses involved in the production of animal-source products – a phenomenon commonly referred to as “uneven playing field.”



<sup>1</sup> *Case 131/86, United Kingdom of Great Britain and Northern Ireland v Council of the European Communities*, 23 February 1988, ECLI:EU:C:1988:86.

<sup>2</sup> *Case C-189/01, H. Jippes, Afdeling Groningen van de Nederlandse Vereniging tot Bescherming van Dieren and Afdeling Assen en omstreken van de Nederlandse Vereniging tot Bescherming van Dieren v Minister van Landbouw, Natuurbeheer en Visserij*, 12 July 2001, ECLI:EU:C:2001:420

<sup>3</sup> *Case T-361/14, HB and Others v European Commission*, 5 April 2017, ECLI identifier: ECLI:EU:T:2017:252

## 2. National Advocacy Efforts versus EU Advocacy Efforts

**When it comes to farm animal welfare standards, EU law only sets minimum standards. Unlike other fields of legislation and policies, such as the welfare of animals used for scientific purposes, EU Member States are thus able to adopt, in their national legislation, farm animal welfare standards that go above and beyond those set in EU law. As a result, animal advocates can either try and influence their national governments to pass higher standards in a given country, or the EU, to pass higher standards that would apply in all 27 Member States.**

In practice though, many member states have adopted only a few farm animal welfare standards superior to EU minimum standards. The reluctance of Member States to adopt higher standards can be partly explained by the fact that the EU is a free trade area, wherein products can be produced and sold across Member States, as well as the political power of industrial farm animal production groups. As a result, Member States that have adopted higher standards than EU law are not able to ban the sale of products from Member States that have chosen to abide by the EU's minimum animal welfare standards.

For example, Austrian law prohibits the use of cages in egg production. However, Austria remains obligated to sell eggs from caged hens from other countries that only abide by minimum EU legal standards, and in doing so, still allow the use of cages – such as Italy or France.

Because higher farm animal welfare standards entail higher production costs, Member States typically refrain from adopting farm animal welfare standards that are superior to EU minimum standards. Specifically, Member States generally do not impose higher standards to their domestic producers by fear of putting them at a competitive disadvantage with cheaper imports.

Despite the existence of a chilling effect in passing progressive national farm animal welfare laws, some countries have adopted higher standards than these minimum standards set in EU law. Such in the case for Austria, Germany, and Czechia, which all ban the use of cages for egg-laying hens, when such a use is allowed in EU law. Similarly, Sweden, Finland, and Lithuania prohibit tail docking on pigs, although this practice is not prohibited by EU law. Sweden also prohibits

the use of gestation and farrowing crates for sows, a measure also above and beyond EU law. However, these cases are not common at the scale of the 27 Member States and only occur in countries where production levels of animal-source food tend to be negligible.

For this reason, the proper, most adequate level of governance to pass progressive legislation for farm animals remains the EU, as EU law applies uniformly in all 27 Member States, and neutralises the chilling effect caused by free movement of animal-source products on the EU market.

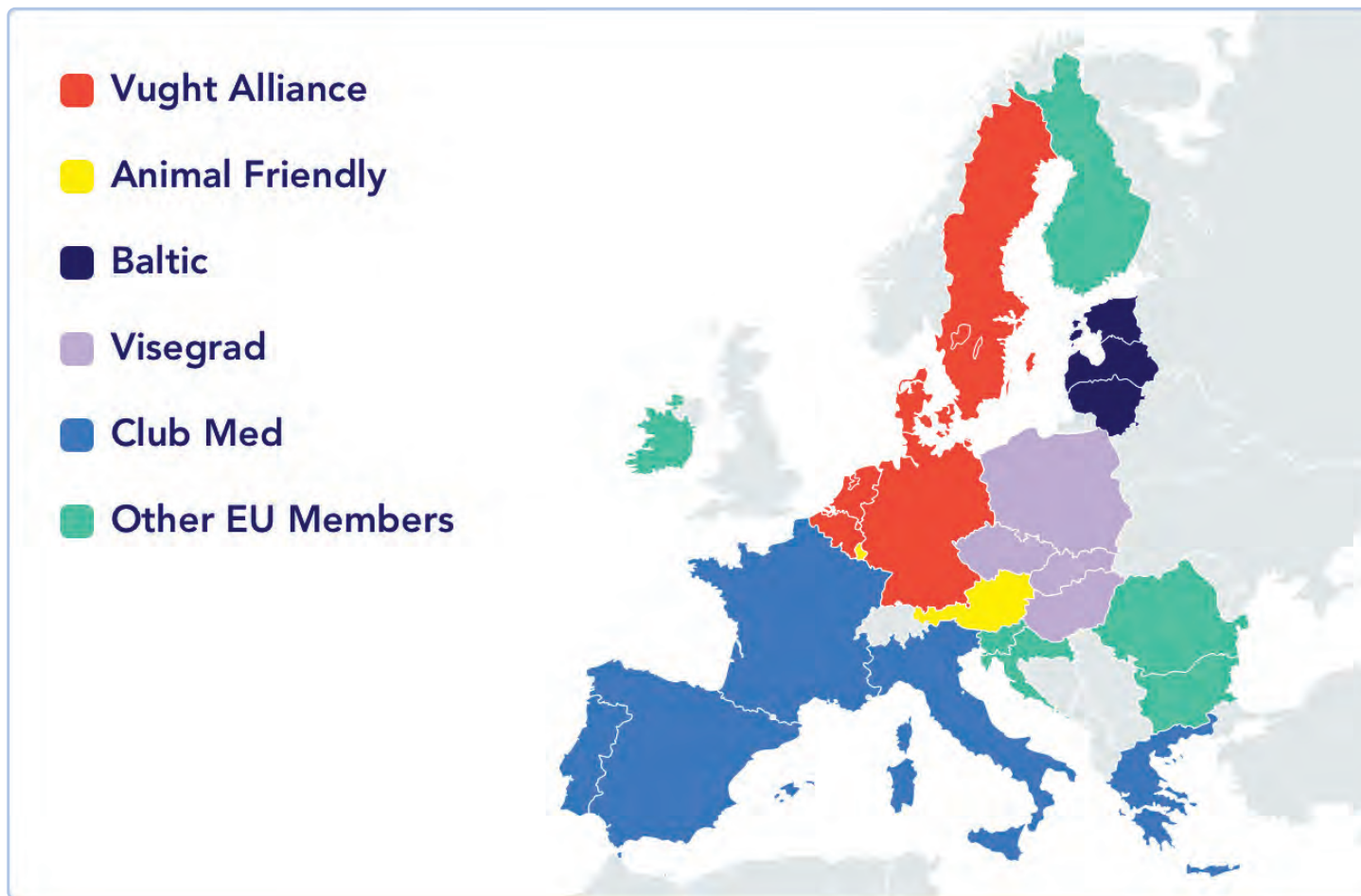
Yet, national efforts and corporate commitments can pave the way for efforts to be adopted at EU level. For instance, the upcoming ban on the use of cages in EU law was largely prompted by the transition away from cages in egg production on account of national bans in Austria, Germany, Luxembourg, and Czechia, as well as corporate commitments from major producers and manufacturers to only source eggs from cage-free systems.

National efforts also are crucial because Member States ultimately adopt EU legislation (see below, Council of the EU). It is therefore essential for advocates to secure Member States' support to the EU Legislature's efforts to improve farm animal welfare in EU law. Some Member States in particular can have significant political influence in EU decision making, because they represent a large proportion of the EU population, or because their national industries are powerful at the scale of the EU. For example, in 2008, the EU decided to prohibit the use of individual crates for calves after the age of 8 weeks. The UK really pushed for this measure because British law banned the use of calf crates and this situation put British producers at a competitive advantage relative to other EU producers.





### Voting Blocs Countries Often Form



Neil Dullaghan, "Progress Update: European Union Regranting Initiative," *Rethink Priorities* (Aug. 25, 2022)

Even though the UK was one of the only countries to have enacted such a ban, the UK managed to influence other Member States to agree to a limit on the use of crates, partly on account of pressure from the British veal industry on the UK government.

National advocacy efforts are also paramount in smaller countries of the EU. Less populated countries can also have influence by building coalitions with other smaller countries, and such coalitions are sometimes enough to create opposition to progressive legislation and lead to gridlock in the EU institutions.

## 3. The EU Institutions



















### The EU is composed of four main institutions:

#### 1. The European Commission

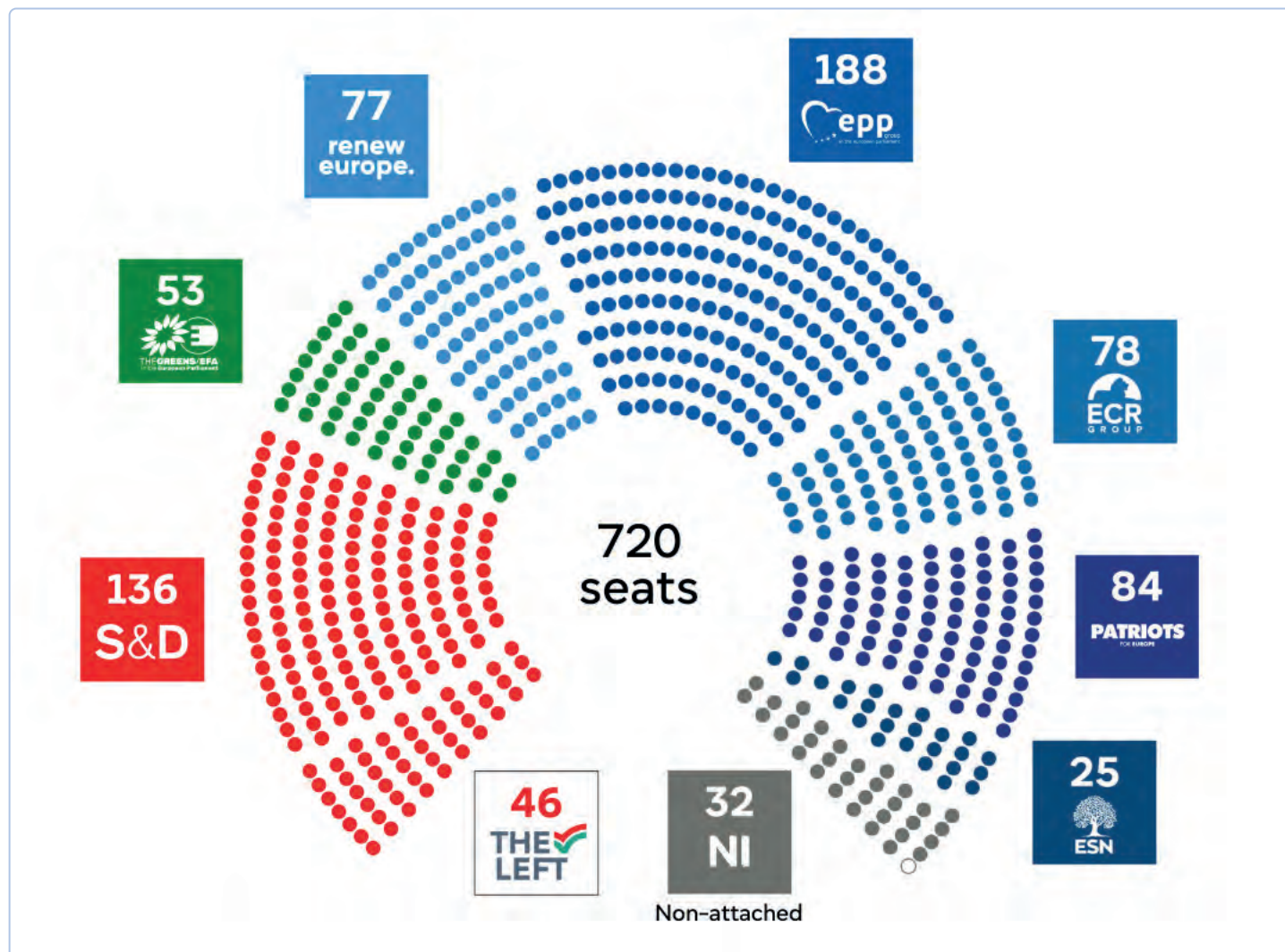
The European Commission acts as the executive branch of the EU by drafting laws and enforcing them. The European Commission is headquartered in Brussels, Belgium and is presided over by a president appointed by the Parliament every five years. The Parliament-appointed Commission president then appoints members of her cabinet, called Commissioners. The current President of the European Commission, serving a term from 2024 to 2029, is Ursula von der Leyen. The Commission president serves with 5 Vice-Presidents and 20 appointed Commissioners. Each commissioner heads an administration in different policy fields, called a "Directorate General." These Directorate Generals are to the EU what ministries or departments are to national governments.

The European Commission is often perceived by public affairs specialists as the most powerful of the EU institutions given it is the only institution that can propose legislation (see section 4.4.2.).

When proposing legislation on the welfare of farmed animals, the European Commission relies on the expertise of its agencies, and particularly, the European Food Safety Agency (EFSA). The mission of the EFSA is to advise the EU Legislature on matters related to feed and food safety by providing scientific expertise on food safety, as well as animal welfare. Such scientific expertise is delivered under the form of "scientific opinion," which are all publicly accessible. These scientific opinions do not have legal value and so the European Commission does not have to follow EFSA's opinions. The EFSA's scientific outputs are provided by experts who are external to the EFSA, and are distributed in panels dedicated to one area of expertise. There are 10 panels, including one on animal health and welfare, and the experts seating on these panels are organised in working groups. EFAs being an independent agency, it is not possible for advocates to contact experts and influence their scientific outputs. However, advocates can interact with the European Commission by encouraging the European Commission to seek advice to EFSA, or explain the reasons why the European Commission decided not to follow EFSA's scientific opinions favourable to animals.

Period	Holder
2022	January–June France 
	July–December Czech Republic 
2023	January–June Sweden 
	July–December Spain 
2024	January–June Belgium 
	July–December Hungary 
2025	January–June Poland 
	July–December Denmark 
2026	January–June Cyprus 
	July–December Ireland 
2027	January–June Lithuania 
	July–December Greece 
2028	January–June Italy 
	July–December Latvia 
2029	January–June Luxembourg 
	July–December Netherlands 
2030	January–June Slovakia 
	July–December Malta 

## Composition of Current European Parliament



## 2. The Council of the EU

The Council of the EU acts as the legislative branch of the EU, in conjunction with the European Parliament, by amending and voting on laws. Like the European Commission, The Council of the EU is also headquartered in Brussels, Belgium. The Council of the EU is composed of the ministers or heads of departments of its 27 Member States; The Council of the EU is presided over by a different Member State every six months – a process called a “rotating Presidency.”

The Council of the EU is an altogether separate institution from the European Council, which gathers all the heads of EU Member States (Presidents, Prime Ministers, Chancellors, etc.) to shape EU law and policy.

## 3. The European Parliament

Like the Council of the EU, the European Parliament also acts as a legislative branch of the EU by amending and voting upon

laws. For this reason, the Council of the EU and the European Parliament are called “co-legislators.” The European Parliament is composed of 720 Members of the European Parliament (MEPs), elected in all 27 Member States every five years. The European Parliament has one president (currently, Roberta Metsola) and is divided into 22 committees tasked with amending and voting on laws. The Parliament is headquartered in Brussels, Belgium for committee meetings, and in Strasbourg, France for plenary sessions, during which MEPs all meet to vote on laws and resolutions. Committees that are relevant to farm animal welfare issues include the Committee on Agriculture.

## 4. The Court of Justice of the EU

The Court of Justice of the EU is the judiciary branch of the EU. It is located in Luxembourg City, Luxembourg and is composed of professional judges. The Court of Justice of the EU is tasked with interpreting EU law.



## 4. The EU Pre-Legislative, Legislative, and Post-Legislative Processes

### 4.1. The Pre-Legislative Phase

When the EU institutions have given no indication that they plan to adopt new laws, or amend existing ones, animal advocates can still aim to obtain legislative commitments from the EU institutions. Specifically, advocates can press for the EU institutions to offer commitments to include farm animal welfare objectives in future binding laws and regulations.

This phase of the process is called “pre-legislative process” because the EU institutions are not legally bound by such commitments, even though the institutions are more likely to implement measures from these commitments, due to their desire to be seen as keeping their word to the public. Because the pre-legislative process is of a political nature, rather than a legal one, the European Commission is not legally bound to follow a specific timeline or process until presenting a legislative proposal.

The commitments during the pre-legislative phase usually come under the form of official statements, publications (such as studies), or communications from the European Commission, addressed to the European Parliament and the Council of the EU. The European Parliament and the Council of the EU can also adopt resolutions, which are non-binding statements, that can be used to call the European Commission to take action.

One notable example of an influential policy document for farm animal welfare is the European Green Deal, which took the form of a Communication from the European Commission to the European Parliament and the Council of the EU. In the European Green Deal, the European Commission announced its intent to revise EU farm animal welfare legislation.

### 4.2. The EU Legislative Process

The legislative phase starts once the European Commission officially presents a proposal for legislation. The majority of EU laws that affect the treatment of farmed animals follow the “ordinary legislative procedure” as opposed to the “special legislative procedure,” which only applies to specific laws, such as laws approving international agreements.

The ordinary legislative procedure follows several steps:

1. The European Commission publishes a proposal for legislation. This proposal can either be an entirely new law or a law replacing an already-existing law – a process called “revision.”
2. The European Parliament and the Council of the EU amends the European Commission’s law proposal. These amendments typically take the form of “reports” drafted and voted upon by the competent committee in the European Parliament, and the reports are then adopted in the Parliament’s plenary session in Strasbourg. The Council of the EU also composes and adopts its own reports.
3. All three institutions (The European Commission, The European Parliament, and The Council of the EU) meet and negotiate to finalise the drafting of the law during a series of meetings called “trilogues.”
4. The European Parliament and the Council of the EU vote to enact the law.

The ordinary legislative process usually takes several years to complete. For instance, the European Commission’s proposal for Directive 98/58/EC concerning the protection of animals kept for farming purposes was published in 1992, and adopted six years later, in 1998 (the main measures of the legislation entered into force as late as 2012).

A central element to keep in mind when working in EU public affairs is that, unlike most national jurisdictions, only the executive branch – the European Commission – can propose legislation. The Council of the EU and the European Parliament, which comprise the legislative branch, can only amend the laws proposed by the European Commission. Furthermore, the European Commission is responsible for the drafting and the adoption of implementing acts and delegated acts, which are the equivalent of decrees (also often called rules, or regulations) at national level. Implementing and delegated acts specify how to implement a given law.

### 4.3. The Post-Legislative Phase

The work of animal advocates does not stop at the adoption of the legislative act. Animal advocates have opportunities to influence the lawmaking process by ensuring that the legislation produces its intended effects. This



type of activity comprises the post-legislative phase.

Once the European Parliament and the Council of the EU have adopted a legislative act, this act must be:

1. Implemented: The European Commission must adopt a series of administrative acts (implementing and delegated acts) that specify the ways in which the legislative act should be implemented. Member States must also implement EU law into their national law, either by way of adopting new legislation, or administrative acts.
2. And enforced: The European Commission and the Member States have a duty to ensure the legislative act is properly enforced.

Member States have sometimes failed to implement EU law within the period set in the EU law. In such cases, EU law allows the European Commission to start a procedure asking Member States to diligently implement EU law (called an “infringement procedure”). If the Member States refuse to comply, the European Commission can ultimately sue the Member States before the Court of Justice of the European Union (CJEU). The European Commission at one time launched infringement procedures against Italy for failing to implement into national law the mandatory stunning of animals prior to their killing, as required by EU law; the Commission also filed infringement procedures against

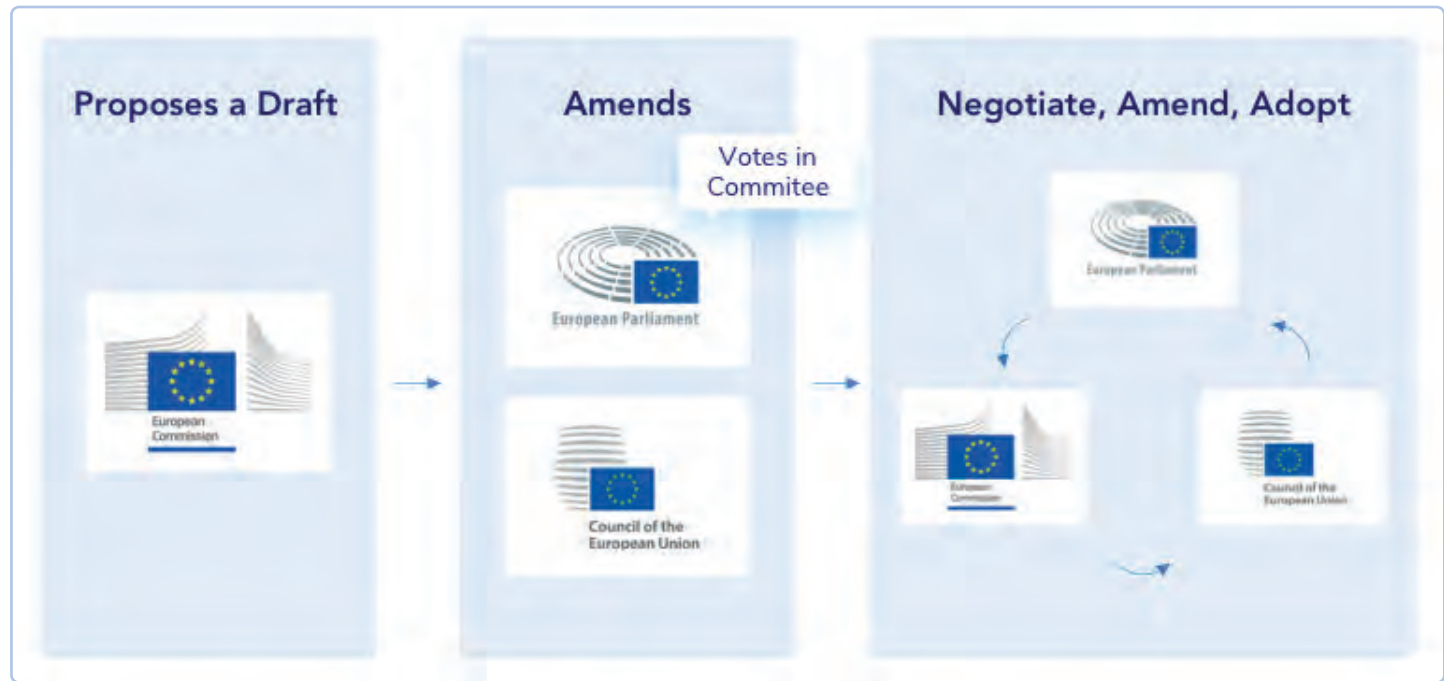
Greece in 2014, for failing to implement the prohibition on the use of enriched battery cages after the transition period set by the EU. These two infringement procedures ended up before the CJEU, which ruled against Italy<sup>4</sup> and Greece.<sup>5</sup>

Infringement procedures can be an effective tool to ensure that Member States enforce EU law as well, provided the European Commission decides to make use of it. In case the European Commission is reluctant to sue Member States for not properly enforcing EU law, advocates can turn to other types of litigation, before national or EU courts, or engage in other types of advocacy, such as meeting with national administrations, to improve the compliance rate with EU law.

<sup>4</sup> Case 147/77, *Commission of the European Communities v Italian Republic*, 6 June 1978, ECLI:EU:C:1978:121.

<sup>5</sup> Case C-351/13, *European Commission v Hellenic Republic*, 4 September 2014, ECLI:EU:C:2014:2150.

## How does a law come to existence?



# 5. How to Engage with the EU Institutions

## 5.1. Traditional Ways of Engaging with the Legislature

- **Registration in the EU Transparency Register**

As per EU rules, every person engaging in legislative advocacy must register in the EU Transparency Register. Legislative advocacy is defined as any “activities carried out by interest representatives with the objective of influencing the formulation or implementation of policy or legislation, or the decision-making processes of the signatory institutions or other Union institutions, bodies, offices and agencies [...]”. Covered activities [...] include inter alia: “(a) organising or participating in meetings, conferences or events, as well as engaging in any similar contacts with Union institutions; (b) contributing to or participating in consultations, hearings or other similar initiatives; (c) organising communication campaigns, platforms, networks and grassroots initiatives; (d) preparing or commissioning policy and position papers, amendments, opinion polls and surveys, open letters and other communication or information material, and commissioning and carrying out research.”<sup>6</sup>

Any organisation can register in the EU Transparency Register, provided they declare certain information, such as the number of the organisation’s staff, estimated amount of funding, and main funding sources. After they have registered, organisations are given an Transparency Register number, and EU rules advise that individuals belonging to a registered organisation provide such a number in all their written communications with EU officials.

- **Generic Ways**

Each stage of the legislative process represents an opportunity to influence decision making taking place in all three institutions. For instance, animal advocates will have an interest in engaging with Members of the European Parliament and with the administration of the Member States at national level to try to amend the European Commission’s legislation proposal in a way that benefits animals. Similarly, animal advocates will have an interest in persuading all three institutions to safeguard progressive measures, or to eliminate less progressive

measures, for farm animals during the trilogue phase.

This type of engagement can take many forms: meeting with policymakers, campaigning, sending official letters, holding events, etc.

- **Public Consultations**

All documents published by the European Commission during the pre-legislative phase are also submitted to an online public consultation, in which the European Commission collects feedback from EU citizens, industry representatives, and NGOs. The list of ongoing public consultations is available online.<sup>7</sup>

When conducting studies, the European Commission will also enlist private consultancies to interview all stakeholders, including NGOs. The selection process is at the discretion of the consultancies conducting these studies, but consultants tend to interview a wide range of NGOs working to influence the EU.

Lastly, the European Commission created an official forum in 2017, which gathers representatives from industry, academia, and NGOs to further structure the public consultation process on animal welfare issues. This official forum is called the “Platform on Animal Welfare.” Any animal protection organisations can apply to be represented at the Platform on Animal Welfare, although the European Commission tends to select federations or organisations that operate at EU level. The Platform is divided into working groups and sub-working groups that adopt official statements (“position papers”). These statements have no legal value and simply inform the European Commission in setting policy goals. It is difficult to evaluate the efficiency of the Platform on Animal Welfare in obtaining progressive reforms for farm animal welfare because the industry is also represented within that platform, and so the positions by the Platform tend to be accommodating to industry interests. For this reason, calls for progressive measures so far have all originated from outside the Platform.



<sup>6</sup> Article 3, *Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a Mandatory Transparency Register*, 2021 OJ (L 207) 1-17

<sup>7</sup> On the “Have Your Say” Portal, available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say_en).



## Opportunities to influence the drafting of an EU law



## 5.2. Other Ways of Engaging with the Legislature

### 5.2.1. The European Citizens' Initiative

The European Citizens' Initiative (ECI) is a mechanism enabling citizens to officially petition the EU's executive branch, the European Commission, to enact legislation on a matter within its competence. The ECI has existed since the entry into force of the Lisbon Treaty in 2009 to increase direct democracy. It is provided by the Treaty on European Union (TEU) in its article 11(4), as follows:

*Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties.*

The requirements to submit an ECI are detailed in Regulation (EU) 2019/7881 (the ECI Regulation). For an ECI to be valid, it must gather the signatures of:

1. At least one million EU citizens who are at least of the age to be entitled to vote in elections to the European Parliament;
2. From at least one quarter of the EU Member States;
3. And in at least one quarter of the EU Member States, the number of signatories must be at least equal to the minimum

number set out in Annex 1 of the ECI Regulation. Such a number corresponds to the number of the Members of the European Parliament elected in each Member State, multiplied by the total number of Members of the European Parliament, at the time of registration of the initiative.

Additionally, an ECI must be submitted by seven citizens coming from at least seven EU Member States, although the ECI can be supported and advertised by an organisation. Only an ECI whose registration was accepted by the European Commission can go forward.

Even in the cases where an ECI gathered enough signatures, the European Commission is not required to implement the request formulated in the ECI. The ECI is merely a mechanism to ask the European Commission to adopt legislation. Thus, the success of an ECI is not measured by its number of signatures, but by the implementation of the request it formulated to the European Commission.

#### • Process

Once a proposed ECI is submitted on the European Commission's portal, the supporters of the ECI have 12 months to collect the number of signatures required, starting from the date of their own choosing. Being an official petition, the signatory must provide a document of identification when submitting their signature.

Once the proponents of an ECI have gathered the minimum amount of signatures, the

organisers submit the ECI signatures to the Member States so they can certify the signatures (within three months), after which the signatures can be submitted to the European Commission, which then organises, within three months, a hearing at the European Parliament with the ECI organisers. Finally, the European Commission answers by providing “its legal and political conclusions on the initiative, the action it intends to take, if any, and its reasons for taking or not taking action” as per Regulation 2019/788.<sup>8</sup>

#### • A Short History of ECIs in the EU

Since the creation of the ECI in 2007, 110 ECIs have been submitted for registration, 85 of which have completed registration on the European Commission's ECI portal, including six on animal protection issues (“Save Cruelty Free Cosmetics”, “End the Cage Age”, “Stop Vivisection”, “Save the Bees”, “Stop Fanning – Stop the Trade”, “EU Directive on Cow Welfare”). The European Commission usually rejects a registration on account that such a registration does not comply with the rules set out in the ECI Regulation or addresses an issue that does not fall under EU competence.

Of the 85 registered ECIs, only seven have reached the sufficient number of signatures, including two on animal protection issues, the “Stop Vivisection” and the “End the Cage Age” ECIs. The European Commission only followed up on one ECI, though the Commission undertook legislative actions in two cases out of six. In 2021, the European Commission announced it would take legislative action to end the use of cages in a response to the “End the Cage Age” ECI.

In the majority of cases so far, the European Commission responded to an ECI by proposing a series of non-legislative follow-up actions. This has been the case for the 2015 “Stop Vivisection” ECI, where the European Commission simply committed to better implementation of existing legislation, considering that the request formulated in the ECI had already been addressed through EU legislation.

#### 5.2.2. Litigation

Advocates who wish to improve the welfare of farmed animals might also turn to the courts and engage in strategic litigation.<sup>9</sup>

Opportunities to litigate at Member State level differ considerably from country to country, and so advocates contemplating litigation in their country usually consult with a lawyer in their jurisdictions.

At EU level, advocates can initiate proceedings before the European Court of Justice (ECJ), which is the judiciary branch of the EU. The primary role of the ECJ is to interpret EU law to ensure it is applied consistently across all the 27 Member States.

There are different types of actions possible before the ECJ. Advocates do not always have standing (i.e. they do not have the right to file a lawsuit) to litigate before the ECJ, but they can try and influence their governments or the European Commission to bring cases before the ECJ:

- **Preliminary Rulings:** This type of action is the most common before the ECJ and consists of one or several questions from a national court to the ECJ to ask for clarification on how an EU law should be interpreted, if a law is valid, and whether a national law or practice is compatible with an EU law. The opinion of the court takes the form of a ruling. ECJ rulings are binding for Member States in such domains where EU law takes precedence over national law.

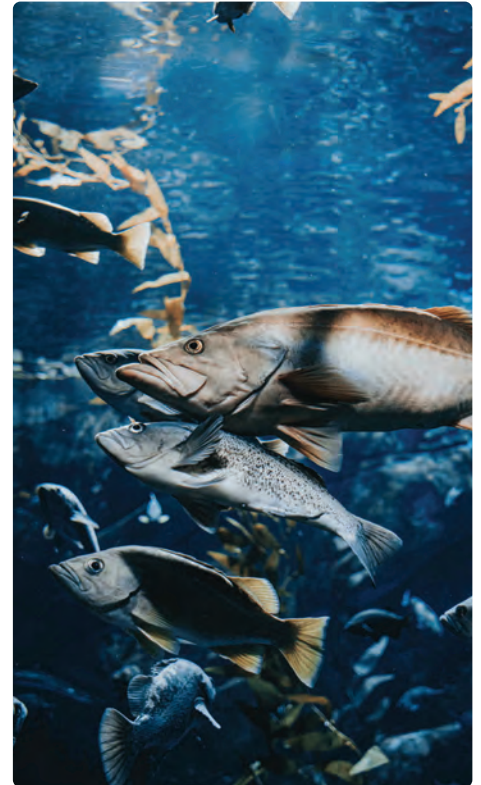
Recent examples of preliminary rulings related to farm animal welfare include two cases regulating the slaughter of animals without stunning in Case C-336/19, *Centraal Israëlitisch Consistorie van België e.a. and Others*, 17 December 2020 and Case C-497/17, *Oeuvre d'assistance aux bêtes d'abattoirs (OABA) v Ministre de l'Agriculture and Others*, 26 February 2019.

- **Infringement Proceedings:** An infringement proceeding is a type of case taken against a national government for failing to comply with EU law. Infringement proceedings can be initiated by the European Commission, or by another EU Member State. If the Court finds against the defendant, the defendant will be fined until it complies with EU law.

Recent examples of infringement proceedings related to farm animal welfare include C – 147/77, *Commission of the European Communities v Italian Republic*, 6 June 1978; C–339/13, *Commission v Italy*, 22 May 2014, in which Italy failed to comply with EU law on the mandatory stunning of animals at slaughter and the legislation on the welfare of egg-laying hens.

- **Actions for Annulment:** An action for annulment can be initiated by a citizen, an EU Member State, or any of the three EU institutions (European Parliament, the European Commission, and the Council of the EU) against the EU to challenge the enactment of a rule (usually a regulation or directive) adopted by an institution, body, office or agency of the EU.

There is only one example of an action for annulment brought by the UK against the Union to challenge the adoption of the EU legislation on egg-laying hen welfare in a 1986 case (C – 131/86, *United Kingdom of Great Britain and Northern Ireland v*



<sup>8</sup> Regulation 2019/788 of the European Parliament and of the Council of 17 April 2019 on the European citizens' initiative, 2019 OJ L 130/55–81.

<sup>9</sup> The content of this section is derived from *The European Institute for Animal Law & Policy, For a More Humane Union* (2022), p. 23 - 24, available online: <https://animallaweurope.com/wp-content/uploads/2022/08/For-a-More-Humane-Union.pdf>

Council of the European Communities, 23 February 1988)

- **Actions for Failure to Act:** This type of action can be initiated by a citizen, a company, an EU Member State, or any of the three EU institutions (European Parliament, the European Commission, and the Council) against the EU institution's inaction to enact rules after it has been called to act. There is no example of case law involving an action for failure to act related to farm animal welfare legislation.



## Resources

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The Good Lobby and The European Institute for Animal Law & Policy, How to Submit a Feedback to a Public Consultation (2021), available online: <https://www.thegoodlobby.eu/wp-content/uploads/2021/07/Public-Consultation-Toolkit-TGL-2021.pdf>

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Written in collaboration with:



# Legislative Advocacy in the US

1. **The Structure of the US Government**
  - 1.1. The Three Branches of Government at Federal Level
  - 1.2. Local Governments
2. **The Legislative Process: How Does a Bill Become a Law**
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Advocating for Animals:  
A Guide to Legislative Advocacy

Coller Animal  
Law Forum

**CALF**



# 1. The Structure of the US Government

**American systems of governance were built on the notion that government representatives (lawmakers) are meant to represent the interests of the populations they serve. Americans vote for elected officials, and they rely on them to work towards society's collective goals.**

But to optimally represent the interests and goals of a community, representatives need to know what they are. This is where legislative advocacy comes in, offering the opportunity to frame the public policies of cities, states, and nations.

## 1.1. The Three Branches of Government at Federal Level

As the elements of legislative advocacy are explored in this resource, the focus is on the legislative branch of government. U.S. governmental structures are typically comprised of three branches: the legislative, executive, and judicial branches. These three branches have distinct duties, but collectively provide a system of checks and balances so that no single branch abuses its power. The legislative branch consists of local, state, and federal legislative bodies made up of elected representatives known as legislators or lawmakers. (At the local level, they may be called city councillors or other names.) Legislators assess matters brought to them, or introduced by legislators themselves, and vote on legislation that then becomes law. Except for the state of Nebraska, all states and the federal government have bicameral legislatures where two chambers, known as the House of Representatives and Senate, are responsible for making laws. State senates are the smaller chamber whose members serve longer terms, usually four years. The House of Representatives is the larger chamber whose members serve shorter terms, usually two years. The House of Representatives is called different names depending on the state, for example the Assembly or House of Delegates.

Even though the executive and judicial branches will not be discussed in depth, they each hold remarkable power and serve crucial functions in our systems of governance. On the federal level, the executive branch is made up of the President and accompanying advisors, departments, and agencies. The President is a single person elected by the people to enforce the laws of the land, write executive orders, appoint leaders of federal agencies, and sign legislation into law or veto proposed laws. On

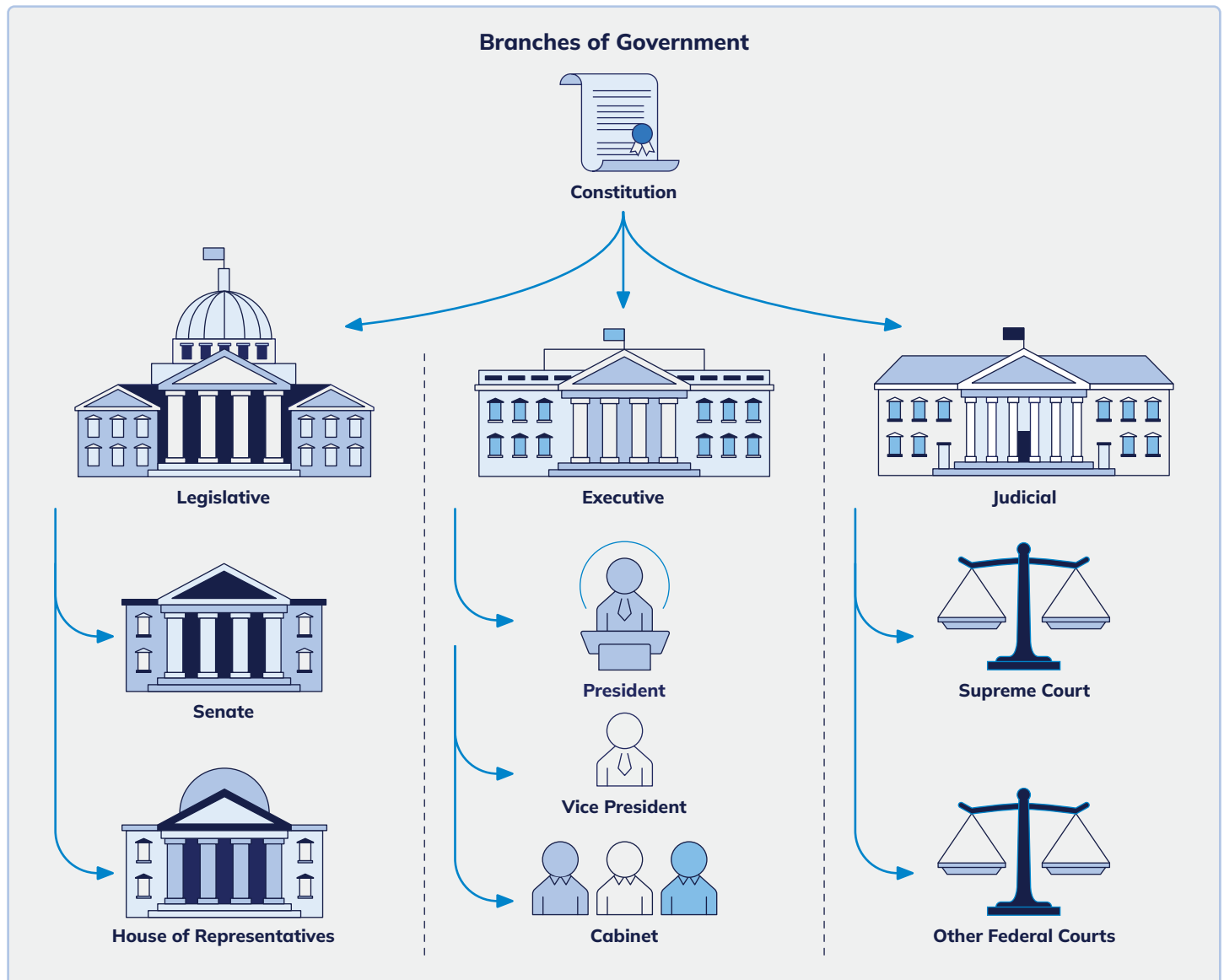
the state level, the executive branch is led by a governor, whose duties mirror that of the President (with some notable differences).

The judiciary operates largely independently and is tasked with assessing the legality of the language and enforcement of the laws passed by the legislative branch and executed by the executive branch. Unlike the executive and legislative branches, whose members are elected by the American people, members of the federal judiciary are appointed by the President and confirmed by the Senate. Selection of judges in the state court systems varies by state, with judges chosen via election or appointment. Generally speaking, judges in the judicial branch interpret the law and determine its proper application and constitutionality. The federal U.S. Supreme Court is the highest and most powerful court in the U.S., with every other American court constrained by the decisions of the Supreme Court. This means that once the Supreme Court interprets a law, lower courts are legally bound by that interpretation and must apply it to particular cases accordingly. This structure is the same in state courts, with lower level courts having to follow the precedents set by higher level courts in the same jurisdiction. The nuances of the judicial process vary by court, but all courts play vital roles in the judicial process of interpreting and applying laws (including laws that advocates might end up passing). Though the judicial system is not the focus of this resource, it is useful to have a sense of how judges read and interpret laws in order to effectively write and advocate for laws that will more easily survive judicial scrutiny.

### 1.1.2. Local Governments

Local governments are much more diverse in their composition than federal or state governments. The term "municipal government" includes cities, towns, villages, and boroughs that are typically organised by geography and population size. Some of the bigger municipalities in the U.S. have millions of residents, like Los Angeles and





New York City, whereas others can have a mere few hundred residents, like Jenkin, Minnesota. These local governments can be created through direct state action, such as developing a state charter, or through state statutes that authorise the formation of local government bodies. Municipal governments provide essential services like police and fire departments, emergency medical services, transportation, and public works (e.g., paving of streets, removing snow, and treating sewage). There are five major types of municipal governments, including mayor-council, council-manager, commission, town meeting, and representative town meeting. The mayor-council structure features an elected executive representative, known as the mayor, with the legislative body known as the city council. Town meeting systems, in contrast, allow qualified voters to congregate, debate, and vote on policy decisions in a more communal manner. Too many local government systems exist to examine each one thoroughly, so those interested in doing legislative advocacy on the local level should start by researching their own government system.



## 2. The Legislative Process: How Does a Bill Become a Law

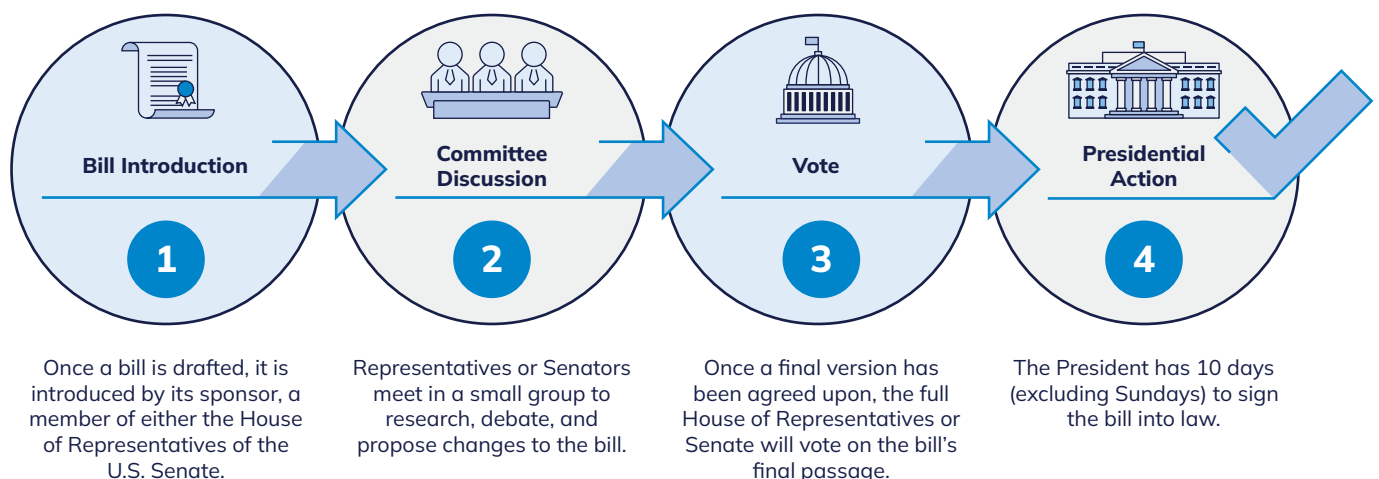
**Arguably, the most important process to understand when it comes to legislative advocacy is how a bill becomes a law. An advocate might be pursuing the passage of a bill, ordinance, resolution, ballot initiative, or other legislative mechanism, depending on the level of government they are working in.**

Each of these legislative tools are unique and are enacted into law in different ways. For sake of simplicity, let's focus on how a bill becomes a law on the state or federal level. Advocates can play a crucial part in passing legislation by contacting legislators, proposing ideas for legislation, and asking them to pass that legislation into law. They may have a draft bill or ask state or federal legislators to create a bill that alleviates or solves the identified problem. A political representative who introduces a bill is known as a sponsor—these are allies in helping champion a legislative idea. Other legislators who want to express their support for a bill can officially sign on as cosponsors, which will elevate the momentum of the bill. Once the bill is introduced in either the Senate or House of Representatives, it is assigned to a committee. The committee studies the bill, sometimes has official readings, and decides whether to put the bill up for a vote, a debate, or amendment. If the bill passes out of committee it goes to the sponsoring chamber (Senate or House). If it is successful in the first chamber, it moves

to the other chamber. In the other chamber, the bill is assigned to another committee, where the committee process happens yet again. Sometimes this process happens at the same time when there are Senate and House versions of the same bill. Once both chambers agree on a version of the bill and provide final approval, the executive branch (the President or governor) has the option to either veto the bill or sign it into law. There is a lot more to this process than the description provided here, but this explanation should provide the foundation needed to understand the path of a proposed bill becoming an enacted law. Most state websites have additional information about their specific process.

This introductory section supplies legislative advocates with a broad overview of the foundational terms and systems they must know to be successful. It is also important to highlight the value of such advocacy. In a democratic system of government, advocates and citizens can and should remind elected officials how they can best represent the

### Multi Step Process For A Bill To Become A Law:



people and their interests. It is impossible for politicians to prioritise the needs and desires of every constituent, so the more advocates make their voices heard, the better chance their needs and desires will be fulfilled. Additionally, by educating legislators, advocates can also educate the public and gain support on issues that might be unfairly overlooked.



## 3. Legislative Advocacy in the Federal Government

### Advocating for federal legislation entails leveraging power as a constituent of the U.S. to influence the lawmaking process.

Luckily, advocates do not have to live in Washington D.C. to affect laws and policy at the federal level. But before attempting to make change through federal legislative advocacy, it is important to know some basic information.

The two chambers in the federal legislature are the Senate and House of Representatives, collectively known as Congress (although sometimes the House of Representatives alone is referred to as “Congress”). Every state has two Senators, with the Senate comprising 100 Senators total. There are 435 House of Representatives members, with the size of each state determining the number of members allotted per state. For instance, California has the most representatives (53), Oregon has significantly fewer (6), and seven states have only one representative.<sup>1</sup> Because there is extensive overlap in form and function between state and federal governments, and this resource covers state and local legislative advocacy in more depth, this section will not delve deep into the federal legislative process itself. Rather, this section will feature important considerations for anyone interested in engaging in legislative advocacy in the U.S. federal government.

#### 3.1. Preemption

Before pursuing a legislative campaign, advocates should survey all relevant jurisdictions for issues of preemption. Preemption is a legal doctrine that describes the ability of a higher form of government to confine or eliminate a lower level of government's power to regulate a particular issue. The U.S. Constitution dictates that federal law preempts state and local law, while state law similarly takes precedence over local laws.<sup>2</sup> Preemption can result in the federal government prohibiting state and local governments from passing laws that are less protective, or more protective, than the higher-level law. It can also mean that state or local governments are prohibited from passing any laws on a particular issue, even if there is no higher-level law overseeing that issue currently. Preemption can be express,

where a law explicitly states that lower-level lawmakers are preempted in some capacity. Preemption can also be implied, where the law itself contains nothing explicitly about preemption, but courts or legislatures have found state or local authority to be preempted. For instance, in 2012, the US Supreme Court ruled that the Federal Meat Inspection Act preempted the 2008 Downed Animal Law,<sup>3</sup> which banned the slaughter of non-ambulatory pigs. If the piece of legislation you are working on is preempted by a higher-level lawmaking body, it is best to shift gears and find a new legislative strategy.

No matter what government system you are navigating for your legislative campaign, research the authority of the jurisdiction as contoured by the relevant constitutions and statutes. On the local level, your city government may only have limited powers explicitly granted to them by their state legislature, meaning they may not have the authority to help with the proposed legislative idea in the first place. Other local governments have what is known as home rule authority, where municipal governments can enact laws with less interference from higher authorities. From there, conduct a survey of the laws in the higher-level jurisdictions. Are there any federal or state laws that address the topic or explicitly preempt state or local laws? This task is simpler said than done, as even legal experts may struggle to determine whether there is an implied preemption issue at stake. If you are unable to find proof of express or implied preemption for your topic area, you must decide how much risk you are willing to take to continue with the campaign in the face of potential preemption. Advocates with the means and access should consult a lawyer before making such a decision.

#### 3.2. Federal Lobbying: IRS Guidelines

Lobbying on the federal level is governed by different rules than the state or local level. In the federal government, the U.S. Internal



<sup>1</sup> For more details on the number of representatives by State, see <https://worldpopulationreview.com/state-rankings/number-of-representatives-by-state>

<sup>2</sup> ChangeLabSolutions, *Fundamentals of Preemption* (June 2019), available online: [https://www.changelabsolutions.org/sites/default/files/2019-07/Fundamentals\\_of\\_Preemption\\_FINAL\\_20190621.pdf](https://www.changelabsolutions.org/sites/default/files/2019-07/Fundamentals_of_Preemption_FINAL_20190621.pdf)

<sup>3</sup> *National Meat Association v. Harris*, 10 –224 (9th Cir., 2012).



Revenue Service (IRS) – the federal agency responsible for administering and enforcing federal tax law – has detailed guidelines for legislative advocacy.<sup>4</sup> The IRS distinguishes “lobbying” from “political activity”: lobbying is defined as “attempting to influence legislation” and political activity is defined as “directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office.” The IRS defines these distinguished forms of legislative advocacy to better delineate who can engage in lobbying and political activity. For instance, organisations with 501(c)(3) status may engage in neither “substantial” lobbying activity or political activity without losing their tax-exempt status. However, organisations may hold educational meetings or create and distribute educational materials, which can be a form of legislative advocacy, without worrying about their tax-exempt status. If an organisation violates the IRS guidelines (by, for example, lobbying the federal government more than is permitted), they not only face losing their 501(c)(3) status, they can also face consequences like being taxed on the excess lobbying expenditures at a rate of 25%, which would have a significant effect on their finances. Depending on the form and manner of advocacy, your actions may implicate the IRS guidelines relating

to legislative advocacy. Before engaging in any sort of legislative activity, make sure you understand, and are following, the IRS’s rules and regulations.

Although most bills filed in Congress never reach the committee stage of the lawmaking process, it is more than worthwhile to advocate for animals on the federal level. Federal legislative advocacy has the potential for wide impact, leading to substantial changes for nonhuman animals across the country. But before you do: (1) run a preemption check, (2) visit the IRS website and comply with their guidelines, and (3) research other related requirements for lobbying registration and reporting.

<sup>4</sup> These guidelines are available online: <https://www.irs.gov/agencies/internal-revenue-service>.



## 4. Legislative Advocacy in City & State Governments

### Legislative advocacy encompasses attempts to “influence the introduction, enactment, or modification of legislation”<sup>5</sup> – but what is legislation?

Legislation typically refers to ordinances, resolutions, and statutes. Ordinances are local laws, while resolutions can be local, state, or federal laws, and statutes can be state or federal laws. Cities and States in the US have different legislative processes. The city of Portland, Oregon, and the State of Oregon will be used as examples of such processes in this section.

Ordinances are municipal laws enacted by city council members or equivalent elected officials. Ordinances serve the purpose of passing regulations that govern rules of conduct and determine legal rights and duties in local communities. For example, a 2019 ordinance enacted by the New York City council bans the sale of foie gras by penalising food purveyors that serve the dish in city limits.<sup>6</sup> Alternatively, a resolution expresses a legislature’s opinion, will, or intent on a particular issue. Unlike ordinances, which generally have a waiting period before going into effect, resolutions become effective immediately upon voting. For example, in July 2021, council members in Berkeley, California adopted a resolution to allocate half of the city’s expenditures of animal-based foods to plant-based products by 2024.<sup>7</sup>

City codes can clarify how ordinances and resolutions in a city are passed. For example in Portland, every ordinance (except for emergency ordinances) must have two public readings, three affirmative votes, and a minimum of five days between introduction of the proposed ordinance and its final passage (Portland, Or., Ordinances, Passage, 2-120 (2022); Portland, Or., Rules of the Council, 3.02.040 (2022)). The enacted ordinance will go into effect thirty days after it is passed by the city council. Proposed resolutions also need three affirmative votes to pass, but only need one public reading (Portland, Or., Rules of the Council, 3.02.040 (2022)). After the first reading of either a proposed ordinance or resolution, members of the public may testify in front of the Portland city council as to how they think the council should vote. From there, the second reading takes place, and the council members vote to either pass or reject the ordinance or resolution.

Statutes are on the state and federal level what ordinances are on the local level, but the process of how a bill becomes a statute is often more complicated than that of ordinance or resolution passage. Legislative sessions, when the proposing and enacting or rejecting of bills happens, are not always consistent on the state level. Depending on the year, there might be fewer opportunities to pass a bill into law in your state. The Oregon Legislative Assembly is a prime example, with regular sessions consisting of 160-days of lawmaking on odd numbered years and 35-day short sessions taking place in even numbered years. While brainstorming an idea for a new bill, whether to create a new law or amend an existing one, be sure to research the state legislature’s calendar to confirm that the session is long enough to accommodate the legislative proposal.

Whether you are advocating on the state or federal level, making a legislative idea a reality requires first sharing it with one or more Senators or Representatives. First, find a legislator to sponsor the bill to get it introduced in either the House of Representatives or the Senate. When a Representative agrees to champion your idea, that Representative will submit a legislative draft request to the office of legislative counsel for a legislative draft of your proposed idea. Once the language is approved by sponsors and stakeholders, the legislative draft will be assigned a bill number and then it will receive a first reading. After the bill’s first reading in the House of Representatives, the bill will be assigned to a committee which reviews it, holds hearings to get expert, industry, and public opinion, and can host work sessions to better understand the issue at hand. The committee issues a report, and any associated amendments are printed with a new version of the bill. The bill then undergoes its second reading in the House of Representatives before being read for a third time and voted upon. If the bill passes by a majority in the House (thirty-one Representatives in Oregon), it is passed onto the Senate. The bill is read in the Senate for the first time, the Senate President assigns it to a committee, and the



<sup>5</sup> Texas Coalition to Abolish Death Penalty, *Advocacy 101, Citizen Action Guide* (2010), available online: <https://tcadp.org/wp-content/uploads/2010/07/Legislative-Advocacy-101.pdf>

<sup>6</sup> Law 2019/202 Banning the Sale or Provision of Certain Force-Fed Poultry Products, New York.

<sup>7</sup> City of Berkeley, *Accelerating the City of Berkeley’s Transition to Plant-Based Foods*, 2021.



committee sends it back to the Senate for its second and third readings. If the bill is voted favourably by a majority of Senate members (sixteen Senators in Oregon), it is reported back to the House so that the Speaker of the House, the Senate President, and one other high-ranking official can sign it. From there, the enrolled bill lands on the Oregon Governor's desk who has five days to sign it or veto it. If the bill is signed into Oregon state law, the bill's effective date comes later – typically January 1 of the following year. Bills can start either in the House or Senate or proceed through both at the same time. Regardless of where it starts, both chambers need to agree on the final language before sending it a Governor for signature.

This long, drawn out legislative process means many bills will die in committee, or not even make it that far. However, working on even unsuccessful legislative campaigns is worthwhile. Statutes have power to promote justice, prevent harm, and shift how we treat nonhuman animals. Legislative efforts, whether enacted into law or not, contribute to raising awareness about animals in the Legislature. For that reason, although the legislative process can be cumbersome, advocating for change in the political institutions remains worthwhile.





## 5. Inclusive Outreach: Tribal Jurisdictions

**“There is no practice of law that does not intersect with issues that are important to Native Americans and their sovereignty” – Dr. Carma Corcoran, Director of the Indian Law Program at Lewis & Clark Law School**

No matter where animal advocates are located, it is of paramount importance to consider and include tribal nations and other affected and marginalised people. This section offers only a glimpse into how advocates can incorporate indigenous interests and rights into their legislative campaign, and we suggest advocates conduct further research to ensure that tribal communities play an active role in legislative advocacy efforts.

Indigenous tribes are considered domestic nations under federal law. These native communities possess self-governance independent from the U.S. government, albeit limited by treaties, Executive Orders, acts of Congress, court decisions, and other legal mechanisms. Tribal sovereignty ensures that indigenous communities have the power to create their own governments, enact and enforce civil and criminal laws, and regulate property and activities within their jurisdictions – including the use of natural resources. Many legislative efforts targeted towards protecting animals will impact the land, resources, or rights of indigenous people in some capacity. For example, animal advocates could champion a federal bill aimed at reducing access for wild-caught fishing. While the goal would be to minimise the suffering and death of fish and other aquatic life, an unintended result could be an infringement on tribal fishing rights. To avoid interfering with tribal sovereignty, and to buttress the political power of indigenous communities, communication with, and inclusion of native tribes in, the legislative planning process is imperative.

In the beginning stages of any legislative campaign, consider how advocacy might impact native tribes. This step includes identifying the indigenous nations in the region your bill covers and reaching out to these communities as soon as you have a grasp on how your bill may affect them. For instance, a coalition of animal advocates championing a federal bill aimed at reducing access for wild-caught fishing might want to adjust its jurisdiction solely to the state of Oregon. Because fishing is intricately tied to food, water, and land sovereignty, advocates

should reach out to the nine tribes of Oregon — or at least the tribes that reside near and oversee the Columbia or Yakima Rivers. But before advocates get in touch with the tribes, they should research possible stakeholders, sociopolitical outcomes, and anticipated opposition.

In this instance, possible stakeholders include federal agencies like the Bonneville Power Administration, state agencies like the Oregon Department of Fish & Wildlife, and nonprofits like Ecotrust or the Columbia River Inter-Tribal Fish Commission. Government actors, nonprofit advocates, and other stakeholders have important perspectives to provide and roles to play in legislative campaigns. By outlining to the tribal liaison their intentions for relationship-building with these different actors, advocates allow the tribe to have more say over this political process. Advocates should also research how their proposed bill could impact tribal (and marginalised) communities and come up with possible solutions to nullify or mitigate any potential harm. Lastly, advocates should consider who might oppose their bill: government actors, industry players, or tribes themselves. Foreseeing imminent conflict is essential to take steps towards the conflict resolution necessary to ensure all parties—humans and animals — have their interests considered.

With their research collected and organised, the coalition can now contact the relevant tribes' natural resource departments and tribal councils. If advocates do not know whether their bill could affect specific tribes, advocates should always err on the side of caution and contact them with their general legislative proposal and relevant concerns. If advocates are uncertain about the tribe's stance on the bill, they can politely ask if the tribal liaisons are willing to share their thoughts and emphasise that they want to work with the tribe to ensure the bill benefits (or least does not impair) the tribal nation. If those advocates speak with have recommendations for doing further research or contacting other individuals, advocates should heed their advice. And perhaps most important,



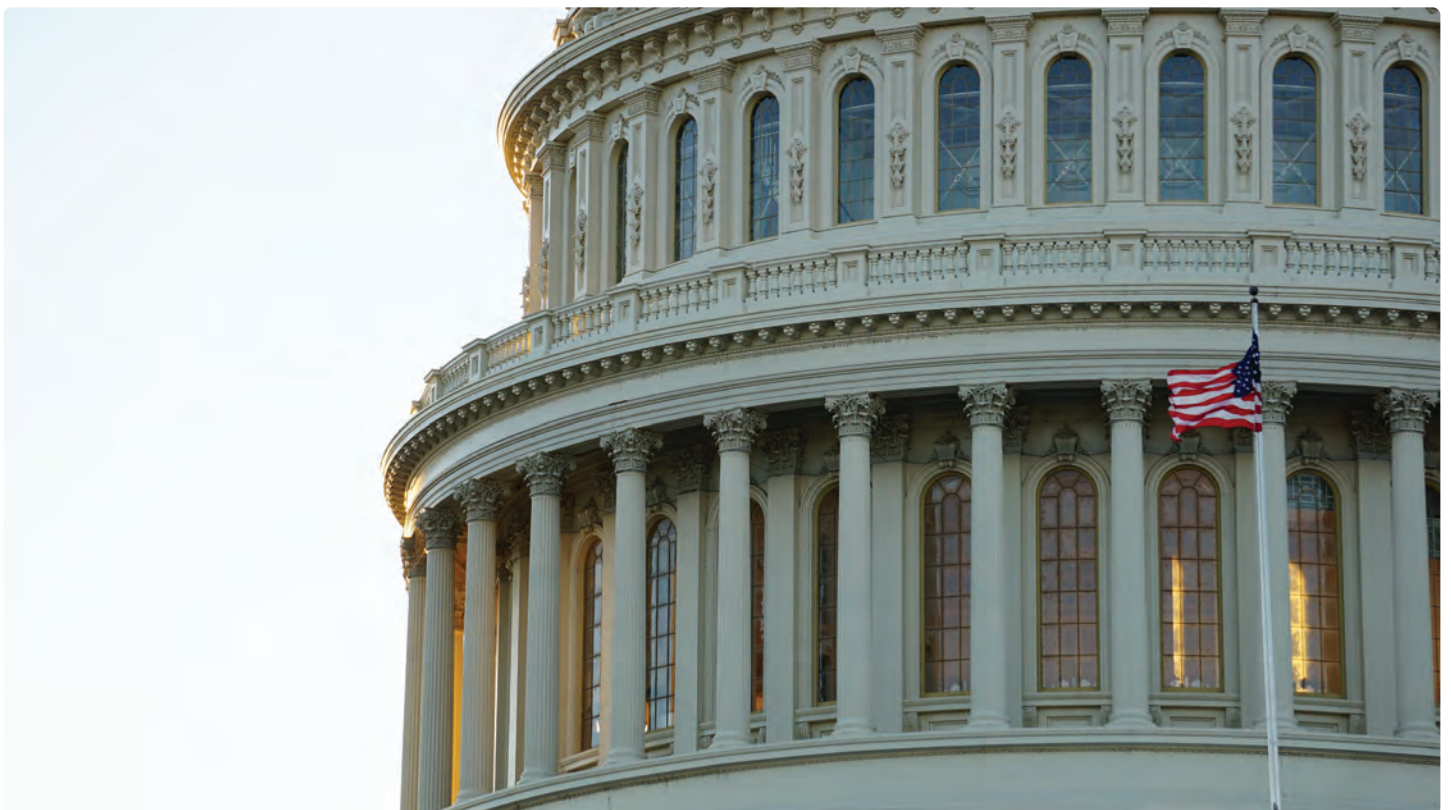
*This section was written with the assistance of Dr. Carma Corcoran of the Chippewa-Cree tribe, Director of the Indian Law Program at Lewis & Clark Law School.*

advocates should respect the tribe's opinion of the bill.

The nine tribes of Oregon are individual nations with diverse cultures and practices, meaning there is a strong chance tribes will have different standpoints when it comes to the progression of your legislative campaign. These political intricacies amongst the tribes does not mean advocates should simply listen to the tribe that agrees with their view, or falsely state that all nine tribes of Oregon support their bill when they do not. Rather, advocates should ask themselves whether this legislative advocacy is for the greater good, and make sure they have explored all options, and done everything they possibly can to optimise ethical outcomes and minimise potential harms. Although challenging, incorporating human interests into your calculus and determining whether an idea is optimal for all, contributes to fostering responsible animal advocacy.

Throughout the entire process of generating a legislative concept, conducting sufficient research, communicating with tribal nations, and assessing appropriate outcomes, advocates must keep in mind that culturally, spiritually, and politically speaking, native people have different perspectives than the western world on the environment and the beings that reside in it. Every step of the way, but especially in direct contact with tribes, non-native animal advocates must be respectful of those differences and properly reflect on their biases. If your worldview is

westernised and you believe that it is superior to a native person's value system, do not engage in conversation before sincerely reexamining why you feel that way. Take into consideration the historical, cultural, and sociopolitical factors that influence your ideology, and acknowledge that your worldview is not necessarily the only "right" one. Reflecting in this manner does not mean assuming your opinion is invalid or that the legislative campaign is not worth pursuing. Rather, it serves as an opportunity to learn about other cultures and nations and develop greater sensitivities to navigating a complex world and creating the opportunities to build true collaborative coalitions.



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Written in collaboration with:



# A Guide to Evaluating Policy

## Introduction

2. Understanding the Political System and Legislation
3. Understanding Current Conditions
4. Policy Evaluation
  - 4.1. Iterative Depth Research
  - 4.2. Theory of Change and Evidence Base
  - 4.3. Common Factors to Look Out For
  - 4.4. Assessing the Tractability of a Policy
5. Conclusion

Advocating for Animals:  
A Guide to Legislative Advocacy

Coller Animal  
Law Forum

**CALF**





# Introduction

**Government policy and legislation can address many problems on a much larger scale than individual actors. Legislative advocacy campaigns have the potential to leverage the vast resources and unique enforcement mechanisms available to governments to greatly improve the quality of life of humans and other animals, making this approach a potentially highly cost-effective way to create positive change.**

The purpose of this document is to act as a short guide to the basic principle of public policy and legislative evaluation for groups considering advocating for policy and legal change, including background information the group should gather, research methods available, and factors that should be considered.

There are numerous mechanisms that interest groups can use to achieve their policy aims including; directly advocacy towards decision-makers, media campaigns, direct action and protests or, where available, direct democracy mechanisms such as ballot initiatives or referendums. The efficacy of each mechanism will vary depending on the context and issue, but the results are the same – policy change.

Interest groups that are successful in their advocacy efforts have the potential to have a huge counterfactual impact, achieving policy change many years before it may have occurred otherwise, if at all. For example, lobbying in the United States is responsible for lower taxes on solar power, increased taxes on tobacco, and the establishment of a program to detect asteroids (Lerner 2020). In animal advocacy, one recent victory is the ‘End the Cage Age’ initiative. This initiative spearheaded by Compassion in World Farming EU led to a commitment by the European Commission to phase out the use of cages for hens, sows, calves, and numerous other farmed animals (European Commission 2021). These successes can be achieved by groups with little previous experience in the area; a prominent recent example is Lead Exposure Elimination Project’s success in lobbying the Malawi government to enforce its laws against harmful lead in paint.<sup>1</sup> Tactics used for legislative campaigns vary in difficulty but are all achievable by contacting representatives, surveys or petitions, providing research on the issue to decision makers, or organising large demonstrations and protests.

Even with this large potential to have an impact, there is also the potential to do harm by advocating for policies that have negative effects on the targeted group or flow-through effects on other groups. For example, there is evidence that a carbon weighted meat tax could increase rather than decrease the overall number of animals farmed for food by incentivising chicken production.<sup>2</sup> Even discounting the possibility of actively harmful policies, given the wide range in impact found between different interventions,<sup>3</sup> failure to target the most impactful policies means advocates will relieve significantly less suffering than they may otherwise have done. Weak policies also come with the risk that advocacy shifts the government’s policy focus to less impactful improvements, potentially reducing welfare compared to what would have occurred without the group’s efforts.

Given this risk, it is important that advocacy groups carefully evaluate the policies they are considering campaigning for, before they launch their campaigns.



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# 1. Understanding the Political System and Legislation

The first stage before launching a policy advocacy campaign is understanding both how new legislation is passed or amended and the advocacy methods available to you as an advocate in a country. These could include:

- Drafting and amending legislation
  - › Legislative proposals introduced by the Government
  - › Legislative proposals introduced by members of parliaments
    - » Can influence members of parliament or ministers to introduce or support bills
    - » Response to call for evidence or public consultation
- Drafting and amending regulations
  - › Regulations and rules adopted by the administration
  - › Opportunities for advocates to reform such rules and regulations at regular intervals during consultations
- Official petitions with trigger thresholds for response or debate, such as European Citizens' Initiative, petitions to the PETI Committee in the European Parliament, or petitions with over 100,000 signatories in the UK.
- Referendums called by members of parliament (for example in the UK) or the public (only in certain jurisdictions, such as Switzerland).
- Ballot Initiatives called by the public (only in certain jurisdictions, such as Massachusetts, California, in the US)
- Litigation for holding government accountable for how laws are interpreted, implemented, and enforced

Researching and understanding the steps involved in policy change in your target country can give your organisation a clearer picture of the tactics available for advocacy and the conditions that must be met to succeed. This is useful both for your advocacy and for identifying the routes that have the highest probability of success given your policy aim, particularly when complemented by an analysis or existing knowledge of which political actors are likely to be more aligned with your policy aims. For example, maybe you identify significant support for reducing stocking density for egg-laying hens from Members of the Parliament, this

would allow you to use a private members bill. Perhaps there is little political support for a policy, but strong public support suggesting a direct democracy mechanism, such as a ballot initiative or a referendum, may be more successful.

While you are becoming familiar with the methods of policy change in your target region it is also important to review all existing legislation and understand the existing legislative landscape. This should involve your key decision makers and/or research staff gaining a clear picture of existing legislation and key stakeholders. Typical research questions include:

- Which articles, acts or regulations are currently in force?
- How is each piece of legislation connected to one another?
- Which acts or articles give powers to which institutions?
- Which legislation are relevant regulations written under?

At this stage, we advise you to consult the Collar Animal Law Forum and other resources<sup>4</sup> as well as World Animal Protection's index for your target country<sup>5</sup> or, if possible, consult with local animal lawyers. If they cover the region you work in, these resources should provide you with a good overview of the major pieces of legislation in your country. World Animal Protection also provides some suggestions for reforms to each area of legislation that could be campaigned for.

After gaining an understanding and broad overview of the structure of existing legislation, your next aim should be to identify all of the reforms that could be made to improve the current system. These should extend from broader reforms to the regulatory system as a whole, such as the introduction of an animal welfare commission, or aiming to ban 'factory farming' to narrow campaigns targeting specific welfare improvements such as banning the castration of pigs. Particular areas that are worth considering are, the field of animal welfare:

## Legislation

- Changes to the regulatory system as a whole







<sup>4</sup> Available online at: <https://calf.law/>.

<sup>5</sup> Available online at: <https://api.worldanimalprotection.org/>.

- Are some animals excluded from existing protections? Or are there expectations for certain activities?
  - Does it apply to imported goods?
  - What are the existing enforcement mechanisms?
- Regulations**
- Are there specific rules applying to farmed animals?
  - How detailed are these rules?
  - How do current standards compare to other countries, certifiers, and recommendations from existing academic research?
  - What type of cruel practices in breeding, on farms, during transport, and at slaughter should be regulated, or even prohibited?

The aim at this stage is to identify all possible campaigns, regardless of quality, to help identify opportunities that may otherwise have been missed, and because your initial intuition is not a perfect predictor of the most impactful policy campaigns. At this stage, it is also useful to research the avenues for policy change that would be the best fit for each campaign idea and which methods of advocacy would be available to you to influence this. In some cases, this may also include legal challenges of the government or farms on their failure to enforce or comply with existing laws. Ideas can be generated spontaneously, through interviews with experts or other organisations, or from possible ways to address problems identified in the ‘understanding current context’ stage.

Advocates should also consider other legal fields than animal welfare, such as:

 <p><b>Agricultural policy</b></p> <ul style="list-style-type: none"> <li>• Subsidies supporting animal agriculture (direct and indirect) including magnitude and conditions for receiving them.</li> </ul>	 <p><b>Fiscal policy</b></p> <ul style="list-style-type: none"> <li>• Taxes on products, an example of this is Meat Taxes.</li> <li>• VAT reduction on plant-based products.</li> </ul>
 <p><b>Environmental policy</b></p> <ul style="list-style-type: none"> <li>• Regulation of emissions on farms and slaughterhouse</li> </ul>	 <p><b>Public health policy</b></p> <ul style="list-style-type: none"> <li>• Regulation of the use of antimicrobials on farms</li> <li>• Official nutritional guidelines</li> </ul>



## 2. Understanding Current Conditions

**Even with a full understanding of the regulatory system and existing regulations, without an understanding of the scale of various industries or groups of animals used or affected by humans, the main campaign priorities will be unclear.**

A good approach is to develop a spreadsheet with the number of animals used in various industries, their average life expectancy and information on the conditions the animals are raised in or the ways in which they are affected by human activity.

Common sources of data for this are industry or government or bodies, such as the Food and Agriculture Organisation,<sup>6</sup> as well as academia, such as Our World in Data.<sup>7</sup> This work would allow organisations to understand where most years of animal life are spent and where most individuals are affected and killed. Groups of animals that should be considered include animals used on farms (including invertebrates), in entertainment and in experiments; as well as companion animals,

wild animals and liminal animals. Although farmed, liminal and wild animals will almost always make up the vast majority of animals affected by human activity. Advocates should balance this against public opinion, political climate, potential intended consequences, and other factors that affect the tractability of an intervention.

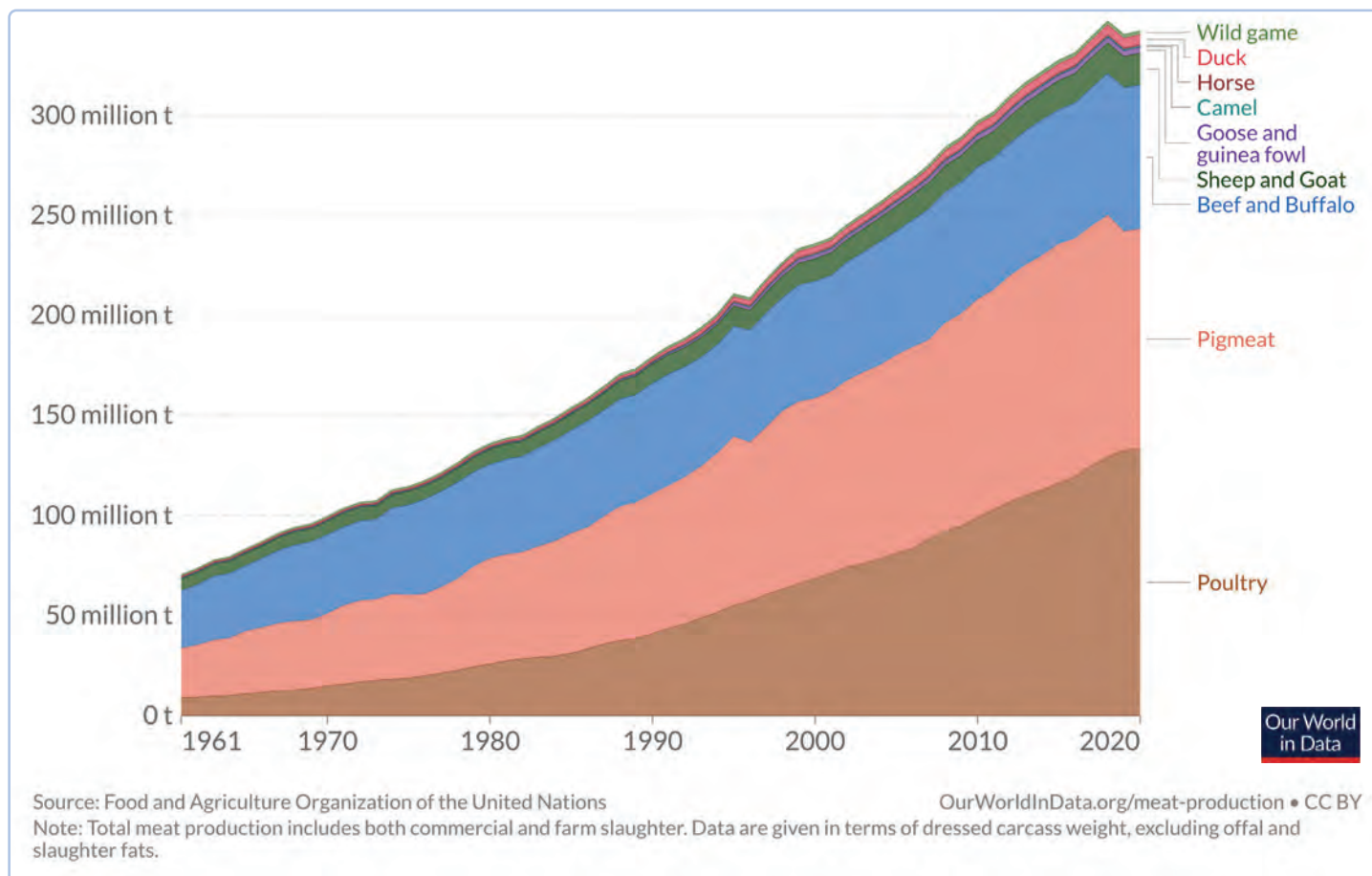
This broad overview of the existing number of animals used and affected provides a great starting point for more practical scoping of various industries. Given the numbers used and the lifespans of the animals in various industries or affected by humans this should identify priority species and industries for further scoping. Advocates can then gain further understanding of these priority issues

<sup>6</sup> *FAO statistics on crops and livestock products can be accessed online at: <https://www.fao.org/faostat/en/#data/QCL>.*

<sup>7</sup> *Available online at: <https://ourworldindata.org/>.*



## Meat Production by Livestock Type, World, 1961 – 2020



by finding more detailed industry statistics on the main welfare issues or the structure of the supply chain.

For farmed animals this can be done by breaking down each life stage that an animal experiences from birth to slaughter. Taking note of causes of mortality during each stage, any painful procedures or handling and the main welfare concerns raised by academics, members of the industry or the public. The main welfare issues for an animal's welfare can be determined by viewing the research of various outcomes on available welfare indicators or by using a validated overall assessment method. More on this topic can be found in Animal Ask's report on measuring animal welfare.<sup>8</sup> If possible, it can also be beneficial for farmed animal policy to conduct on-farm welfare assessments for the main priority species.

Organisations can also choose to end practices that are strongly opposed by the public, or practices for which an alternative exists, even though such practices are not the most cruel. For instance, the grinding of chicks in the egg industry is opposed by a majority of citizens in the EU for ethical reasons, and alternatives exist to the killing of day-old chicks, and so a prohibition seems relatively easy to achieve.

The main priorities for each species will vary from country to country due to existing practices, level of intensification, or other conditions such as heat and humidity which can cause severe heat stress for chickens in tropical environments.<sup>9</sup> Political and cultural factors also weigh significantly on the types of practices and the structure of the animal agriculture industry. This information can later be used in your lobbying efforts as well as help identify and determine the optimal policy changes to improve the quality of life of these animals.

<sup>8</sup> George Bridgwater, *Measuring Animal Welfare: Philosophical Foundations, Practical Indicators and Overall Assessments*, Animal Ask (2021), available online: [https://c2b5df1e-0ba2-4201-9fb6-87e92e6ad2c0.usrfiles.com/ugd/c2b5df\\_1e46550329c54904ba30be150a43a48f.pdf](https://c2b5df1e-0ba2-4201-9fb6-87e92e6ad2c0.usrfiles.com/ugd/c2b5df_1e46550329c54904ba30be150a43a48f.pdf)

<sup>9</sup> J. O. Ayo et al., *Review Article Effects of Heat Stress on the Well-Being, Fertility, and Hatchability of Chickens in the Northern Guinea Savannah Zone of Nigeria: A Review*, *Veterinary Science* (2011).

## 3. Policy Evaluation

### 3.1. Iterative Depth Research

After you have established an overview of the context you are working in and what the possible main causes of suffering for non-human animals are, you can then begin the analysis of the policy options available to you. There are several different aims that you can attempt to achieve through animal welfare policy. This guide is mostly focused on policies that have the greatest effect on the quality of life of farm animals. However, the analysis of this question is a lot more complicated in practice.

Given the number of policy options available to you, a complete analysis of each policy would be very time-consuming and therefore prohibitively expensive. Instead, many research organisations that prioritise different interventions, policies or ideas, use an iterative depth research process. This treats research like a funnel where policies or ideas are reviewed at a shallow depth and are either deprioritized or, if they seem promising on the

evaluation criteria, are assessed at increasing levels of depth.<sup>10</sup> This process is iterated upon until a decision is reached resulting in one or a small number of top priority options.

This iterative depth assessment can either be conducted very formally through the use of certain research methods; such as expert opinion, weighted factor models, cost-effectiveness analysis, and informed consideration; or left to a researcher's judgement. Although in the latter case the results of such an analysis will depend much more on the researcher's skill and existing knowledge of the field. If your organisation is interested in more formally conducting research, you can learn more about weighted factor models, cost-effective analysis, informed consideration and expert interviews from the website of Charity Entrepreneurship.<sup>11</sup> However, beyond the broad scoping stage of the research, at this point, having specialist research staff will benefit the outcomes of your research. It is strongly recommended

<sup>10</sup> GiveWell, "Research on Programs," August 2022, [https://www.givewell.org/research/research-on-programs#Our\\_program\\_review\\_process](https://www.givewell.org/research/research-on-programs#Our_program_review_process) (last visited July 28th 2023).

<sup>11</sup> Charity Entrepreneurship, "Our Research Process," <https://www.charityentrepreneurship.com/research-process-2019-2020> (last visited July 28th 2023).





that you either hire specialised staff with the experience to conduct this sort of research or seek assistance from existing research organisations.

### 3.2. Theory of Change and Evidence Base

Regardless of the method used to evaluate your organisation's policy, your analysis should aim to develop a broad understanding of the theory of change of the policy. A theory of change is a comprehensive description or illustration of the hypothesised path to impact for the policy or intervention being considered.<sup>12</sup> In policy, this maps each stage of policy implementation from legislation passing through, to enforcement, to the expected effects of the policy on the outcomes of interest or other potential flow-through effects. The main focus of the theory of change is to explicitly map out all the assumptions or stages involved in your perception of how the policy should work. For a simplified example: a policy that provides subsidies for plant-based meats. Do the subsidies lead to a reduction in prices for the consumer? Does this reduction in price cause consumers to substitute away from animal meat products? How can we try to shoot down these initial assumptions, and what information is available to help us do so? Investigating whether these assumptions are true and the magnitude of these effects is vital for evaluating the impact of such a policy.

The most important factor you should consider for each stage of the theory of change is the quality and quantity of evidence to support any of your initial underlying assumptions. For each of the underlying assumptions outlined in your theory of change, you should review the available literature and outline all of the evidence you have that supports or disproves these assumptions. Ideally, the policies we campaign for will have evidence to support a significant effect across their theory of change, as well as a large and high-quality evidence base. This is particularly strong if the evidence to support the policy or methods of evaluation comes from many sources, with different failure states or weaknesses, making the evidence more robust to uncertainty. More on this topic can be found in GiveWell's summary of sequence vs cluster thinking.<sup>13</sup>

The importance of the evidence base of a policy's impact is often underestimated. When choosing between multiple policies with varying degrees of evidence to support their estimated impact, advocates should assume that options with the weakest evidence base may overestimate their value compared with those with a stronger evidence base. This occurs because of a phenomenon known as the optimizer's curse. Given this risk affecting low evidence policies which appear to have promising impact, advocates should attempt

to offset the optimizer's curse by adjusting the expected impact.

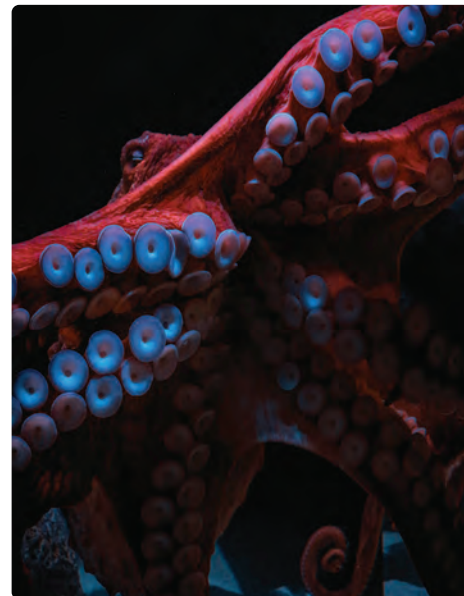
### 3.3. Common Factors to Look Out For

Common factors that you should look out for in your research, beyond checking the initial assumptions you have about the impact of the policy, are flow-through effects and broader-reaching externalities. These tend to be more difficult to spot during very structured research and for those less familiar with a topic, as these effects are inherently in the unknown unknowns category. In that, it's possible to evaluate a policy or idea without realising these effects exist. These effects can be both positive or negative, greatly reducing or increasing the value of a policy. In some cases, these effects can even dwarf the direct effects of the policy- perhaps even making it harmful overall.

Some common flow-through effects to consider for welfare requirement-related policies are the effect of the improvement on other abnormal behaviour or how implementing such an improvement affects broader farm management practice. For example, implementing better disease management practices may improve welfare and reduce mortality but allow farmers to stock the animal at a higher stocking density without the same risk of disease. Or placing stringent requirements for straw enrichment for pigs would also result in less tail biting, an abnormal behaviour which can occur due to lack of enrichment, and therefore reduce the need for tail docking further improving welfare.

Beyond the flow-through effects on on-farm outcomes, the effect of policy can affect the whole system of farming. This is partially true for the economic effects of policy reform, with adjustments to the requirements for raising animals affecting the price of products and therefore demand and consumption of the product and other animal products. The most prominent example of this is with policies to ban foie gras, as banning the product results in shifting the consumption to other pâtés or animal products,<sup>14</sup> whereas with a fur ban consumers are forced to substitute for artificial fur.

The final type of flow-through effects are externalities, flow-through effects that affect other cause areas. For example, efforts to improve the enforcement of farmed animal welfare laws by increasing prison sentences for workers who are convicted of cruelty will disproportionately affect those from more disadvantaged socioeconomic backgrounds. Positively banning routine farm antibiotic use on factory farms would reduce the risk of creating antibiotic-resistant bacteria which



<sup>12</sup> NPC, "Theory of Change in Ten Steps," <https://www.thinknpc.org/resource-hub/ten-steps/> (last visited July 28th 2023).

<sup>13</sup> GiveWell Blog, "Sequence Thinking vs. Cluster Thinking," June 10th 2014, <https://blog.givewell.org/2014/06/10/sequence-thinking-vs-cluster-thinking/> (last visited July 28th 2023).

<sup>14</sup> Stop Gavage Suisse, *The Reality of Foie Gras in Switzerland*, January 12, 2019, <https://en.stopgavagesuisse.ch/post/the-reality-of-foie-gras-in-switzerland> (last visited July 28th 2023).



could spark a pandemic. Although these effects are not directly relevant to animal welfare policy, advocates should share concern for many causes and weigh the effect on other areas alongside the effect on non-human animals.

### 3.4. Assessing the Tractability of a Policy

Ultimately, regardless of the value of the policy your organisation is advocating for, if you fail to achieve policy change then there will be no direct effect on the lives of animals. The campaign itself may change public opinion or encourage change in diet habits however, we could achieve these effects far more efficiently by targeting them directly. If your organisation's aim is for campaigns to be maximally impactful, you would need to select campaigns with a reasonable probability of success.

Highlighted in the section on “understanding the political system and legislation”, the requirements for, and therefore indicators of, successful campaigns vary depending on the method of change used. Although the typical factors you should consider either through existing secondary research or by

conducting surveys yourself are; public opinion and support for the issue, the opinions of key political stakeholders, and precedent in other or neighbouring countries. Assessing some of these can be done through desk-based research while the assessment of others, such as the opinion of key political stakeholders, may only really be feasible through campaigners' soft judgments.

A principle in some tension with the tractability of the policy is the counterfactual replaceability. Although a policy may be highly likely to succeed, if this is too strong then an additional campaign to support the issue may have a little effect on its odds of success, or only speed up implementation by a few years. Whereas, a campaign success on a difficult issue may cause the policy to come into force many decades prior to when it may have occurred anyway, if at all. Thus, although ideally, the tractability of the policy we are campaigning for should be high and it should be unlikely to occur without our additional campaigning resources anytime soon. This kind of sweet spot of high tractability and low counterfactual replicability is possible and should be sought out, but in practice, these two factors are often anti-correlated with each other.



## 4. Conclusion

**Overall, working to ensure your organisation is always working on the most pressing important issues for non-humans animals will help ensure your group does everything it can do to minimise the suffering these individuals face in the current system of exploitation.**

As well as accelerate the movement's progress to preventing all forms of exploitation. However, if the issue is not considered carefully it can lead your organisation to make poor campaign choices which can ultimately lead to much slower improvements to animal welfare or implementation of actively harmful policies. It is therefore particularly important decision makers are well informed about

the current context they are working in, the advocacy methods available to them and have an accurate perception of the value of the policy options available to them.





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