LEGAL ASPECTS OF THE EXOTIC PET TRADE

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OUTLINE

- Canadian laws applicable to the trade in exotic animals
  - International
  - Federal
  - Provincial
  - Municipal
- Conclusion: Existing law largely fails to protect exotic animals
INTERNATIONAL LAW

  - Aims to ensure international trade in wild animals & plants does not threaten their survival
  - Protects at-risk animals
  - Import/export permits required for CITES-listed species - allowed where use is non-commercial, use will not threaten species survival
  - Welfare of individual animals is not a consideration
FEDERAL LAW

- Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPRIITA)

- Implements CITES, creates import / export permit system for at-risk species, including exotic pets
  - Common examples include most parrots; many lizards, snakes and turtles; hybrid cats, some fishes
  - Does not specify conditions an animal must be kept in once it enters Canada
  - Captive-bred animals are easier to import
FEDERAL LAW

- Species at Risk Act (SARA)
  - Protects (some) Canadian wildlife species that are endangered or threatened
  - Prohibits the capture of wild animals from protected species
  - Captive-bred animals are largely exempt
FEDERAL LAW

- Health of Animals Regulations
- CFIA requires permits for the import of some animals into Canada
- Reptiles & amphibians don’t need permits - only turtles and tortoises
- Birds often require permits
- No primates (unless zoo, research) Customs & border patrol
- Only a fraction of shipments are inspected
FEDERAL LAW

- Criminal Code
  - s. 445.1: prohibition against causing “unnecessary pain suffering, or injury” to an animal
  - s. 446: prohibition against abandoning a captive animal “in distress”, or “wilfully neglect” or fail to provide suitable and adequate food, water, shelter and care

- Problems
  - Remedial, not preventative
  - Not meaningfully updated since 1950s
  - Weakness may make prosecution difficult
  - Enforcement
Society for the Prevention of Cruelty to Animals Act, RSNB 2014, c 132

- No prohibition on causing or permitting an animal to be in distress

General Regulation, NB Reg 2000-4 - comply with (vague) standards of care

- “adequate” source of food and water, “reasonable” protection from injurious heat or cold

- adequate medical attention for wounded or ill animal

- prohibition against confining an animal in a way that could threaten health of well-being due to: inadequate space, unsanitary conditions, inadequate ventilation, another animal, lack of opportunity to exercise, or state of disrepair
PROVINCIAL LAW – NEW BRUNSWICK

- Possessing exotic animals not allowed without obtaining a permit
  - Can own and trade animals on exempt list in Exotic Wildlife Regulation, NB Reg 92-74

- Pet stores, shelters, and sanctuaries require a license
  - Must keep records, including for acquisition and sale of exotic animals
  - Must comply with animal welfare standards listed in Pet Establishment Regulation, NB Reg 2010-74

- Public Health Act allows officials to seize animals that pose a health hazard
PROVINCIAL LAW – PROBLEMS
(NEW BRUNSWICK)

- No detailed welfare standards for privately-owned exotic animals
- Difficult to monitor exotic animal possession and enforce relevant laws
  - Complaint-based enforcement problematic when animals kept on private property
  - Need warrant to enter a home, even if an animal is believed need help
- Lack of veterinary expertise
  - Inherent difficulty of proving animal welfare / cruelty offences
- No rules specific to mobile live animal displays
- Differential treatment for zoos and circuses
Ontario Society for the Prevention of Cruelty to Animals Act (OSPCA Act)

- Do not cause or permit an animal to be in distress
- O.Reg 60/09 - comply with Standards of Care
  - “adequate” food, shelter, space, care, etc. required
PROVINCIAL LAW – PROBLEMS (ONTARIO)

- Not a cohesive regime to regulate exotic pets - No prohibitions - No detailed welfare standards
- Remedial, not preventative
- Difficult to monitor exotic animal possession and enforce relevant laws
  - Complaint-based enforcement problematic when animals kept on private property
  - Need warrant to enter a home, even if an animal is believed to be in distress
  - Lack of veterinary expertise
  - Inherent difficulty of proving animal welfare / cruelty offences
- No rules specific to mobile live animal displays
MUNICIPAL LAW
(NEW BRUNSWICK & ONTARIO)

- Municipalities may be forced to fill gaps in federal / provincial regulation
- When exotic animal bylaws exist, typically include a list of prohibited species + exemptions
- Registry of exotic animals also possible
- Downsides
  - Patchwork approach
  - Lack of municipal expertise
  - Cost of enforcement
  - Low registry uptake
PROVINCIAL REGULATORY OPTIONS (NEW BRUNSWICK)

- Option 1: Ban keeping & sale of exotic animals
- Option 2: Enhance existing positive list
OPTION 1: BAN EXOTIC ANIMAL TRADE & POSSESSION
(NEW BRUNSWICK)

- Ban the keeping and sale of exotic animals

- Benefits
  - Comprehensive
  - Strongest protection for wild animal populations
  - Eliminates inevitable poor welfare outcomes for captive exotic animals
  - Protects public safety
  - Ease of enforcement
  - Eliminates need for local veterinary expertise on exotic animal welfare
OPTION 2: POSITIVE LIST (NEW BRUNSWICK)

- New Brunswick already has a positive list model in place
- Positive lists are growing in popularity
  - More safety-conscious, preventative/precautionary in nature
  - Evidence-based approach to welfare
  - Easiest, clearest approach to regulation
- Negative lists can be cumbersome
  - Continual revisions as exotic pet trade exploits new species
PROVINCIAL REGULATORY OPTIONS (ONTARIO)

- Option 1: Prohibit keeping & sale of exotic animals
- Option 2: Introduce positive list
OPTION 1: END EXOTIC ANIMAL TRADE & POSSESSION (ONTARIO)

- Prohibit the keeping and sale of exotic animals

Benefits

- Comprehensive

- Strongest protection for wild animal populations

- Eliminates inevitable poor welfare outcomes for captive exotic animals

- Protects public safety

- Clarity in enforcement

- Eliminates need for local veterinary expertise on exotic animal welfare
OPTION 2: POSITIVE LIST (ONTARIO)

New approach growing in popularity: a concise list of permitted animals

- Belgium, Netherlands adopted; other EU countries moving in that direction
- New Brunswick has a positive list model in place:
  - (Exotic Wildlife Reg – pet stores, shelters, sanctuaries – everyone needs a permit, must comply with welfare standards)
- More safety-conscious, preventative/precautionary in nature
- Evidence-based approach to welfare
- Easiest, clearest approach to regulation
- Negative lists - cumbersome, complicated, continually in need of revision