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Solving the Problem of Puppy Mills: Why the Animal Welfare Movement's Bark is Stronger than its Bite

Kailey A. Burger*

I. INTRODUCTION

The relationship between man and dog is one characterized by companionship, service, and love; but dogs serve a variety of functions beyond just “man’s best friend.” These companion animals provide valuable assistance to people with disabilities,¹ in military and police service,² in therapeutic contexts,³ and in numerous other areas of life. With approximately 78.2 million pet dogs in the United States,⁴ and approximately 39 percent of U.S. households owning at least one dog,⁵ it is no surprise that so many animal welfare activists and organizations possess a deep passion for protecting and improving the lives of these animals.⁶

* Zuckerman Fellow and Ed.M. Candidate (2014), Harvard Graduate School of Education; J.D. (2013), Washington University School of Law; B.A. (2010), Truman State University. First and foremost, thank you to my beloved dog and best friend, Lila. Thank you also to Christopher, the tremendous professors who have supported me throughout my education, to Ellie for her advice, and to fellow dog-lovers Kadeidra and Lorrette for their help in titling this Note. Finally, I hope readers will decide to make pet adoption their first choice, and encourage others to do the same.

1. See Larry Abramson, *Service Dogs Teach Educators About Disabilities*, NAT’L PUB. RADIO (May 14, 2011), <http://www.npr.org/2011/05/14/136287114/new-rules-look-to-educate-schools-on-service-dogs>.

2. See Rebecca Frankel, *Foreign Policy: The Dogs of War*, NAT’L PUB. RADIO (May 5, 2011), <http://www.npr.org/2011/05/05/136016450/foreign-policy-the-dogs-of-war>.

3. See Margot Roosevelt, *Canine Candy Stripers*, TIME, Aug. 6, 2011, available at <http://www.time.com/time/magazine/article/0,9171,1000463,00.html>.

4. HUMANE SOC’Y U.S., U.S. PET OWNERSHIP STATS. (Aug. 12, 2011), http://www.humanesociety.org/issues/pet_overpopulation/facts/pet_ownership_statistics.html.

5. *Id.*

6. For the purposes of this Note, “animals” refers to those species used for agricultural purposes in Missouri. This includes farm animals, animals that are part of the food supply (either meat or dairy products), and dogs used in commercial breeding whose offspring are sold as pets. While breeding domesticated pets might seem incongruous with agricultural production, under state law, commercial dog breeders are categorized as agricultural entities.

The prevalence of dogs in American culture makes the opposition to protecting them perplexing. At the root of this opposition is a fundamental disconnect between the message presented by animal welfare⁷ activists and the message received by individuals in the agriculture industry, who view animal regulations as a threat to their livelihood. On one side, activists, seeking regulations and protections for dogs, frame the issue as one of animal welfare and morality.⁸ On the other side, the agriculture industry, motivated largely by economic factors, opposes outside oversight likely to reduce profits.⁹

This Note examines these differing perspectives and explains how members of the animal welfare movement can mitigate opposition to animal welfare reforms. Using Missouri ballot initiative Proposition B (“Prop B”) as a lens, this Note analyzes the animal welfare movement’s political efforts to eradicate puppy mills. First, it discusses the history of puppy mills. Second, it explains the political role of animal welfare organizations. Third, it identifies opponents of these welfare reforms. And finally, this Note argues that animal welfare activists can more effectively achieve their policy goals by implementing a number of common-sense strategies. By producing a mainstream message, connecting with more human-focused interest groups, increasing public awareness, and building local relationships, the animal welfare movement can work to achieve greater political influence and success.

Robert Garner, political scientist and leading animal welfare scholar, explains the past failures of activists as failures of political mobilization:

In the past, scholars and movement participants have paid little attention to the political-institutional dimension of animal

See MO. DEP’T OF AGRIC., ANIMAL CARE PROGRAM, <http://mda.mo.gov/animals/ACFA/> (last visited Mar. 3, 2013).

7. Those passionate about improving the lives of animals can be characterized in a variety of ways, but the distinction between “animal welfare” and “animal rights” activists is not the focus of this Note. For an articulation of this distinction, *see* Joseph Lubinski, *Introduction to Animal Rights*, ANIMAL LEGAL & HIST. CTR. (2004), <http://www.animal-law.info/articles/ddusjlubinski2002.htm#Welfare>.

8. *See, e.g.*, Jerry L. Anderson, *Protection for the Powerless: Political Economy History Lessons for the Animal Welfare Movement*, 4 STAN. J. ANIMAL L. & POL’Y 1, 26 (2011).

9. *See id.* at 27–28.

protection. This is partly because the movement itself has adopted a whole range of strategies, most not dependent upon influencing national (or even local) decision-makers; and partly because attempts to achieve public policy goals have invariably failed.¹⁰

By providing a roadmap of political strategies, this Note seeks to build on Garner's observations and assist animal welfare activists in becoming influential policymakers.

II. HISTORY

A. *What is a Puppy Mill?*

"Puppy mill" is a term used to describe a commercial dog breeding facility that profits from selling puppies on a large scale.¹¹ Those operating puppy mills frequently prioritize profitability at the expense of their animals' wellbeing.¹² As a result, breeders, seeking the most affordable means of production possible, create deplorable and unsafe living conditions for their animals. In her Note, *Dealing Dogs: Can We Strengthen Weak Laws in the Dog Industry?*, Sandra K. Jones explains how "[v]eterinary care, proper nutrition, socialization, integrity of the breed and breed standards, and, most importantly, sanitation at puppy mills are substandard compared to other responsible breeders."¹³

The puppy mill industry has caused animal welfare activists great concern, which they tend to express in moralistic terms.¹⁴ Some

10. Robert Garner, *The Politics of Animal Protection: A Research Agenda*, SOC'Y & ANIMALS 43, 49 (1995), available at http://www.animalsandsociety.org/assets/library/294_s314.pdf.

11. *Puppy Mill FAQ*, AM. SOC'Y FOR THE PREVENTION OF CRUELTY TO ANIMALS, <http://www.aspc.org/Fight-Animal-Cruelty/puppy-mills/puppy-mill-faq> (last visited Mar. 3, 2013).

12. *Id.*

13. Sandra K. Jones, Note, *Dealing Dogs: Can We Strengthen Weak Laws in the Dog Industry?*, 7 RUTGERS J.L. & PUB. POL'Y 442, 445 (2010).

14. See, e.g., *More Than 100 Dogs Rescued Simultaneously From Two Mo. Puppy Mills Reinforce Urgent Need for Prop B*, HUMANE SOC'Y U.S. (Sept. 22, 2010), http://www.humane.society.org/news/press_releases/2010/09/dogs_rescued_reinforce_need_for_prop_b_092210.html [hereinafter *More Than 100 Dogs Rescued*].

current policies reflect this moral concern for the welfare of the animals, particularly those policies aimed at preventing animal cruelty and abuse. Not surprisingly, however, the treatment of animals is only one consideration in the formation of animal policy. More often, economic and budgetary considerations are policymakers' primary concerns.

One class of puppy mill laws characterizes puppies as a product, providing remedies when newly purchased animals do not meet consumer expectations.¹⁵ Illness, poor socialization, and aggression are common traits of "puppy mill dogs" that can be attributed to breeding conditions.¹⁶ Trends in civil litigation have sought to address these undesired outcomes through contract clauses guaranteeing the health of the animal or providing a warranty-like replacement if the puppy should die from an illness contracted in the puppy mill.¹⁷ Several states have also attempted to protect consumers by enacting "lemon laws"¹⁸ that apply to the purchase of puppies.¹⁹

A large number of puppies are bred, bought, and sold across state lines—bringing them under federal jurisdiction as stream of commerce goods.²⁰ In an effort to regulate this system, the Federal Animal Welfare Act (AWA) mandates the registration and inspection of certain commercial animal dealers who transact with other states.²¹

15. See Kim Campbell Thornton, *Buying a dog? Beware of breeder*, NBC NEWS.COM (Jan. 22, 2008), <http://www.nbcnews.com/id/22670940/ns/health/t/buying-dog-beware-breeder/#.UVDMhVd499V>.

16. *Puppy Mill FAQ*, *supra* note 11.

17. See Rebecca F. Wisch, *Sale of Companion Animals by Breeders and Retailers*, ANIMAL LEGAL & HIST. CTR. (2005), <http://www.animallaw.info/articles/dduspetsales.htm> (discussing contract and tort implications for breeders and purchasers).

18. Lemon laws are traditionally "designed to protect a consumer who buys a substandard automobile . . . by requiring the manufacturer or dealer either to replace the vehicle or to refund the full purchase price." This concept has been expanded to protect consumers buying "any product of inferior quality." BLACK'S LAW DICTIONARY 912 (7th ed. 1999).

19. Rebecca F. Wisch, *Table of State Pet Purchaser Protection Laws*, ANIMAL LEGAL & HIST. CTR. (2010), <http://www.animallaw.info/articles/ovuspetsprotectionstatutes.htm>.

20. "[A]nimals and activities which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this chapter is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce" 7 U.S.C.A. § 2131 (2013).

21. 7 U.S.C. §§ 2131, 2136, 2147 (2011). Modifications to the Animal Welfare Act are currently pending in the U.S. Senate. The "Puppy Uniform Protection and Safety Act" is bipartisan legislation that would broaden the definition of "high volume retail breeders," require

Federal inspectors are required to visit breeding facilities and issue citations for violations of the standards²² set forth by the Animal and Plant Health Inspection Service (APHIS),²³ a division of the U.S. Department of Agriculture. While these regulations appear to offer at least minimal protections²⁴ for breeding dogs, they often go unenforced due to three major flaws in the federal inspection program.

First, because of a loophole in the AWA, its regulations apply only to animal dealers.²⁵ Thus, breeders can sidestep mandatory registration simply by selling directly to the public,²⁶ allowing many retailers to operate without the oversight of federal inspections.²⁷ Second, there are a limited number of federal inspectors,²⁸ which means a number of breeders inevitably go uninspected.²⁹ Even when

exercise and better living conditions for breeding animals, and ensure that state regulations meet or exceed the federal standards. As of July 13, 2013, this legislation had been referred to the Senate Committee on Agriculture. (S. 395, 113th Cong. § 2 (2013)).

22. See U.S. DEP'T OF AGRIC., ANIMAL & PLANT HEALTH INSPECTION SERV. COMPLIANCE INSPECTIONS (Feb. 2012), http://www.aphis.usda.gov/publications/animal_welfare/content/printable_version/fs_compliance_inspection.pdf (summarizing compliance standards).

23. 9 C.F.R. §§ 3.1–3.19 (2011) (enumerating the standards applied during the inspections).

24. Some minimal protections include: housing animals in a “structurally sound facility in good repair,” providing water “twice daily for one hour,” and observing the animals daily. See *id.*

25. As defined by the statute, the term “dealer” does not include retail pet stores. 7 U.S.C. § 2132(f)(i) (2011). There is pending legislation that would make the AWA applicable to “high volume retail breeders” of dogs. See S. 395, 113th Cong. § 2 (2013).

26. A study conducted by the U.S.D.A. found some large breeders went around the AWA by selling their animals on the Internet. U.S. DEP'T OF AGRIC., ANIMAL & PLANT HEALTH INSPECTION SERV., AUDIT REPORT 33002-4-SF, ANIMAL CARE PROGRAM, INSPECTIONS OF PROBLEMATIC DEALERS 36–37 (2010), available at <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf> [hereinafter INSPECTIONS OF PROBLEMATIC DEALERS]. Unfortunately, “[l]arge breeders that sell AWA-covered animals over the Internet are exempt from . . . inspection and licensing requirements due to a loophole in [the] AWA.” *Id.* at 2. The report goes on to acknowledge that “[a]s a result, an increasing number of these unlicensed breeders are not monitored for their animals’ overall health and humane treatment.” *Id.*

27. See Christina Widner, Comment, *Channeling Cruella De Vil: An Exploration of Proposed and Ideal Regulation on Domestic Animal Breeding in California*, 20 SAN JOAQUIN AGRIC. L. REV. 217, 222–23 (2011).

28. In 2007, the APHIS reported employing 102 inspectors and having 9,249 facilities under their supervision nationwide. U.S. DEP'T OF AGRIC., ANIMAL & PLANT HEALTH INSPECTION SERV., ANIMAL CARE ANNUAL REPORT OF ACTIVITIES FISCAL YEAR 2007 12–13 (2008), available at <http://www.docstoc.com/docs/2912995/Animal-Care-Annual-Report-of-Activities-Fiscal-Year-United-States>.

29. See INSPECTIONS OF PROBLEMATIC DEALERS, *supra* note 26.

breeders are inspected, regulations tend to be inadequately enforced.³⁰ Finally, due to the deficiencies in federal regulations, states are often left to regulate a significant portion of their own breeders.³¹

B. Puppy Mills in Missouri

Commercial dog breeding is largely rooted in agriculture, as many former farmers have chosen breeding as an alternative to farming in tough economic times.³² Because of the unique characteristics of this industry, the number of puppy mills and the need for breeding regulations vary widely between states. For states without a major agriculture industry, state-specific policies might be unnecessary; but for large agricultural states, supplementing the sparse federal regulations is an enormous burden.³³

Because many dog breeders are former farmers, breeding facilities are often located in rural areas.³⁴ Geographical isolation makes inspection inefficient and unlikely. Breeders have little incentive to incur the expense of building larger cages and shelters, or of providing adequate veterinary care. Additionally, many farmers-

30. Animal Care (AC) "inspected 8,289 licensed dealers and found that 5,261 violated AWA At the re-inspection of 4,250 violators, 20 inspectors found that 2,416 repeatedly violated AWA, including 863 that continued to violate the same subsections." *Id.* at 8.

31. The number of federal inspectors is not sufficient to ensure thorough, annual inspections of all breeders nationwide. States with a large number of breeders have implemented their own regulations to ensure the inspection of puppy mills. In Missouri, laws passed to regulate dog breeding mandate annual inspections of every licensed breeder; this differs from the discretionary standard present in federal regulations. Efforts to collaborate have resulted in 40 percent of inspections being conducted by federal authorities, and the remaining 60 percent conducted by the state. *See* MO. DEP'T OF AGRIC., REPORT NO. 2008-45, STATE AUDITOR'S REPORT 18 (2008), available at <http://auditor.mo.gov/press/2008-45.pdf> [hereinafter MO. STATE AUDITOR'S REPORT].

32. "Initially, it was the United States government that set the stage for the puppy mill. After World War II, when conventional crops failed, American farmers sought alternate means of making money. In response, the United States Department of Agriculture began promoting the raising of dogs as crops. As the supply of dogs began to grow, so too did the number of retail pet stores." Adam J. Fumarola, *With Best Friends Like Us Who Needs Enemies? The Phenomenon of the Puppy Mill, the Failure of Legal Regimes to Manage It, and the Positive Prospects of Animal Rights*, 6 BUFF. ENVTL. L.J. 253, 262 (1999).

33. Because of the link between farming and puppy mills, states with a large agricultural industry are likely to have more puppy mills. Additionally, due to the opposition of many in the agriculture industry to animal welfare reforms, welfare policies will be more controversial in these states. *See id.*; *see also* Anderson, *supra* note 8.

34. *See* Fumarola, *supra* note 32.

turned-breeders consider the animals to be property or commodities; they do not share the same sense of moral responsibility or duty that animal welfare activists infer from their own relationships with animals. Without sufficient federal oversight, the state is tasked with investigating and inspecting these rural facilities. Yet, in major agricultural states, the farming industry is often influential and well represented within state government. These agricultural ties incentivize lax inspection policies, fostering the growth of the puppy mill industry at the expense of the animals' quality of life.

This narrative exemplifies the evolution of the puppy mill industry in Missouri, dubbed the "Puppy Mill Capital" of the United States due to the state's numerous dog breeders and poor regulations.³⁵ Missouri has the highest concentration of dog breeders in the United States.³⁶ It is estimated that between 33 and 40 percent of American commercial dog breeders are located in Missouri,³⁷ making the state's inspectors responsible for regulating an estimated one million puppies per year.³⁸

In 2001, then-State Auditor Claire McCaskill investigated the performance of Missouri inspectors and the effectiveness of the state's dog breeding regulations.³⁹ The audit report explained that "commercial dog breeders have little, if any, incentive to comply with state statutes or to correct violations, and canines are vulnerable to inadequate care."⁴⁰ Four major areas of concern were outlined: "spotty state inspections with few sanctions; appearance of conflicts of interests of top management; state inspections less thorough than federal inspections; and lax program performance measures."⁴¹

35. BETTER BUS. BUREAU, THE PUPPY INDUS. IN MO.: A STUDY OF THE BUYERS, SELLERS, BREEDERS & ENFORCEMENT OF THE LAWS 1 (Mar. 2010), <http://stlouis.bbb.org/storage/142/documents/Puppy%20Mills%20study.pdf>.

36. OFFICE OF THE STATE AUDITOR OF MO., REPORT NO. 2001-09, AUDIT OF ANIMAL CARE FACILITIES INSPECTION PROGRAM 2 (2001), available at <http://www.auditor.mo.gov/press/2001-09.pdf> [hereinafter AUDIT OF ANIMAL CARE FACILITIES INSPECTION PROGRAM].

37. See *id.*; see also T.J. Greaney, *Puppy Mill Measure Debated: Issue Draws Ire of State's Dog Breeders*, COLUM. TRIB., Sept. 14, 2010, available at http://www.columbiatribune.com/news/politics/puppy-mill-measure-debated/article_42c2f790-23f5-5861-9c2f-e7ecb2218366.html.

38. Greaney, *supra* note 37.

39. AUDIT OF ANIMAL CARE FACILITIES INSPECTION PROGRAM, *supra* note 36, at 1.

40. *Id.* at 2.

41. *Id.*

A follow-up inspection conducted in 2004 revealed that “the majority of findings noted in the first audit of the animal care inspection program were still occurring, four years later.”⁴² An audit of the Missouri Department of Agriculture by State Auditor Susan Montee in 2008 revealed more of the same. “The program reported that 1,111 (40 percent) of 2,769 licensed facilities for which an annual inspection was required were not inspected in calendar year 2006.”⁴³ The reasons for departmental failures echoed those of the 2001 and 2004 reports: “they were unable to perform the required inspections due to an insufficient number of budgeted inspectors along with the resources required to identify unlicensed facilities and perform complaint investigations.”⁴⁴

The prevalence of commercial breeders in Missouri has become something of a vicious cycle—an increasing number of breeders leads to a decrease in the percentage of breeders that will be inspected, due to a lack of resources.⁴⁵ With low rates of inspection and minimal repercussions for violations that are detected, Missouri puppy-millers have little incentive to comply with state or federal laws.⁴⁶

C. Proponents of Puppy Mill Reform: Nationally and in Missouri

To understand the animal welfare movement and the opposition it faces, and to prescribe the best methods for achieving legislative success in the animal welfare arena, it is necessary to examine the movement’s end goal, the nature of the policies it seeks, and the specific actors involved.

First, the animal welfare movement’s end goal, as it pertains to this Note, is the implementation of policies and regulations that improve living conditions for animals. More specifically, the

42. OFFICE OF THE STATE AUDITOR OF MO., REPORT NO. 2004-91, FOLLOW-UP REVIEW OF ANIMAL CARE FACILITIES INSPECTION PROGRAM (2004), available at <http://www.auditor.mo.gov/press/2004-91.pdf> [hereinafter FOLLOW-UP REVIEW OF ANIMAL CARE FACILITIES].

43. MO. STATE AUDITOR’S REPORT, *supra* note 31, at 18.

44. *Id.*

45. BETTER BUS. BUREAU, *supra* note 35.

46. *Id.*

movement seeks the implementation of laws regulating large-scale dog breeding operations in Missouri, with the ultimate goal of eradicating puppy mills.

Second, animal welfare groups are best described as “public interest” in nature because “they aim to achieve collective benefits not restricted to the narrow economic interest of their members.”⁴⁷ At its most superficial level, the animal welfare movement is not human-centered. That is, its legislative aims do not readily lead to economic or other tangible benefits for people. And so ironically, though not unexpectedly, this leaves the movement “particularly susceptible to the charge—often brought by opponents—that it has narrow concerns unconnected with *any* human interests, let alone public interests.”⁴⁸ Emphasizing this seemingly obvious point is essential because it helps explain why policies have failed in the past and how they can be improved for the future.⁴⁹

Finally, interest groups are the most prominent actors involved in the animal welfare arena. Nationally, the American Society for the Prevention of Cruelty to Animals (ASPCA), the Humane Society of the United States (HSUS), and the Animal Legal Defense Fund (ALDF) advocate for puppy mill reform. They are well-funded,⁵⁰

47. Garner, *supra* note 10, at 44.

48. *Id.* at 45 (emphasis in the original).

49. This Note will argue that by connecting the animal welfare cause to more human-focused interest groups, activists can expand the animal welfare movement. Drawing connections between the suffering of people and the suffering of animals may seem abstract, but research has shown substantial correlations exist. By improving protections for animals, it might be possible to improve the lives of people, as well. One example of this is the positive effect companion animals have on communities. See Lisa J. Wood et al., *More Than a Furry Companion: The Ripple Effect of Companion Animals on Neighborhood Interactions and Sense of Community*, SOC’Y & ANIMALS 43, 49 (2007), http://www.animalsandsociety.org/assets/library/638_morethanafurrycompanion.pdf. Another commonly referenced phenomenon is the correlation between animal abuse and domestic violence (and other crimes). See *Animal Abuse & Domestic Violence*, AM. HUMANE ASS’N, <http://www.americanhumane.org/children/stop-child-abuse/fact-sheets/animal-abuse-domestic-violence.html> (last visited Mar. 3, 2013). By associating with groups seeking human benefits, animal welfare activists can broaden their base while achieving policy goals that improve the lives of animals and people.

50. See *Am. Society for the Prevention of Cruelty to Animals*, CHARITY NAVIGATOR, <http://www.charitynavigator.org/index.cfm?bay=search.summary&orgid=3286> (last visited Mar. 3, 2013); *Humane Society of the U.S.*, CHARITY NAVIGATOR, <http://www.charitynavigator.org/index.cfm?bay=search.summary&orgid=3848> (last visited Mar. 3, 2013); *Animal Legal Defense Fund*, CHARITY NAVIGATOR, <http://www.charitynavigator.org/index.cfm?bay=search.summary&orgid=3298> (last visited Mar. 3, 2013).

have millions of members,⁵¹ and work throughout the country on numerous animal issues.

Local legislative advocacy is also significant. Puppy mill reform groups in Missouri include the Humane Society of Missouri (HSMO), the Missouri Alliance for Animal Legislation (MAAL), and Missourians for the Protection of Dogs (MPD).⁵² MPD was organized specifically to promote Prop B—the Puppy Mill Cruelty Prevention Act—which is the piece of legislation evaluated later in this Note. The primary goals of these organizations vary, but in 2010, while working together for the passage of Prop B, they collectively fought for more humane treatment of dogs by commercial breeders.⁵³

D. Opponents of Puppy Mill Reforms

The most powerful opposition to puppy mill reforms comes from agricultural interest groups. Missouri agriculture is a \$12.4 billion industry that ranks second in the country in both the number of farms and the number of cows produced for human consumption.⁵⁴ Generally, this industry is represented by a number of interest groups, including the Missouri Pork Association, the Center for Consumer Freedom, and the Missouri Farm Bureau. The prominence of

51. The Humane Society of the United States reports a membership of eleven million. HUMANE SOC'Y OF THE U.S., WE ARE THE HUMANE SOC'Y OF THE U.S.: ANNUAL REPORT 2011 (2011), http://www.humanesociety.org/assets/pdfs/publications/2011_annual_report/2011_annual_report_pub.pdf. The ASPCA reports having one million members. *About the ASPCA*, AM. SOC'Y PREVENTION CRUELTY ANIMALS, <http://www.aspc.org/about-us/about-the-aspc>.aspx (last visited Mar. 3, 2013). The Animal Legal Defense Fund reports “more than 100,000 members.” *About Us*, ANIMAL LEGAL DEF. FUND, <http://www.aldf.org/section.php?id=3> (last visited Mar. 3, 2013).

52. Missourians for the Protection of Dogs was the group specifically organized for the campaign in support of Prop B. The Missouri Alliance for Animal Legislation and the Humane Society of Missouri are long-standing groups with a presence in Missouri who endorsed Missourians for the Protection of Dogs, along with national organizations. Since the passage of Prop B, the Missourians for the Protection of Dogs website has been dismantled. For information on the group's endorsements, see *Missourians for the Protection of Dogs Forms Advisory Board to Help Fight Puppy Mill Cruelty*, HUMANE SOC'Y U.S. (May 10, 2010), http://www.humanesociety.org/news/press_releases/2010/05/missouri_advisory_board_051010.html.

53. See Julie Hauserman, *A Referendum on Puppy Mills*, HUMANE SOC'Y OF THE U.S. (Apr. 14, 2010), http://www.humanesociety.org/news/news/2010/04/mo_ballot_initiative.html.

54. MO. DEP'T OF ECON. DEV., MO. ECON. IMPACT BRIEF AGRIC. INDUS. (2008), available at http://www.missourieconomy.org/pdfs/missouri_ag_impact.pdf.

Missouri agriculture, as well as the more mainstream nature of their economic concerns, makes “big agriculture” a formidable opponent for animal activists.⁵⁵ In response to Prop B, members of various agricultural interest groups formed two new organizations to combat the efforts of MPD.

The first group, called “The Alliance for Truth,” denigrates the efforts of animal welfare activists on its website, using phrases such as “the deceptive [Humane Society]-backed Proposition B,” and purports to “protect Missouri citizens and agriculture from the radical animal rights agenda of HSUS.”⁵⁶ The second group, “Missourians for Animal Care,” espoused a similar message on its now-dismantled website, asserting: “[b]allot initiatives and legislative public policy efforts are the tools used by the Humane Society of the United States, and other animal rights activist groups, to carry out their ultimate goal of destroying animal agriculture and pet ownership in the United States.”⁵⁷

Professor Jerry L. Anderson explains that “[o]wners of livestock operations are driven almost wholly by market considerations.”⁵⁸ As such, it makes sense that members of the animal agriculture industry commonly couch their disapproval in terms of economic consequences, claiming the welfare measures sought will “drive up prices, cause food shortages, and force farmers out of business.”⁵⁹ Additionally, livestock producers claim intervention by national organizations, such as the HSUS and ASPCA, is unnecessary because “it is in farmers’ self-interest not to abuse their animals. If the farmer or rancher wants to be profitable he has to take care of the animals so they can take care of him.”⁶⁰

55. A third party involved in the puppy mill issue is the American Kennel Club, a private organization that registers “purebred dogs.” Fumarola, *supra* note 32, at 264. For a discussion of its role in the eradication of puppy mills, *see id.*

56. ALLIANCE FOR TRUTH, <http://www.thealliancefortruth.com/> (last visited Mar. 3, 2013).

57. Since the passage of Prop B, Missourians for Animal Care’s website has been dismantled. *See* Chuck Zimmerman, *Missourians For Animal Care Launched*, AGWIRED (Mar. 1, 2010), <http://agwired.com/2010/03/01/missourians-for-animal-care-launched/>.

58. Anderson, *supra* note 8, at 28.

59. Matt Campbell, *Agriculture, Humane Society Agendas Clash*, WICHITA EAGLE, Mar. 29, 2010, available at <http://www.kansas.com/2010/03/29/1245940/agriculture-humane-society-agendas.html>.

60. *Id.* (internal quotations omitted).

Joining these broad-based agricultural interest groups, the Missouri Pet Breeders Association opposes welfare reforms on behalf of dog breeders specifically. During the Prop B debates, a member of this organization raised what would become a popular complaint among those opposing puppy mill reforms, stating “[w]e don’t need more laws put together by out-of-state animal rights activists who are pushing their own agenda.”⁶¹ A common fear among those in the agriculture industry is that allowing animal activists to dictate policy will lead to stricter and more far-reaching regulations not limited to dogs or even companion animals.⁶² Further, interference in seemingly local issues by national organizations causes heightened animosity, and is a major point of contention that animal welfare activists must confront.

To combat proponents of Prop B, opponents organized into interest groups and utilized three impactful strategies to reframe the issue. First, by characterizing Prop B as an issue of animal “rights” instead of animal “welfare,” distorting the language used by MPD, opponents hoped to present Prop B as radical or extreme. Second, opponents connected Prop B to economic concerns and claimed the impact Prop B would have on dog breeders would be felt by the agriculture industry as a whole, creating a relatable yet intensely negative message easily understood by voters. Finally, by emphasizing the “foreign” nature of national groups imposing policy on Missouri, opponents of Prop B created an “us versus them” mentality that resonated with voters and classified animal activists as “the other.” These three strategies were extremely effective, proving the major impediments to Prop B’s success.

61. Dale Singer, *Narrow Victory for Prop B Won’t End Puppy-Mill Fight*, ST. LOUIS BEACON, Nov. 4, 2010, http://www.stlbeacon.org/issues-politics/176-Missouri_Issues/106095-puppy-mill-fight-not-over (internal quotations omitted).

62. See Zimmerman, *supra* note 57.

E. Previous Efforts to Reform Puppy Mills

Laws regulating animal breeding and animal cruelty vary widely between states.⁶³ Federal laws regarding the treatment of animals exist but are limited.⁶⁴ Therefore, an examination of state policy, specifically the policies of Missouri, provides a more comprehensive picture of the current climate in which animal welfare reformers must operate.

The tragically iconic imagery of puppy mills is easily used to stir public emotion. In 1992, after a “20/20” exposé on Missouri’s puppy mill problem, legislators were compelled to pass the state’s first puppy mill regulation,⁶⁵ the Animal Care Facilities Act.⁶⁶ The Act was designed to “provide state oversight to all breeders, dealers, exhibitors, hobbyists, boarders, retail pet stores, animal shelters, and municipal pounds involved in the sale or care of canines and cats . . .”⁶⁷ It extended beyond federal regulations in two important ways: first, retailers were no longer exempt from registration requirements, thereby closing the federal loophole. Second, instead of prescribing inspections based on the federal discretionary system, the Act required state inspections every year.⁶⁸

To enforce the Act, “[t]he Missouri Department of Agriculture established the Animal Care Facilities Act program in 1994.”⁶⁹ Despite these efforts, Missouri state audits conducted in 2001, 2004, and 2008 found rampant violations still occurring throughout the

63. See Rebecca F. Wisch, *Table of State Commercial Pet Breeders Laws*, ANIMAL LEGAL & HIST. CTR. (2011), <http://animallaw.info/articles/State%20Tables/tbuscommercialbreeders.htm>.

64. See Widner, *supra* note 27, at 221–22.

65. Steve Pokin, *Why Are We No. 1 in Puppy Sales? Is it the Climate?*, ST. LOUIS POST DISPATCH, Apr. 26, 2011, available at http://www.stltoday.com/suburban-journals/stcharles/news/stevepokin/pokin-around-why-are-we-no-in-puppy-sales-is/article_a8519e7a-d56e-5571-aa76-3acfd_e7d8387.html. See also *Bill Would License Kennels, Pet Shops*, ST. LOUIS POST DISPATCH, Mar. 10, 1992, at 4A.

66. See MO. DEP’T OF AGRIC., ANIMAL CARE PROGRAM, <http://mda.mo.gov/animals/ACFA/law.php> (last visited Mar. 3, 2013).

67. AUDIT OF ANIMAL CARE FACILITIES INSPECTION PROGRAM, *supra* note 36, at 2.

68. “After a license is issued, AC inspectors perform unannounced inspections at least biennially to ensure the facilities remain in compliance with AWA.” INSPECTIONS OF PROBLEMATIC DEALERS, *supra* note 26, at 4.

69. See *id.* at 2.

breeding industry.⁷⁰ Because state inspectors were unable to conduct adequate investigations, animal welfare agencies frequently investigated and arranged their own large-scale rescues.⁷¹

Animal activists also made numerous attempts to resolve these issues through legislative channels. During the 2010 legislative session, in an attempt to raise funds to pay for more inspections, animal welfare groups worked with sympathetic state legislators to pass a bill that would lift the \$500 cap on license fees for dog breeders. The bill failed to garner the necessary support and did not pass.⁷² After this legislative failure, animal welfare groups sought instead to achieve their policy goals through the voter-initiative process.⁷³

F. Missouri Proposition B

2010 Missouri ballot initiative Prop B, The Puppy Mill Cruelty Prevention Act, was designed to improve the living conditions of canines used for breeding.⁷⁴ With the support of national animal welfare groups and local anti-puppy mill organizations, it was approved as a voter initiative for the November 2010 ballot.⁷⁵

Opponents were outraged that the Missouri Secretary of State had approved a measure containing the term “puppy mill” and subsequently filed a lawsuit challenging the decision.⁷⁶ The goals of the suit were twofold: first, by removing the term “puppy mill,” opponents hoped to lessen the measure’s emotional impact. Second,

70. *See id.*; *see also* FOLLOW-UP REVIEW OF ANIMAL CARE FACILITIES, *supra* note 42, at 2; *see also* MO. STATE AUDITOR’S REPORT, *supra* note 31, at 18.

71. *See More Than 100 Dogs Rescued*, *supra* note 14; *see also* INSPECTIONS OF PROBLEMATIC DEALERS, *supra* note 26, at 1.

72. Terry Ganey, *Prop B Would Enact Tougher Dog-Breeding Regulations*, ST. LOUIS BEACON, Oct. 18, 2010, <http://www.stlbeacon.org/issues-politics/149-Election1/105632-prop-b-dogs>.

73. *Id.*

74. MO. SEC’Y OF STATE, 2010 INITIATIVE PETITIONS APPROVED FOR CIRCULATION IN MO.: STATUTORY AMENDMENT TO CHAPTER 273, RELATING TO DOG BREEDERS 2010-085, VERSION 1, <http://www.sos.mo.gov/elections/2010petitions/2010-085.asp> (last visited Mar. 3, 2013) [hereinafter 2010 INITIATIVE PETITIONS APPROVED FOR CIRCULATION IN MO.].

75. *Id.* For laws concerning the Missouri Initiative and Referendum processes, *see* R.S.M.O §§ 116.010–116.340 and MO Const. art. III, § 50.

76. *See State ex rel. Humane Soc’y of Mo. v. Beetem*, 317 S.W.3d 669 (Mo. Ct. App. 2010).

opponents sought to use the discovery process to expose the Humane Society's use of focus-group testing to determine the most impactful language for the initiative.⁷⁷ Ultimately, the court held judicial intervention was "not an appropriate substitute for the give and take of the political process," and allowed the Secretary of State's approval to stand.⁷⁸

Prop B passed narrowly, with 51.6 percent of the electorate voting in favor of the measure and 48.4 percent voting against.⁷⁹ "Support came primarily from the St. Louis and Kansas City areas . . . [whereas] [t]he vast majority of outstate counties voted against the measure."⁸⁰ While this distribution of votes was expected, due to the agricultural stronghold in rural Missouri, the small margin of victory was a disappointment, following the immense funding, passion, and publicity activists had put behind the measure.⁸¹

After Missouri voters passed Prop B, but before its effective date, the Missouri state legislature made numerous changes to the bill.⁸² "The result was a new law that repeal[ed] Prop B's limit of 50 breeding dogs per business but [set] new standards for veterinary care and housing."⁸³ These changes were strongly contested by animal advocates, who resolved to change the ballot initiative process to

77. *See id.*

78. *Id.* at 674.

79. MO. SEC'Y OF STATE, OFFICIAL ELECTION RETURNS NOV. 2, 2010 GEN. ELECTION (Nov. 30, 2010), <http://sos.mo.gov/enrweb/ballotissuereults.asp?arc=1&eid=300>.

80. Singer, *supra* note 61. "Outstate" counties are the suburban and rural areas that comprise the majority of the state. "97.4% of the land area in the state of Missouri is classified as rural . . . [b]ut only 30.6% of the population is classified as living in rural areas." MO. CENSUS DATA CTR., TEN THINGS TO KNOW ABOUT URBAN VS. RURAL (Dec. 16, 2006), <http://mcdc.missouri.edu/TenThings/urbanrural.shtml>.

81. Kailey Burger, *Missourians for the Publicity of Dogs?*, MO. SCOUT, Oct. 4, 2010.

82. Virginia Young, *Compromise Dog Breeding Measure is Rushed Into Law*, ST. LOUIS POST DISPATCH, Apr. 28, 2011, at A1. For a detailed explanation of the changes to Proposition B, see *Comparison of Mo. Proposition B, SB 113 & Governor's Bill*, HUMANE SOC'Y OF THE U.S., <http://hsus.typepad.com/files/comparison-of-prop-b-sb-113-and-compromise-bill-4.pdf> (last visited Mar. 3, 2013).

83. Young, *supra* note 82.

ensure future efforts could not be reversed immediately by the state legislature.⁸⁴

Using their national resources, the Humane Society of the United States formed a coalition called “Voter Protection Alliance,” and proposed a new initiative petition.⁸⁵ This initiative sought to amend the Missouri constitution to require a vote of 75 percent of the state House and Senate to change any law enacted by voters through the ballot initiative process.⁸⁶ Without 75 percent approval by the state legislature, the only method for changing such laws would be another statewide vote. This permanent, constitutional change would apply to all future ballot initiatives, whether or not they applied to animal issues.⁸⁷

III. ANALYSIS

A. *Prop B: What Animal Welfare Activists Did Right*

Though the aim of this Note is to address the deficiencies of the animal welfare movement in achieving policy goals, it is important to emphasize their great strengths. Throughout the policymaking process, and after the passage of Prop B, animal welfare activists were successful in three important areas: fundraising, messaging, and organization.

First, supporters of Prop B out-raised their opponents by a substantial measure.⁸⁸ Major organizations like the ASPCA and HSUS used their national reach, and local organizations relied on the intense dedication of individual members to bolster fundraising

84. Jo Mannies, *Groups Launch Effort to Limit Legislative Changes of Voter-Approved Initiatives*, ST. LOUIS BEACON, Apr. 13, 2011, <http://www.stlbeacon.org/voices/blogs/political-blogs/beacon-backroom/109539-humane-society-joins-effort-to-limit-legislative-changes-of-voter-approved-initiatives>.

85. *Id.*

86. *Id.*

87. *Id.*

88. See Terry Ganey, *Supporters of Prop B to Regulate Dog Breeders Outraise Opponents*, ST. LOUIS BEACON, Sept. 19, 2010, http://www.stlbeacon.org/issues-politics/176-Missouri_Issues/104981-supporters-of-prop-b-to-regulate-dog-breeders-outraise-opponents-.

efforts.⁸⁹ Animal welfare activists used this money to position and publicize Prop B throughout Missouri.

Second, Prop B's advocates were successful in framing the issue and promoting a message that appealed to the public. By testing and proposing ballot language that used the term "puppy mill," they crafted an initiative that played to voters' sympathies. Further, by winning the lawsuit that challenged the "puppy mill" language, animal welfare activists showed the opposition they were serious and savvy. They were also successful in using the imagery of puppy mills in commercials, pamphlets, on websites, and in other ways throughout the course of the campaign, to appeal to voters emotionally.⁹⁰ Finally, the content of the initiative was straightforward and easily understood.⁹¹ This allowed voters without previous knowledge of the measure to make a reasoned decision in the voting booth—an important element of a state-wide initiative petition.

Third, the outstanding organization of animal welfare activists around this issue allowed them to proceed efficiently throughout the process. While opponents came from numerous areas of the agriculture industry, employing mottled and ambiguous criticisms of Prop B, animal welfare activists rallied around a simple, straightforward message.⁹² National and local animal welfare organizations worked together to promote Prop B, and were able to pool their resources to produce an effective campaign.

B. Prop B: What Animal Welfare Activists Did Wrong

Despite successful fundraising, messaging, and organizing, Prop B can still be interpreted as a relative failure for animal welfare activists. It passed by a very narrow margin and was quickly stripped of its most stringent provisions by the state legislature.⁹³ Prop B's

89. *See id.*

90. *See* YESONPROPB, <http://www.youtube.com/user/YESonPropB> (last visited Mar. 3, 2013).

91. 2010 INITIATIVE PETITIONS APPROVED FOR CIRCULATION IN MO., *supra* note 74.

92. The clarity of this message was exemplified by the language used in Proposition B. *See id.*

93. *See* Young, *supra* note 82.

failure can be attributed to the ineffectiveness of the measure itself, poorly constructed and targeted communication strategies, and the perception of activists as “outsiders” in the local political arena.

First, though animal welfare activists were successful in crafting an initiative that played to voters’ sympathies, they were not successful in creating a bill that solved the problem of puppy mills. Puppy mills continue to thrive in Missouri, not because of a lack of legislation but because of inadequate enforcement efforts.⁹⁴ The laws passed by the Missouri legislature in 1992 contain numerous provisions that protect the safety of animals used by breeders.⁹⁵ But puppy mills persist because these laws are neither adequately funded nor enforced.⁹⁶

Each year, the Missouri state legislature is responsible for producing a budget that includes allocations for breeder inspections.⁹⁷ Prop B’s proponents, in using the voter-initiative process, effectively sidestepped the legislature’s lawmaking authority. Yet, while Prop B expanded the humane requirements of the 1992 measure, it did not provide for any additional enforcement mechanisms or funding.⁹⁸ Thus, animal welfare activists circumvented legislators in passing Prop B only to position themselves at the mercy of those same legislators in order to fund the measure. The decision to propose such

94. See AUDIT OF ANIMAL CARE FACILITIES INSPECTION PROGRAM, *supra* note 36.

95. See Animal Care Facilities Act, 1992 Mo. Legis. Serv. S.B. 636.

96. See AUDIT OF ANIMAL CARE FACILITIES INSPECTION PROGRAM, *supra* note 36.

97. The Governor submits a recommended budget to the Missouri General Assembly, and then the budget committee has the ability to manipulate appropriations according to a constitutionally prescribed hierarchy. See Mo. Const. art. IV, § 24; see also Mo. Const. art. III, § 36.

98. Prop B’s provisions replaced the portion of the Animal Care Facilities Act of 1992 pertaining to commercial dog breeders. The 1992 Act required adequate food, housing, and water, as well as sanitary facilities, for breeding dogs. The Act established licensing and inspection requirements, a disciplinary scheme, and an advisory committee to oversee the Act’s implementation. Animal Care Facilities Act, *supra* note 95. Prop B uses similar language and categories, but goes into much greater detail than the 1992 Act. For example, Prop B clarifies adequate food to require it be free of debris, and adequate water to be unfrozen. 2010 INITIATIVE PETITIONS APPROVED FOR CIRCULATION IN MO., *supra* note 74. If fully implemented, Prop B would make substantial and specific improvements to the standards set by the 1992 Act. See Jessica Stephens, *A Comparison of Current and Proposed Dog Breeding Laws*, COLUM. MISSOURIAN, Oct. 7, 2010, available at <http://www.columbiainmissourian.com/a/130437/a-comparison-of-current-and-proposed-dog-breeding-laws/>.

an ineffective, incomplete bill exposes the political inexperience and weakness of the animal welfare movement.

Second, to better understand the political strategy of animal welfare activists, it is necessary to examine the different ways in which animal welfare opponents and animal welfare proponents communicated their respective positions. The fears promoted by the agriculture lobby regarding increased regulation of the animal industry were not quelled by the explanations of animal welfare activists. This was exemplified by the geographic distribution of voter support for Prop B, with urban areas significantly more supportive of the measure than the more rural, agricultural areas of the state.⁹⁹

Prop B supporters initially framed the issue around “morality” and “welfare,” but opponents were arguably successful in reframing the initiative as one that affirmatively granted rights to animals at a high economic cost to humans.¹⁰⁰ These efforts to characterize the puppy mill issue as extreme and costly greatly impacted the conversation. As Lubinski explains, “[s]ociety most strongly supports welfare measures meant only to minimize the harm it inflicts upon its nonhuman companions. But, once proposals shift more toward an affirmative grant of rights and protections, public support wanes and serious debate begins.”¹⁰¹ This conversational shift from supporting animal welfare to granting animal “rights” was a critical element of conflict between those on opposite sides of this issue.

Professor Jerry Anderson investigated the role of the agriculture industry in preventing animal welfare reforms and concluded that “there can be no doubt that the intensive nature of modern production methods has resulted in the deterioration of living conditions for the vast majority of animals in agriculture.”¹⁰² The precept of capitalism, which demands agricultural entities generate profit as their first priority, incentivizes breeders to take short-cuts in the provision of accommodations for animals. By expending fewer resources for

99. See Singer, *supra* note 61.

100. See Campbell, *supra* note 59.

101. Joseph Lubinski, *The Cow Says Moo, the Duck Says Quack, and the Dog Says Vote! The Use of the Initiative to Promote Animal Protection*, 74 U. COLO. L. REV. 1109, 1152 (2003).

102. See Anderson, *supra* note 8, at 26.

things like adequate shelter, quality food, support staff, and veterinary services, breeders reduce the cost of production at the expense of the dogs' quality of life. This ethical tension between wealth maximization and animal welfare is at the root of agricultural opposition to reform. To complicate things further, a farmer's livelihood has historically been tied to a conception of animals as property and not as domesticated pets—a view which stands in stark contrast to that of animal activists.

Prop B supporters failed to account for the nuances of this conflict. Anderson explains how the animal welfare movement's misunderstanding of the opposition was exemplified in the rhetoric it employed: "agricultural producers rel[ie]d on slogans such as 'free market' and 'foreign competition' that call[ed] forth accepted, persuasive concepts in the public's storehouse of symbolic resources. . . ." Yet, "animal welfare advocates counter[ed] with 'stewardship' language."¹⁰³ This incongruous communication not only created conflict between animal welfare activists and those on the side of agriculture, it also created messaging that spoke to two separate groups of voters. Those who understood the traditional economic rhetoric espoused by proponents of agriculture found it more persuasive, whereas those sympathetic to ideas of ethical stewardship were more convinced by animal welfare reformers. In both cases, those in the policy arena listened to the messages they wanted to hear, instead of listening to and accommodating the concerns of the other side.¹⁰⁴

103. See *id.* at 37.

104. An example of this communication disconnect can be seen in the comments on both sides of the Prop B debate. Wayne Pacelle, President and CEO of HSUS, was reported to "not seem concerned that some breeders will go out of business if Proposition B takes effect." See Ganey, *supra* note 88. He supported his stance with "welfare" language by explaining that "Missouri accounts for 40 percent of the puppies sold across the country . . . [s]ome are sick, genetically damaged and poorly acclimated to bond with people. Meanwhile, animal shelters are overwhelmed and 2 million dogs are euthanized every year." *Id.* In response, Barbara York, a dog breeder, acknowledged that "some bad and unlicensed breeders give her business a bad name." *Id.* Shifting the dialog to "market-based" language, York reasoned that "[p]utting more regulations on your licensed breeders will not eliminate the unlicensed, substandard breeders that are out there who are not doing it right." *Id.* Finally, York strengthens her argument by re-characterizing the HSUS agenda: "[t]he ultimate goal of the Humane Society of the United States is to eliminate animal agriculture and ownership, and dog breeders are first in line. If they can eliminate us, then they will take down the rest of the agricultural community." *Id.*

Third, animal welfare activists clearly did not subscribe to Tip O'Neill's theory that "all politics is local."¹⁰⁵ In line with the communication issues described above, animal welfare activists suffered from the perception that they were national or "outsider" groups imposing their will on the state.¹⁰⁶ Although Prop B supporters were well organized and drew on both local and national organizations for support, those organizations were not sufficiently entrenched in the local political arena.¹⁰⁷ Without local goodwill and mutual understanding, Prop B proponents projected an image of paternalism and a disregard for the economic livelihoods of local farmers (as the farmers framed it).¹⁰⁸ This was demonstrated by the message they communicated, the legislative method they chose, and their reaction to the legislature's modification of Prop B.¹⁰⁹

In response to the passage of Prop B, the agriculture-dominated Missouri legislature stripped the measure of its teeth.¹¹⁰ HSUS fired back by funding a campaign for a ballot measure that would amend the Missouri Constitution and alter the ballot-initiative process, making it more difficult to amend voter-approved laws. This type of reactionary political action, not directly related to the animal welfare cause, provided fodder for opponents, and even some supporters,¹¹¹

These issue-framing techniques stand in stark contrast to one another, and exemplify the ideological and strategic differences between the two sides.

105. TIP O'NEILL, *ALL POLITICS IS LOCAL, AND OTHER RULES OF THE GAME* (1995).

106. *See* Ganey, *supra* note 88.

107. *Id.*

108. *Id.*

109. By deciding to fund a ballot initiative to change the Missouri Constitution, animal welfare groups shifted their focus and resources away from their specific area of concern. This extreme reaction to the changes to Prop B further alienated animal welfare groups from those in the policymaking arena, and also failed to achieve improved conditions for animals. This effort was eventually abandoned after a compromise was reached with legislators. For a more detailed explanation of the connection between Prop B and "Your Vote Counts," *see* Jo Mannies, *Group Ends Effort to Protect Initiative-Created Laws*, ST. LOUIS BEACON, Mar. 22, 2012, https://www.stlbeacon.org/#!/content/23587/initiative_032212.

110. For a detailed outline of the Missouri legislature's SB 113, which repealed the major provisions of Prop B, *see Comparison of Proposition B, SB 113, and Governor's Bill*, HUMANE SOC'Y U.S., available at <http://hsus.typepad.com/files/comparison-of-prop-b-sb-113-and-compromise-bill-4.pdf>. Missouri Governor Jay Nixon assisted in negotiating a "Compromise Bill" which he signed concurrently with SB 113 in an attempt to modify the complete repeal.

111. Brent Toellner, *Update on Missouri's 'Puppy Mills' Following Prop B Fiasco*, KC DOG BLOG (Aug. 17, 2011), <http://btoellner.typepad.com/kcdogblog/2011/08/update-on-missouris-puppy-mills-following-prop-b-fiasco.html>.

who claimed these groups were radical.¹¹² Moreover, these efforts shifted the conversation and ultimate legislative issue regarding Prop B from puppy mills to ballot initiatives.¹¹³

IV. PROPOSALS: A ROADMAP FOR THE ANIMAL WELFARE MOVEMENT

Professor Anderson concludes that “[t]he success of the animal welfare movement . . . hinges on whether society will adopt regulations, based on moral considerations that are directly opposed to its economic self-interest.”¹¹⁴ This determination makes the future of animal protections in Missouri seem bleak, because the Missouri agriculture industry operates primarily based on economic self-interest. Yet, “[e]thical change appears to arise when there is a heightened public awareness of the immoral conditions . . . combined with the development of theory and language by the prominent shapers of public opinion to provide the movement with legitimacy.”¹¹⁵

In order for the animal welfare movement to find sustainable success in Missouri, major changes must be made to their tactics. After identifying and analyzing the key problems present in Prop B’s approach, this Note proposes three strategies to improve the animal welfare movement’s effectiveness. First, the animal welfare movement must improve its prominence and mainstream appeal. Second, activists must engage in and emphasize education and alternative solutions. Third, it is imperative the movement strengthen its political connections, strategy, and awareness, to achieve legislative success.

112. ALLIANCE FOR TRUTH, *supra* note 56.

113. *See* Toellner, *supra* note 111.

114. *See* Anderson, *supra* note 8, at 1–2.

115. *See id.* at 33.

A. *Making Animal Welfare a Mainstream Issue*

Animal welfare organizations must work to improve their public image to gain mainstream support. Without widespread recognition of their efforts and message, it will be impossible for animal welfare activists to achieve enough popular support to withstand economic-based attacks by their opponents. In order to resolve these communication issues and ensure the animal welfare message reaches beyond those already predisposed to hear it, animal welfare scholars Jerry Anderson and Robert Garner suggest a similar strategy: “make further links with established social norms that make the animal welfare norm more acceptable.”¹¹⁶

In practice, this means connecting with groups who offer more relatable objectives and who promote more human-centered causes.¹¹⁷ In a political climate laden with job loss, foreclosures, and numerous other societal inequities, it is difficult for people to regard animals as a priority when so many humans are struggling. While this is a legitimate hierarchy and a concern that will persist, it can be mitigated by animal welfare activists acknowledging its existence and actively working to connect the plight of animals to the plight of humans. For example, 68 percent of battered women report that their animals have also been abused.¹¹⁸ For spouses or children afraid to report abuse to their person, an injured pet can provide a point of entry for social services into a violent home.¹¹⁹ In addition, 70 percent of animal abusers have records for other crimes.¹²⁰ These and numerous other examples illustrate the strong connection between animals and people. By highlighting these connections and working with new interest groups, animal welfare activists can more easily persuade mainstream voters and legislators that animal welfare issues are relevant and pressing.

116. See Anderson, *supra* note 8, at 37; see also Garner, *supra* note 10, at 49.

117. See Anderson, *supra* note 8, at 37; see also Garner, *supra* note 10, at 49.

118. *Animal Abuse & Domestic Violence*, *supra* note 49.

119. *Id.*

120. *Id.*

B. Solving the Puppy Mill Problem by Educating Consumers

Along with emphasizing the connection between human and animal issues, activists should commit to educating the public at large about animal welfare issues. Instead of funneling millions of dollars into campaigns for marginally successful ballot initiatives that are unlikely to be enforced, some of this money should instead be spent addressing the problem of puppy mills from the consumption side.¹²¹ This Note does not argue that regulations for dog breeders are unimportant; but regulations alone will not solve this problem.

Decreasing demand for designer dogs, and increasing public awareness about where and how pets are bred, would have a significant impact on the breeding industry. If consumers demanded puppies be bred humanely, breeders would be forced to either comply or risk losing business. Breeders fear increased regulations and improved breeding conditions will decrease profits, forcing them to either raise the price of puppies or go out of business.¹²² Because consumers are unaware of what those extra dollars can buy—sunlight, the ability for a dog to stand up and walk around, proper veterinary care, longer life expectancy, and more—this fear is not unwarranted. Educating consumers might create a market similar to that of free-range chicken, organic vegetables, or local foods.¹²³ Consumers are willing to pay more for these items because they know what they are getting, and they value the additional care, safety, and attention to detail.¹²⁴ By promoting this type of awareness, animal welfare activists can expand their reach and address multiple sources of the puppy mill problem, thereby increasing the likelihood that changes will be made.

121. National and local animal welfare organizations publish educational materials and run campaigns aimed at informing consumers about puppy mills. However, due to the communication disconnect explained in this Note, it can be inferred that many of these educational messages are only reaching those who want or are predisposed to hear them. By connecting with more human-centered groups and expanding the audience of potential listeners, animal welfare groups' educational efforts can be more impactful.

122. See Campbell, *supra* note 59.

123. See Matthew Saltmarsh, *Strong Sales of Organic Foods Attract Investors*, N.Y. TIMES, May 23, 2011, available at [http://www.nytimes.com/2011/05/24/business/global/24organic.html?ref=organic food](http://www.nytimes.com/2011/05/24/business/global/24organic.html?ref=organic%20food).

124. See generally *id.*

C. Animal Welfare Activists as Political Actors

During Prop B's passage, opponents complained that national animal welfare organizations were intruding on Missouri's policy process in order to impose an outsider agenda.¹²⁵ Allowing this perception to develop was a major tactical mistake. If a group attempts to affect change or provide a service in a community, they must first establish trust and legitimacy; otherwise, the relationship between the group and those they wish to work with will be tenuous at best. Local animal welfare groups were not established players in Missouri politics, so when national activist organizations anchored themselves to local ones, they compounded the "political outsider" problem.

When you consider the rocky local relationships that existed between animal welfare groups and local organizations, combined with the distaste among Missourians for seemingly intrusive outsiders, it is no wonder opponents of Prop B successfully mutated positive nationwide appeal into a negative factor.¹²⁶ In the future, animal welfare organizations would do well to establish relationships with legislators, lobbyists, and community activists before advocating for policy change. As Garner notes, "[a] focus on a public policy strategy requires an effective means of following up public campaigns and full-time, permanent lobbyists with influential contacts."¹²⁷

Much of the policy work conducted in state legislatures occurs behind closed doors. Without connections and a long-standing local presence, animal activists are unlikely to be invited to join the conversation. Additionally, animal welfare organizations must focus on understanding the perspectives of their opponents, so they can better tailor their message and create alliances accordingly. Otherwise, unwillingness to compromise, combined with misdirected resources, will form a continued pattern of waste for animal welfare activists. Changing this pattern is essential if the animal welfare movement hopes to succeed in the future.

125. See Ganey, *supra* note 88.

126. See *id.*

127. Garner, *supra* note 10, at 49.

V. CONCLUSION

The animal welfare movement is expertly organized, well funded, and composed of truly passionate members. These elements provide a promising foundation upon which to build an effective, politically active organization that can achieve policy goals on both a local and national scale. However, to develop the relationships, skills, and understanding necessary to become real players in the policy arena, animal welfare activists must take a step back. In examining the results of previous policy initiatives, it is clear that zealous advocacy alone is not enough to affect change. By coming to terms with this fact, and developing strategies and relationships in the local political arena, animal welfare activists can begin to see outcomes that match the level of passion and effort they put forth.