

The Animal Law Project

Presentation to the Parliamentary Portfolio Committee
of the

Department of Forestry Fisheries and the Environment

Transforming Animal Protection Legislation



A CONSTITUTIONAL IMPERATIVE

27 February 2024



Roadmap of Presentation

- Background and Summary
- Problem Statement and Status Quo
- Proposals for new Animal Regulatory Regime
- Asks and Discussion





Background and Summary

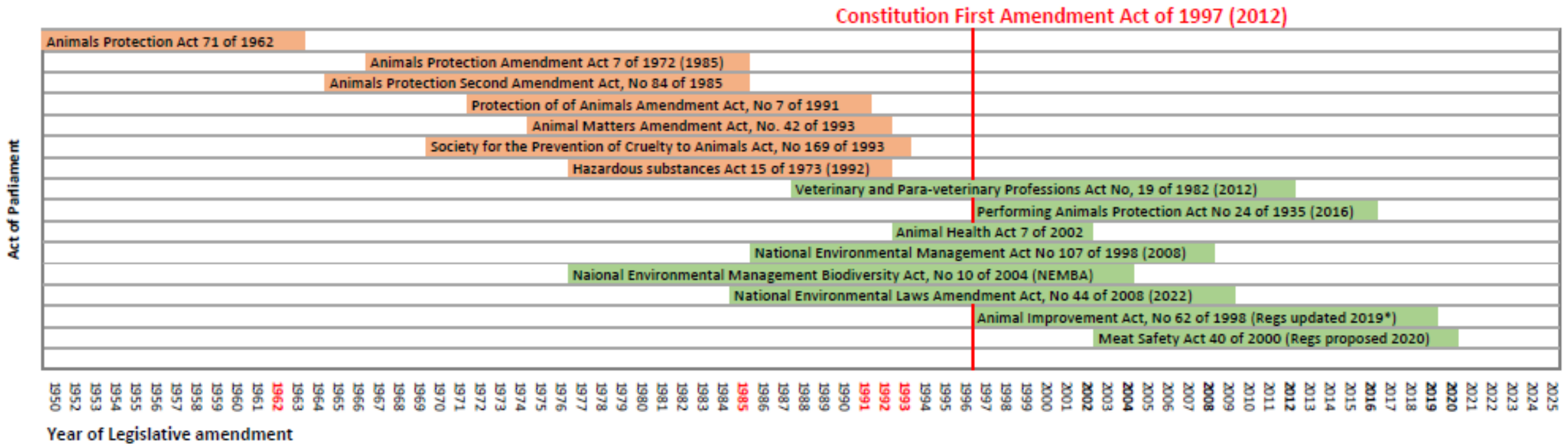
- The Animal Law Project is a collaborative effort to assess and make comprehensive proposals for law reform
- Wide consultation
 - Invited 600 registered organisations
 - Over 100 participated
 - Independent survey
 - Expert working group
- Comprehensive written Report setting out proposed reforms
- PPC will be asked to support





Legislative Status Quo

Legislative updates specific to Animals





Animal Circumstances

- Science of animal experience
- Lived realities for animals
- Specific case for wildlife





Why is animal treatment relevant to the Environment?

- Animals form part of the environment (NEMA definition)
- Right to a safe and protected environment includes animal welfare (Constitutional Court, high courts)





Current Challenges with Law

Covered extensively in upcoming Report

Summary of Key Issues

- Weaknesses with the Animals Protection Act
- NEMA principles
- Constitutional Court has flagged the way
 - NSPCA Private Prosecution case
 - NSPCA Lion Bone case



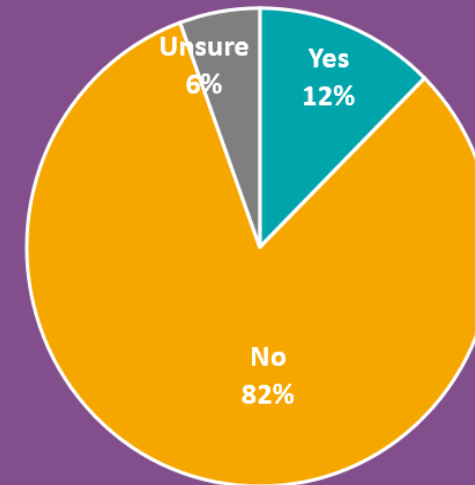


Institutional Issues: DALRRD

DALRRD cannot fulfil its mandated role

- Conflict in mandate
- Actively harming animals with new policy and law
 - Animals Improvement Act
 - Meat Safety Act
 - Live Export

Q4. The mandate of the DALRRD is to accelerate land reform, catalyse rural development and improve agricultural production to stimulate economic development and food security. The administration of the Animals Protection Act and the Performing Animals Protection Act falls under DALRRD. **Is it appropriate for the same governmental entity responsible for promoting agricultural production to also have a mandate for animal welfare?** [n=72]



Results of ALP Survey of Animal Protection NGOs

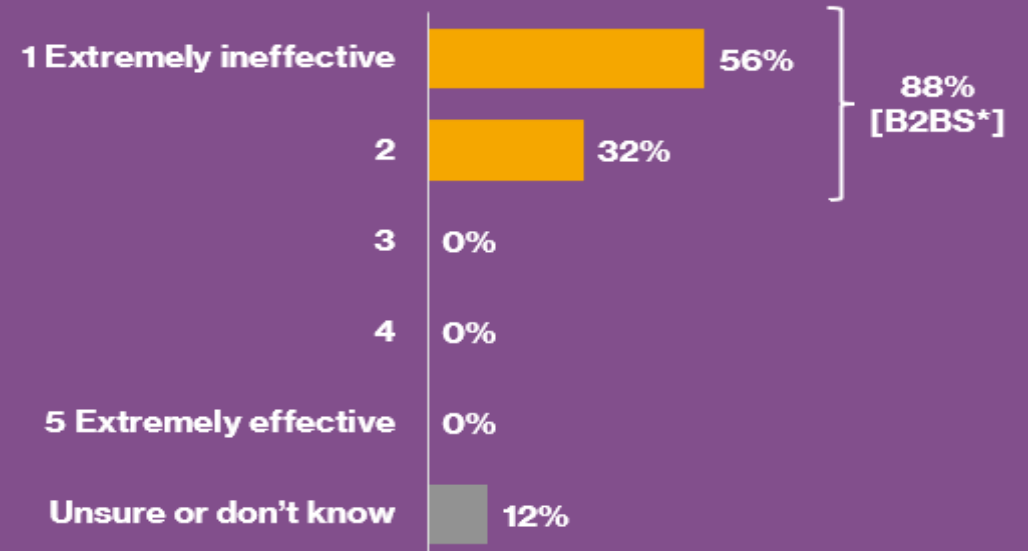


Institutional Issues: DALRRD

DALLRD cannot fulfil its mandated role

- Expertise and Resources are deficient
 - Budget
 - Workplan
 - Inspectorate
 - Failure to regulate
 - Transparent reporting
 - Lack of engagement with LE & NPA
 - Lack of engagement with Animal welfare sector
 - Ineffective engagement with other depts
 - No formal delegation of this function

Q5. How effective has the DALRRD been in regulating and fulfilling its mandate for animal welfare? [n=73]



Results of ALP Survey of Animal Protection NGOs

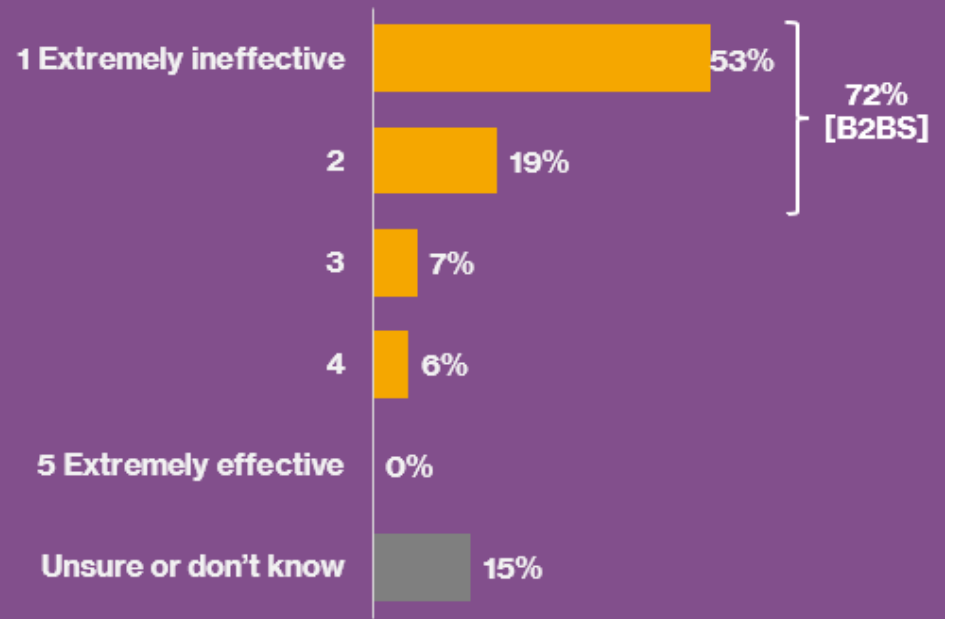


Institutional Issues: DFFE

Wildlife Administration by the DFFE

- Protection of habitat and environment
- ‘Sustainable use’
- Individual animals (APA and Superior Courts)
- NEM(B)A amendments : “well-being”
- New Policy Documents
- Role Clarity (mandate)
- Promote animal harm- ‘Game Meat Strategy’

Q7. How effective has the DFFE has been in regulating and fulfilling its mandate for the well-being of wild animals?
[n=72]



Results of ALP survey of Animal Protection NGOs



(N)SPCA cannot fulfil a state function

- Public interest organisation
- No government funding budget
- Capacity, resources
- Institutional Issues
- Lack of transparency and accountability
- No engagement within the sector



NSPCA Wildlife Unit | Lions in Captivity



A Just Regulatory Regime for Animals

- DALRRD Animal Welfare Bill
 - Not right approach (SEIAS)
- Foundational Principles
 - Animals are **sentient**: not pure property
 - Individual animals have **intrinsic value**
 - Constitutional fulfilment requires a new way to consider their interests:
 - Dignity
 - Freedom from violence
 - Safe & Protected Environment





A Justice Imperative

- Custodian of animal protection should be DoJCD
 - Consistent with the social justice work of this department
 - Alignment of resources and capacities
 - Constitutional fulfilment
- Administration
 - All government departments
 - Consistent with judgement in Lion Bone Case



Francis Garrard



New Regulatory Regime: Basics

Duties, Activities, Enforcement

Framework legislation consistent with NEMA and other existing precedent

- Give effect to explicit recognition of sentience and intrinsic value
- Application of principles in practice
 - Least Harm, Precautionary principle, etc.
- Regulated Activities
 - Prohibited, Restricted
- Duties
 - Responsible persons, competent authorities and general public
- New Enforcement Mechanisms
 - Permitting | Administrative penalties | Criminal offences | Civil law | Transparency and data





Impacts: Positive and Disruptive

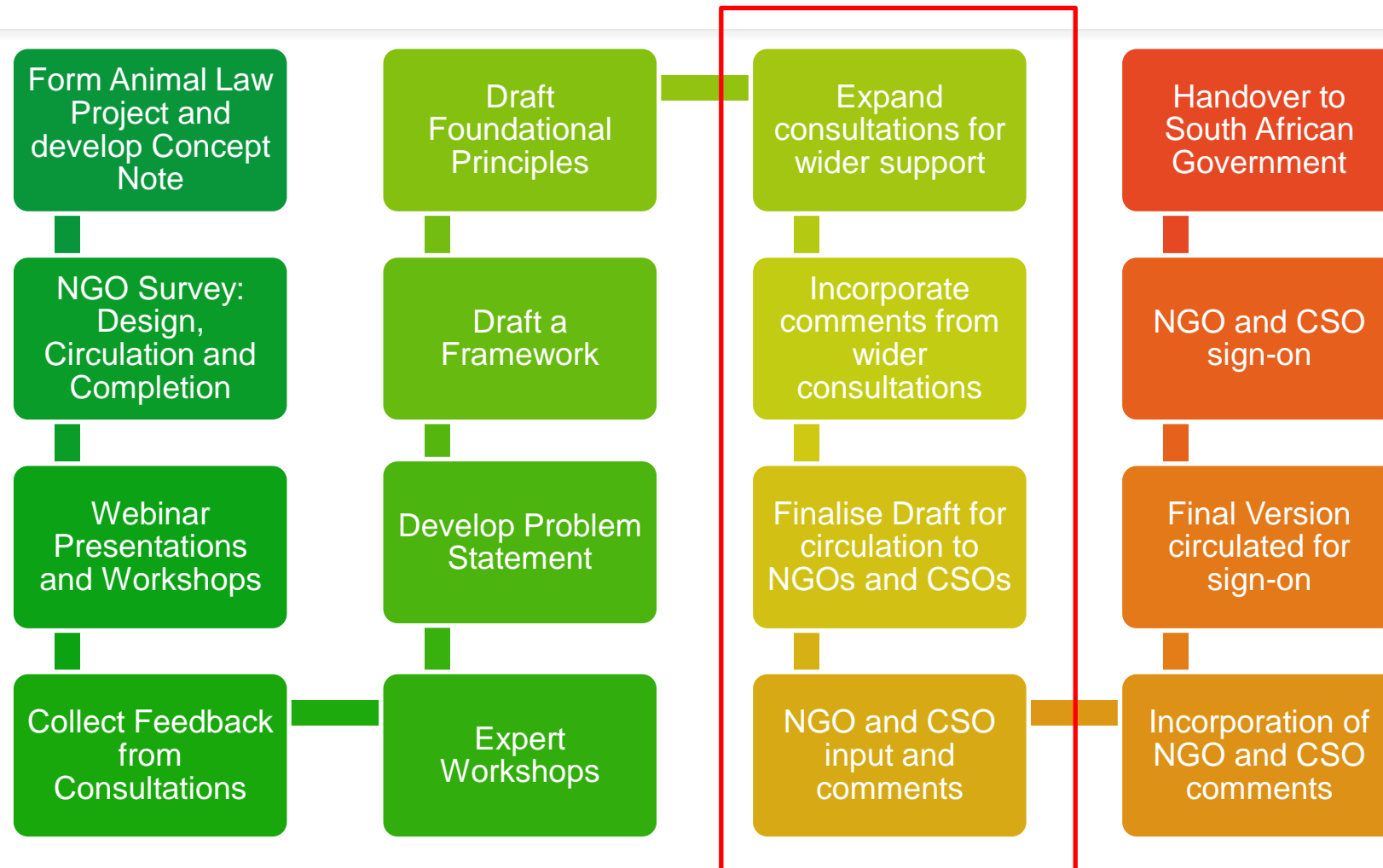
Why should DFFE support this?

- DFFE already started this journey
- Need new institutional arrangements and updated law
- Fulfil Constitutional Vision
- Negatives and Positives
- Will affect industries using animals
- Consensus that animal suffering is a social harm – *Convention on the Rights of the Child*.
- Societies built on violence
- Consistent with S24 of the Constitution
- > 200 welfare organisations contributed
- International standing: Tourism & Trade





The Process being followed by the ALP





Support from the PCFFE

1. Support Consultations:
Animal Welfare Colloquium
2. **Engage with Govt**
DFFE, DALRRD DOJCD, others
3. Support the Proposals
 - **Change of Custodianship to DOJCD**
 - Substance of the proposed Foundational Values, Guiding Principles & Framework



Beautiful Manzi | Mike Kendrick