

UTOPIAN VISION OR PRACTICAL SOLUTION?

NSPCA's Comments on ALP's Manifesto

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National Council
of SPCAs

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INTRODUCTION



In June 2024, the Animal Law Project (ALP) published its Manifesto,¹ purportedly aimed at catalysing public discussion and proposing a transformative vision for animal protection in South Africa. As the leading animal welfare organisation in the country, the National Council of SPCAs (NSPCA) has carefully reviewed the document and its far-reaching proposals.

Notably, the NSPCA did not participate in the conceptualisation or drafting of the Manifesto. This decision was informed by fundamental differences between the NSPCA and at least two of the ALP's founding organizations, namely Animal Law Reform South Africa (ALRSA) and Humane Society International/Africa (HSI/Africa). These differences stem from deliberate actions taken by both organisations that have, on multiple occasions, directly contradicted the NSPCA's mission and work. Furthermore, these organisations have publicly opposed the NSPCA in critical animal welfare matters, and no prior relationship conducive to collaboration had been established with the NSPCA.

Despite these circumstances, the NSPCA is identified in the Manifesto as a "key stakeholder." The document contains damning yet unfounded accusations against the NSPCA, which we cannot leave unaddressed. Additionally, the ALP's invitation to provide commentary presents an opportunity for the NSPCA to engage critically with the proposals, offering insights grounded in decades of practical experience, law enforcement, and on-the-ground realities.

This response reflects the NSPCA's **non-exhaustive position** on the Manifesto, focusing on the feasibility of its proposals within the South African context. While the Manifesto envisions a utopian framework for animal protection, this commentary seeks to ground the discussion in practical implementation challenges, particularly within a country where animal protection laws are enforced primarily by non-profit and non-governmental organisations. It is our hope that this critique contributes constructively to the broader discourse while ensuring that the work and realities of the NSPCA are accurately represented.



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¹ Wilson A.P. and Gerrans A, A Manifesto for Transforming Animal Protection In South Africa: A Constitutional Imperative, Draft 1, Animal Law Project, 20 June 2024 (hereinafter "the Manifesto").

SUMMARY OF COMMENTARY

The NSPCA's response to the ALP's Manifesto highlights fundamental flaws, inaccuracies, and unrealistic proposals that fail to consider the practical realities of animal welfare enforcement in South Africa. While the Manifesto presents itself as a roadmap for reform, it ultimately undermines the country's only statutory animal welfare body with misguided criticisms that are disconnected from the realities of enforcement, prosecution, and governance.

A key issue with the Manifesto is its **misrepresentation of the NSPCA's role and legal standing**. The NSPCA is not merely another non-profit organisation but a statutory body empowered under the Societies for the Prevention of Cruelty to Animals Act 169 of 1993. It holds a unique position in South African law, with explicit authority to enforce the Animals Protection Act 71 of 1962 and take legal action against animal cruelty. Despite this, the ALP attempts to portray the NSPCA as an ordinary "charity" while simultaneously questioning its independence. The Manifesto also falsely implies that the NSPCA controls local SPCAs, failing to acknowledge that each SPCA is an autonomous entity with its own governance and decision-making processes. This misrepresentation not only undermines the NSPCA's credibility but also distorts the legal framework within which it operates.

Beyond misrepresenting the NSPCA's legal standing, the ALP's **approach to enforcement and policy reform is highly theoretical and detached from real-world challenges**. The Manifesto proposes sweeping changes, such as the creation of a government-run Animal Protection Office (APO) and the transfer of enforcement responsibilities to the Department of Justice and Constitutional Development (DOJCD), without any justification as to how these changes would be viable. Given the government's repeated failures in enforcing existing animal protection laws and its lack of resources for even basic law enforcement, the suggestion that placing enforcement under the DOJCD would improve outcomes is wholly unrealistic. The NSPCA, in contrast, has a proven track record of holding perpetrators - including the State - accountable for animal cruelty, despite financial and logistical constraints. The Manifesto also calls for "sound and transparent justification" for harm to animals, yet it ignores the subjective nature of such justifications, which are often manipulated to defend exploitative industries.

Another major failing of the Manifesto is its **contradictory stance on key issues**. On one hand, it criticizes the NSPCA for its lack of state funding, yet on the other, it attacks the organisation's independence from government control. It argues that the NSPCA should be more involved in developing the animal protection sector while failing to acknowledge the extensive work it already does in training law enforcement officials, engaging in policy advocacy, and leading legal battles to protect animals. The ALP also raises concerns about financial transparency but provides no evidence of wrongdoing, ignoring the fact that the NSPCA is legally required to publish audited financial statements - something many organisations contributing to the Manifesto are not obligated to do.

A particularly troubling aspect of the ALP's critique is its **failure to provide practical solutions**. The NSPCA welcomes constructive dialogue on strengthening animal protection, but the Manifesto offers little more than an attempt to discredit an organisation that has spent decades on the frontlines of enforcement. The document does not outline how its proposed legislative reforms would be implemented effectively, nor does it consider the risks of legislative regression if new laws were drafted under a government that has historically deprioritised animal welfare. The ALP's vision is utopian, offering theoretical ideals rather than tangible, enforceable solutions that could improve conditions for animals.

Finally, the Manifesto is characterised by **a clear lack of constructive engagement**. The NSPCA firmly rejects baseless critiques that serve only to mislead the public and weaken existing enforcement mechanisms. The NSPCA has been the leading force in animal welfare for decades, and it will continue to uphold its mandate with integrity, ensuring that South Africa's animals receive the protection they deserve.

The NSPCA unequivocally states that it does not endorse, support, approve, or otherwise align itself with the Animal Law Project's Manifesto. As the apex animal welfare organisation in South Africa, the NSPCA has a statutory mandate to safeguard and enforce animal protection laws, and it is imperative that any proposed reforms carry the weight of practical enforcement experience and legal credibility. The Manifesto, in its current form, does not have the NSPCA's approval, nor does it reflect the realities of effective animal welfare enforcement in South Africa. While the NSPCA remains open to constructive discussions on strengthening legal protections for animals, it cannot and will not associate itself with a document that misrepresents the organisation's role, promotes impractical solutions, and fails to acknowledge the complexities of enforcement in the South African context.

NSPCA's STANDING TO COMMENT

The NSPCA holds a unique and entrenched position in South Africa's legal and institutional framework for animal welfare. This standing, codified in law and affirmed through judicial precedent, confers upon the NSPCA both the authority and the responsibility to comment on the ALP's Manifesto, as well as to represent animal interests more broadly in South Africa.

STANDING TO COMMENT ON THE MANIFESTO

The Manifesto identifies the NSPCA as a “key stakeholder” in the proposed transformation of South Africa's animal protection framework. As the primary organisation undertaking the enforcement of the Animals Protection Act 71 of 1962 (APA) and with established authority in respect of associated acts, the NSPCA has a vested interest in any proposals that impact animal welfare.

The NSPCA's standing is further supported by the Constitutional Court's recognition in *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another*². The Court held that the NSPCA's statutory functions, particularly its mandate to prevent animal cruelty and protect animals from suffering, grant the NSPCA an elevated status as a public-interest body. This standing enables the NSPCA to act not only on behalf of animals but also in the broader public interest, ensuring that animal welfare aligns with constitutional values, such as the right to an environment that is not harmful to health or well-being.³

Further, apart from being the only animal welfare organisation regulated by law in South Africa, the Societies for the Prevention of Cruelty to Animals Act 169 of 1993 (SPCAs Act) further uniquely empowers the NSPCA “to take cognizance of the application of laws affecting animals and societies and to make representations therewith to the appropriate authority”.⁴ The Constitutional Court in *NSPCA v Minister of Justice* further emphasised that the NSPCA holds a special authority in terms of the “associated Acts”.⁵

One could argue that, without the NSPCA's support, the Manifesto is toothless.

The NSPCA's participation in discussions such as those prompted by the Manifesto is essential to grounding theoretical proposals in the realities of animal welfare enforcement. The organisation's long history of practical implementation, coupled with the NSPCA's statutory powers, makes the NSPCA uniquely qualified to assess the feasibility and implications of the Manifesto's recommendations.

NSPCA's BROADER STANDING IN ANIMAL WELFARE

The NSPCA's standing in South Africa is unparalleled, arising from a combination of its statutory framework and constitutional recognition:

Statutory Standing under the SPCAs Act

The NSPCA is established under the SPCAs Act, as the umbrella body overseeing the Societies (note, not “individual councils” as erroneously stated in the Manifesto⁶). The SPCAs Act:

1. Empowers the NSPCA to intervene in matters of animal cruelty and suffering across all contexts, from companion animals to wildlife, farmed animals, and animals used in education and science.
2. Confers the power to enforce provisions of the APA.

² [2016] ZACC 26 (hereafter “NSPCA v Minister of Justice”).

³ Section 24 of the Constitution of the Republic of South Africa, 1996.

⁴ Section 3(e) of the SPCAs Act.

⁵ n2 above, at page 20 – 21.

⁶ See page 18 of the Manifesto, at paragraph a.

3. Entrusts the NSPCA with conducting inspections, seizing animals in distress, and prosecuting cases of animal cruelty. [More recently, such power to prosecute cases of animal cruelty was also confirmed to extend to private prosecution⁷, of which the NSPCA was the first and remains the only animal welfare organisation to privately prosecute.⁸]

This statutory role positions the NSPCA not only as an enforcer of existing laws but also as a key advisor on the development of new legislative frameworks.

Constitutional Recognition

In the landmark 2016 Constitutional Court Case (NSPCA v Minister of Justice), the NSPCA's role was acknowledged as one of constitutional importance. The Court explicitly recognised:

1. The sentience and intrinsic value of animals, emphasising that their welfare aligns with constitutional values.
2. The NSPCA's standing to institute legal proceedings in the public interest, including constitutional challenges and cases aimed at preventing cruelty.

The Court also underscored that the NSPCA's mandate goes beyond enforcing legislation – it extends to safeguarding animals' intrinsic worth and aligning animal welfare protections with South Africa's constitutional ethos of dignity and compassion.

Judicial Support in Other Cases

Various additional case laws have reinforced the NSPCA's centrality in animal welfare. For example:

1. In *National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others*⁹ the Court confirmed the NSPCA's *locus standi* in challenging government decisions that affect animal welfare, further affirming its role as a guardian of animals' interests.
2. The Supreme Court in *Lemthongthai v S*¹⁰ emphasised the importance of animal welfare in a democratic society, echoing the NSPCA's position as a public-interest litigant.

...

The NSPCA's statutory mandate, constitutional recognition, and history of legal advocacy firmly establish its standing to comment on the Manifesto. Its leadership in animal welfare work *and* enforcement, combined with its legal authority, ensures that the commentary reflects not only the theoretical ideals of animal protection but also the practical realities of implementation within South Africa's unique socio-economic and legal context.

By responding to the Manifesto, the NSPCA fulfils its dual role as custodian of animal welfare and an advocate for practical and sustainable solutions that benefit animals and society alike.

...

⁷ n2 above.

⁸ See <https://nspca.co.za/thandi-modise-appears-in-court-for-animal-cruelty-case/>, further <https://nspca.co.za/will-there-be-justice-for-the-animals-that-suffered-to-death-on-thandi-modises-farm/> and <https://nspca.co.za/nspcas-second-private-prosecution-by-afriforum/>.

⁹ 2020 (1) SA 249 (GP) (hereinafter "NSPCA v Minister of Environmental Affairs").

¹⁰ 2015 (1) SACR 353 (SCA) (hereinafter "Lemthongthai").

SELECT AD SERIATIM COMMENTS

This section provides direct comments on specific aspects of the Manifesto, addressing key points in the order they appear in the document, as necessary. These *ad seriatim* comments are intended to engage with the Manifesto's content in a focused manner, offering clarifications, critiques, and practical insights. To ensure clarity and ease of reference, the NSPCA has adopted the same headings used in the Manifesto for our commentary. This alignment allows for a more structured and accessible critique, facilitating comparisons between the Manifesto's proposals and the NSPCA's responses.

However, these comments should not be read in isolation. They are interconnected with the broader themes, critiques, and recommendations outlined in the totality of the NSPCA's commentary. A comprehensive understanding of the NSPCA's position requires these specific responses to be interpreted within the context of the overarching and thematic analyses provided in this document.

While this commentary addresses key aspects of the Manifesto, it is neither feasible nor practical to respond to every statement contained within it. The NSPCA's omission of commentary on specific statements should not be construed as either acceptance or rejection of those statements. While certain aspects of the Manifesto may align with the NSPCA's views, the primary purpose of this document is to critically examine and provide feedback on elements that, in the NSPCA's view, are either incorrect, misaligned, or impractical within the South African context.

PART I INTRODUCTORY MATTERS

Background

Our Process and Consultations

Although the Manifesto rightly acknowledges that it is non-representative¹¹, it fails to adequately place in context the limited authority it represents.

Out of **600 organisations invited, only 73 completed the survey**,¹² which represents approximately **12% responsiveness**. If we generously include **37 additional submissions** assumed from other methods (bringing the total to 110 submissions), the overall **responsiveness is still just 18.3%**.

To put this into perspective: imagine inviting 600 people to a meeting, and only 1 in 8 attends (if based on survey responses alone). Even when including additional submissions, fewer than 1 in 5 contributed.

This means that approximately 5 out of every 6 invited organisations - or 81.7% - chose not to participate. Notably, while the SPCA movement accounts for **only 11.6%** of the invited organisations, the NSPCA is disproportionately singled out in the Manifesto, raising questions about the basis for such focus.

In terms of shortcomings in placing the authority of the respondents in context, the Manifesto does not, firstly, outline the expertise, experience, or authority with which such organisations (including the founding organisations) made these submissions, to ultimately form the Manifesto. There are no indications whether such organisations are (i) predominantly animal welfare, or animal rights orientated; or (ii) whether such organisations are solely advocacy organisations, or actually do work on the ground in enforcing animal protection legislation, uplifting communities, and work for all species of animals. An indication in this regard might have given credence to the Manifesto.

While the Manifesto acknowledges its non-representative nature, it fails to provide sufficient context regarding the authority and credibility of its contributors. The low responsiveness rate - just 18.3% at most - combined with the absence of any clear differentiation between advocacy organisations and those actively involved in

¹¹ See the Manifesto at page 41.

¹² See the Manifesto at page 6, paragraph "B" and footnote 10.

enforcement and on-the-ground work, diminishes the weight of its findings. Furthermore, the lack of transparency about the expertise, experience, and orientation of participating organisations raises concerns about the Manifesto's foundation. By singling out the NSPCA and SPCA despite limited participation of most invited organisations, the Manifesto undermines its own credibility and appears biased in its framing. Without greater clarity and inclusivity, the document remains a summary of unchecked and undifferentiated opinions, falling short of being a definitive or authoritative representation of South Africa's animal protection landscape.

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PART II STATUS QUO AND HIGH-LEVEL PROBLEM STATEMENT

The Lived Realities for Animals

The Manifesto argues that now is “one of the worst times in history to be an animal”, citing as authority the expansion of human population and development, manufacturing, agriculture, research, and entertainment, factors that are “dwarfing the modest victories achieved through animal welfare reforms and there is no sign that these trends will change”.¹³

Although the NSPCA, to some degree, resonates with this loaded statement, it is but one of countless examples in the Manifesto where opinion is sold as fact. The Manifesto fails to acknowledge the “modest victories”, which are, in fact, triumphs in the broader context of animal welfare and protection in South Africa, including but not limited to promulgation of the APA in times when all human rights were not equally regarded, and the promulgation of the SPCAs Act in 1993, providing authority and structure to animal welfare in South Africa.

The Manifesto's avoidance of the work done, *and being done*, by other organisations (note, not only the NSPCA and SPCAs) is a slap in the face of those who have made tangible differences in the lives of animals – no matter how minuscule, eventually culminating in sustained, practical change for the better. Once again, the Manifesto frames itself as the only reasonable solution to South Africa's vast animal welfare issues, without acknowledging that victories are won every day – how unbiased...

As for animals used in research and education, it is common knowledge in the “animal welfare sector” that the NSPCA serves on Animal Research Ethics Committees (ARECs).

└ Whilst diminishing the NSPCA's work in animal testing as “wholly inadequate”, the Manifesto fails to acknowledge, for example, that it is due to the NSPCA's persistence that ARECs are systematically including statisticians, to determine, for example, the minimum amount of animals absolutely necessary for the specific research.¹⁴ Yet, it is organisations like HSI/Africa who actively solicit donations for their “work” in animal testing – how unbiased...

In respect of the “mass killings of viable animals in municipal pounds and shelters” that “continues unabated”,¹⁵ this surely is the epitome of contradiction. The Manifesto fails to acknowledge (or appreciate) that companion animals (as is assumed is meant by “viable animals”) cannot live in kennels for indefinite periods and that it would be contrary to its very own ideal of “animal flourishing”. Further, the term “viable animals” detracts from the Manifesto's (so far) semi-rightest approach, by commodifying certain animals as “viable” versus “unviable” or “non-viable”, although the intention here is assumed to be those animals that, with reasonable effort and resources, can be placed into responsible homes where they will live healthy, happy, and safe lives.

¹³ See the Manifesto at page 8, including footnote 21.

¹⁴ See the Manifesto at page 9.

¹⁵ See the Manifesto at page 10.

- L The below extract from the SPCA's Statement of Policy¹⁶ sufficiently explains the SPCA's view on euthanasia, without belabouring this document with additional commentary:

The SPCA is opposed to the euthanasia of fit and healthy animals but accepts the reality that euthanasia is necessary. Euthanasia must be carried out by qualified personnel using approved and humane methods and with great compassion.

The SPCA lives for the day when healthy animals are no longer euthanased owing to the lack of suitable homes. However, as a result of the current overpopulation of domestic animals caused by indiscriminate breeding, the dumping of unwanted animals, irresponsible guardianship of companion animals, lack of sterilisation and inadequate enforcement of legislation, the SPCA accepts with great reluctance that euthanasia is necessary. The SPCA believes that unwanted companion animals deserve a dignified, painless death rather than risk suffering resulting from animal cruelty such as malnutrition, disease, trauma, physical abuse – all commonly associated with unwanted or neglected animals.

Euthanasia is a humane release for many suffering, injured, traumatised, sick or homeless animals. However, healthy animals may also require euthanasia due to behavioural reasons, such as where they are very aggressive, and where the animal would have to endure long-term suffering through the deprivation of basic needs in incarceration. The long-term housing of individual animals that does not cater to their physical, physiological and psychological needs is not an acceptable alternative.

- L The Manifesto, however, fails to provide any solution to the rampant pet overpopulation crisis in South Africa, by, for example, calling for mandatory sterilisation in the "Animals Act". The SPCA's position on population control is sufficiently outlined in its Statement of Policy:

The SPCA advocates the permanent sterilisation of all companion animals where surgically possible. The SPCA promotes the early sterilisation of dogs and cats at eight weeks, and other companion animals as soon as possible unless there are overriding medical justifications to the contrary.

While domestic animals continue to be euthanased due to the shortage of suitable, responsible and caring owners, deliberate breeding of domestic companion animals must be dramatically reduced to contribute to population control. Until such time that stricter control measures are put in place to prevent indiscriminate breeding, overpopulation will continue to result in animal cruelty and euthanasia. Overpopulation of domestic pets and uncontrolled breeding results in an influx of animals that end up in animal shelters, resulting in a large number of animals to be unfairly euthanased on a weekly basis. There is a lesser interest from society to adopt from animal shelters compared to purchasing a companion animal from a breeder. Especially when it comes down to adopting an adult dog compared to a puppy. Some animals end up in no-kill shelters, which exposes these animals to a life in captivity and in many instances, also to cruelty for the sake of avoiding euthanasia.

The SPCA encourages cooperation between welfare organisations, veterinarians and pet owners, whereby sterilisation is promoted and becomes a cost-effective solution to the overpopulation of domestic pets.

¹⁶ National Council of SPCAs. (2022). *Statement of policy with explanatory notes*. Retrieved from <https://nspca.co.za/wp-content/uploads/2022/11/1-1A-Statement-of-Policy-with-Explanatory-Notes.pdf> (hereinafter "Statement of Policy").

Deficiencies in the Current Law Protecting Animals from Harm

The APA

The Manifesto's involvement with the APA is presumably limited to scholarly and theoretical discourse, analysing the APA on the face of it and with the authors' own (limited) perceptions of its implementation in mind. However, the Manifesto, at its core, fails to understand the risk of an unintended consequence in lambasting the APA and calling for revamped animal protection legislation. Such risk is, of course, that it is neither the NSPCA nor the authors of the Manifesto who would draft and promulgate such revamped legislation, but the legislature of the day, with who the NSPCA has experienced countless issues in respect of contraventions of the APA by the government of the day itself. The unintended consequence here is that revamped legislation would, so as to suit the needs and focus areas of the government and as explained in the Manifesto, be drafted to decrease the protection that animals have under South African law. Yet, this risk is not addressed in the Manifesto.

The Manifesto addresses the "high burdens of proof"¹⁷ in terms of the APA, as if it is unique in South African law. The Manifesto, however, fails to acknowledge that it is "Law 101" that "he who alleges, must prove" and that the burden of proof in criminal matters (i.e., "beyond reasonable doubt") is not limited to the APA, but extends across South African law. In its vague critique and solution of the high burden of proof and the fact that the alleged must prove, the Manifesto does not realise that it, in effect, could be construed as calling for the burden of proof to be lesser (i.e., on a balance of probabilities), but with such lesser onus then being on the perpetrator. In other words, it would be easier to prove that you (as the perpetrator) did not commit animal cruelty, than what it currently is for the State to prove that you did...

Although the Manifesto labels the listed offences as "unclear, vague, otherwise problematic",¹⁸ the NSPCA argues that there is a difference between "unclear" and "vague", and "wide". In the NSPCA's experience, the wider definition of offences allows it to apply to most acts committed against most species; whereas overly-defined and narrow offences may unintentionally exclude certain acts, certain species, or both. However, the NSPCA appreciates that the ALP may not have the practical experience to understand this conundrum; although the ALP is invited to supplement its Manifesto with a list of offences that are, according to them, not currently included, to which the NSPCA will comment.

It is no secret that "unnecessary suffering" has been an interest of at least two of the contributors through academic writing. The NSPCA will, however, later herein expand on the argument that, whilst the Manifesto critiques the notion of "unnecessary suffering", the *practical, real-life effect* of the Manifesto's proposed "justifiability" would have the same practical meaning *and implementation* as "unnecessary suffering".

In terms of the definition of "animal", the NSPCA has always viewed fish to form part of "any wild animal", firstly due to the majority of settings in which fish are found (however, save for aquaculture), but further due to their inability to be domesticated, generally. In respect of free-roaming wildlife, the definition of the APA would be futile, as the purpose of the APA is to criminalise human-to-animal conduct and therefore, in the context of the APA, free-roaming wildlife with no human interaction, intervention, or broadly ownership, would be able to suffer the offences as outlined in the APA. That being said, and by the Manifesto's own admission, wild animals enjoy much more robust protection than other species, with legislation like NEMA, NEMBA, and NEMLAA (abbreviations as per the Manifesto¹⁹). Note, however, the NSPCA's definition of "animal" in its Statement of Policy, which is publicly available, yet the views thereof are not included in the Manifesto.²⁰

¹⁷ See the Manifesto at page 11.

¹⁸ As above.

¹⁹ See the Manifesto at page 43.

²⁰ n16 above.

Whilst the Manifesto argues that the APA does not include “foundational principles, such as the duty to limit harm, the duty of care, and the precautionary principle”,²¹ one could argue that the APA does in fact include these elements to a degree.

- └ Section 2 of the APA, through criminalising human conduct, undoubtedly places a duty to prevent harm. In other words, by criminalising certain conduct, the owner of such animal is automatically expected not to cause such harm.
- └ The duty of care and precautionary principle, it may be argued, is included in sections (2)(q) and (r), and 2(2), by emphasising “reasonable care and supervision” in the prevention of the omission of an act in terms of section 2(1).

In critiquing the APA, the Manifesto raises concerns that are not without merit; however, its proposals risk unintended consequences that could undermine the very protections it seeks to enhance. The NSPCA recognises the importance of addressing gaps in animal welfare legislation but cautions against oversimplifying the complexities inherent in legislative reform. By focusing on theoretical constructs without fully appreciating practical realities, the Manifesto overlooks critical elements, such as the practical implications of a broad versus narrow interpretation of offences and the potential for legislative regress under current governmental frameworks.

ALP’s critiques should be substantiated with detailed proposals that reflect a deeper understanding of enforcement and practical application. Constructive dialogue and partnership between academics and practitioners are essential to ensuring that legislative reform genuinely enhances animal welfare without compromising existing protections.

Matters Arising in Administrative Law

Department of Agriculture, Land Reform and Rural Development (DALRRD)

Although not entirely related to the subject matter, the NSPCA finds it disingenuous of the ALP, with HSI/Africa as a member, to bemoan “the physical mutilation of animals without pain relief (castration, tail docking, dehorning, toe and beak amputation, etc.)”²², whilst HSI/Africa recently voted in opposition of the NSPCA, and in favour of, ear notching in piglets during a soft-law process.

Further, it is contradictory for the Manifesto to critique the DALRRD for not having an “empowered and capacitated welfare inspectorate dedicated to the enforcement of the APA”, whilst critiquing the DALRRD for prioritising economic goals.²³

Department of Forestry, Fisheries and the Environment (DFFE)

The Manifesto’s contention that “the DFFE should be administering the protection of wildlife” is in contradiction with the Manifesto’s recommendation for protection of all animals to be administered by the DOJCD and APO.²⁴

The Manifesto’s contention that the DALRRD ought to have an Inspectorate is contradictory to its statement that the DFFE’s Inspectors are “not trained or empowered to enforce animal welfare standards”²⁵. The Manifesto’s optimistic view that any governmental Inspectorate would be different purely emphasises that the Manifesto is removed from reality and proposes impracticable solutions.

As an aside, it is regrettable that, overall, the Manifesto is drafted in misleading and confusing ways, such as indicating that there is, within the DFFE, a failure to recognise and implement jurisprudence, whilst

²¹ See the Manifesto at page 11.

²² See the Manifesto at page 12, footnote 53.

²³ See the Manifesto at page 13.

²⁴ See the Manifesto at page 15 and again at page 32.

²⁵ See the Manifesto at page 16.

acknowledging in the footnote that “[n]otably, however, there have been some recent efforts by the DFFE to recognise this and incorporate it into governance measures”.²⁶ This biased and questionable drafting places the credibility and authenticity of the Manifesto as a whole, even from the NSPCA’s perspective who are pro-animals, into question; the NSPCA shudders to think how it will be interpreted by those functionaries who aim to find fault with this “utopia”.

NSPCA and SPCAs

Institutional

In considering the constitution of the NSPCA and broader SPCA movement, the Manifesto fails to appreciate the history of the SPCA in South Africa. Upon reading, the Manifesto frames the NSPCA as coming into existence upon the promulgation of the SPCAs Act, where the SPCAs Act was rather designed to regulate the activities of the SPCAs across the country, with the NSPCA as a statutory body.

- └ In 1956, the *South African Federation of SPCAs and Affiliated Societies* (the Federation) was formed because it was recognised that there was a great need for a coordinating body to express the views of all Societies, thus giving strength and credibility to presentations and proposals at government level and other departments of authority. It was also a forum to introduce uniformity to welfare legislation and standards.
- └ The Federation achieved an immense amount of work in laying the cornerstones for greater quality of life for all animals at ministerial, magisterial, and municipal levels.
- └ In 1988, the name *South African Federation of SPCAs and Affiliated Societies* was changed to the *SPCA National Council of Southern Africa*.
- └ The name was changed, yet again, by the SPCAs Act to the *National Council of SPCAs* in 1993. At the same time, the SPCAs Act became law. By virtue of this Act, the organisation is a statutory body – akin to the Legal Practice Council (LPC), South African Veterinary Council (SAVC), or Health Professionals Council of South Africa (HPSCA), except that the NSPCA additionally has Inspectorate powers in terms of the APA.

The Manifesto contends that it is “improper for the public-interest function of animal protection to be performed, by default, by a non-profit organisation (“NPO”) that was created by statute, but receives no state funding”.²⁷

- └ The NSPCA, however, argues that such independence is crucial in South Africa’s circumstances, allowing the NSPCA to hold perpetrators of animal cruelty, including the State, accountable – both in terms of criminal and civil law remedies.²⁸
- └ Such independence also ensures that the NSPCA does not fall into the capture of and manipulation by the government of the day, and remains an apolitical organisation that stands the test of time, irrespective of political regime.

The Manifesto critiques the structure of the NSPCA Board, whilst clearly being ignorant about how the SPCA movement and NSPCA Board operates.

- └ The statement that “executive heads of regional or local SPCAs” are “managed by” the NSPCA is incorrect.²⁹ Membership on the NSPCA’s board by regional or primary Society representatives is akin

²⁶ See the Manifesto at footnote 81.

²⁷ See the Manifesto at page 18.

²⁸ Most notably the NSPCA’s ongoing litigation against the State in respect of the export of live animals by sea, and previously in respect of lion bone quotes, to name only two examples.

²⁹ See the Manifesto at page 18.

to an attorney or advocate serving on the LPC, or a veterinarian on the SAVC. Local SPCAs are not “managed by” the NSPCA, but are rather subject to the SPCAs Act, which the NSPCA administers.

- └ A crucial distinction exists, most importantly being that each SPCA is autonomous and responsible for their own day-to-day affairs. Therefore, it is the members of the NSPCA (i.e., the Societies, as is clear from the SPCAs Act) that provide oversight over *their* statutory body.
- └ The NSPCA has, however, in the past and as recently as 2023, proposed a more independent structuring of its Board, although this was rejected by its member Societies.
- └ The Manifesto further critiques the NSPCA Board in respect of (i) not having an “independent chair”, (ii) not having “compulsory board rotation” or (iii) “stakeholder engagement, and (iv) “evaluation of board performance.”³⁰
 - It is crystal clear that the ALP has not considered the Constitution of the National Council of Societies for the Prevention of Cruelty to Animals – a public and gazetted document (the Constitution).
 - In terms of the Constitution, the Chair of the Board is elected, democratically, from the Directors of the Board. This may very well be a Chairperson or designate of a primary Society, a delegate from a region, or an advisory director, who is co-opted as an independent director onto the Board.
 - The Chair of the Board may only serve for a maximum period of four years.

The Manifesto conflates the ideas of “statutory body” and “state entity” in its critique of the NSPCA’s alleged non-interest in the development of the animal protection sector.

- └ Like all other non-profit entities (including ALP, ALRSA, and HIS/Africa) the NSPCA fulfils a public-interest function. The fact that the NSPCA is a statutory body does not make it a “state entity” – similar to the SAVC.
- └ The allegation that the NSPCA’s leadership “does not regard the active development of the animal protection sector as a priority” is unfounded and defamatory.³¹ Looking at the NSPCA’s own growth since its founding in 1955, the improvement and growth of animal welfare as a whole has been a main priority. ALP is put to proof regarding this inflammatory statement.
- └ The contradiction in the Manifesto is troubling. On the one hand, the Manifesto raises issue with the fact that the NSPCA’s funding is limited, being entirely dependent on the goodwill of supporters; yet, in the same breath the Manifesto holds that the NSPCA “should provide support for the development of the animal protections sector”. The Manifesto further fails to expand on what this “support” entails, and it fails to provide a statutory basis for this alleged duty of the NSPCA.

The Manifesto is incorrect when it states that “individual SPCAs may receive ad hoc funding from certain municipalities”.³²

- └ No SPCAs receive “funding” for their work relating to the enforcement of the APA.
- └ Certain SPCAs receive contractually-agreed remuneration for fulfilling their municipality’s pound service, which is required by law. However, many SPCAs do not fulfil this function, and it may be fulfilled either by the municipality themselves, another animal welfare organisation, or private individuals. Therefore, the statement is misleading.

³⁰ As above.

³¹ n29 above.

³² n29 above.

It would have been interesting to observe the ALP's critique of the NSPCA should it have been fully funded by the State. It seems, irrespective of what the position may be, the ALP would have found a critique in this regard.

- └ At least one member of the ALP has been singing from the same hymnbook about the donations received from Astral Foods. However, through the years, they have not been able to produce one shred of *prima facie* evidence that such donations have led to "corporate capture" or a material conflict of interest.
- └ After all, the NSPCA is answerable to its supporters, who have access to its audited financial statements, and therefore anything untoward would have been exposed if it existed.
- └ The Manifesto, however, fails to mention that the SPCA generally is the only animal welfare organisation in the country to self-regulate by way of legislation and that Audited Financial Statements, by a registered Auditor, must be produced each year – unlike those who may have contributed to the Manifesto.

Again, the Manifesto carefully phrases certain parts so as to create a misleading image of the NSPCA.

- └ The NSPCA's Audited Financial Statements have always been (and will always be) open to the public at large.
- └ It is not a requirement for such Audited Financial Statements to be contained in our annual marketing booklet, which runs per calendar year, and not per financial year.
- └ However, the NSPCA timeously submits its financial-year annual report, including Audited Financial Statements, to both the Department of Social Development and Agriculture, as well as to our member Societies.

Again, the Manifesto sells opinion as fact, when alleging that "[at] minimum, information such as complaints, cases referred for prosecution, number of prosecutions, successful convictions, or animal seizures should be made public".³³

- └ This is, of course, in the *opinion* of the drafters and there is no statutory prescript detailing such alleged compulsory disclosures.
- └ However, as already mentioned above, the NSPCA diligently and timeously submits its Annual Report (for the financial year) to its member Societies, and the Departments of Social Development and Agriculture.
- └ In the same vein, it would be interesting to receive a publication from the organisations who contributed to the Manifesto, all of whom conduct a public-interest function, with "information such as complaints, cases referred for prosecution, number of prosecutions, successful convictions, or animal seizures".

Policy

The Manifesto again fails to comprehend the nature of the NSPCA. As a statutory body, it is made up of its member Societies. In terms of the SPCAs Act and its Constitution, member Societies debate, deliberate, vote, and decide on resolutions, which includes its policies.

- └ This democratic process ensures that those members of the public, who take the time and effort to run their local SPCAs, have decision-making powers on a national level.

³³ n29 above.

- L The NSPCA's statutory role is, largely, towards its member Societies; the fact that it is additionally "for the purposes of section 8 of the Animals Protection Act to be a society for the prevention of cruelty to animals"³⁴ is its public-facing objective – akin to all other animal welfare societies.

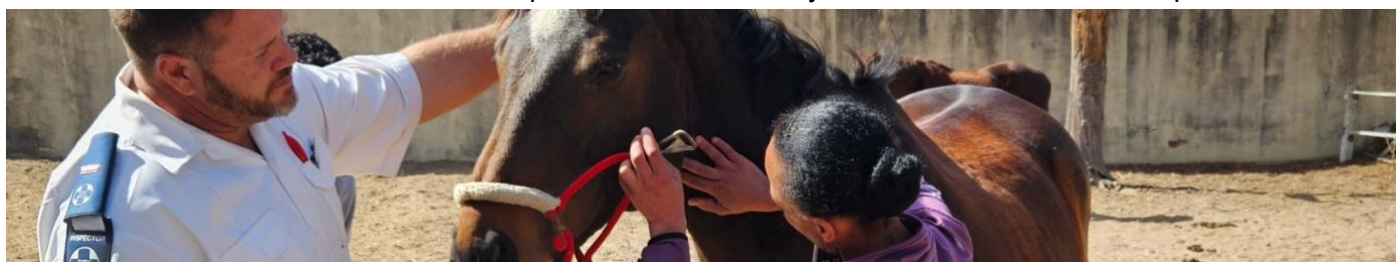
The NSPCA's vision and mission are clearly outlined on its website. Further, its objects are clearly defined in section 3 of the SPCAs Act. Additionally, its Statement of Policy is publicly available – with explanatory notes.

- L Therefore, the allegation that the NSPCA "does not present a long or medium-term vision for animal protection" as well as "no clear public-facing framework of policies, standard operating procedures or guidelines" is disingenuous.³⁵
- L Besides, why would it have to be the NSPCA who freely publishes its intellectual property "which would be valuable for [...] other organisations operating in the animal protection sector"?³⁶

The Manifesto's contention that the NSPCA's publicised prosecution statistics are suggested as "an acceptable level of enforcement of anti-cruelty laws" is malicious and disingenuous.³⁷

- L The NSPCA has not once stated that it is "acceptable", but has rather celebrated the small victories achieved despite constrained capacity and funding.
- L Additionally, the Manifesto fails to take into consideration the average prosecution rates in other countries across the world, as well as prosecution rates for violent crimes in South Africa.

 - o While specific global prosecution rates are not documented, it is important to note that the vast majority of animal cruelty cases go unreported or unprosecuted. In the United States, for example, it's estimated that less than 0.01% of cases of animal abuse are reported annually.³⁸
 - o Further, a report by the South African Law Reform Commission highlighted that only 11% of reported murders resulted in a conviction after two years, compared to 49% in the United States and 56% in England & Wales. Similarly, only 7% of reported rapes in South Africa led to a conviction after two years, compared to 19% in the United States and 10% in England & Wales.³⁹
- L The Manifesto also does not consider the lengths to which the NSPCA and SPCAs go to have matters referred for prosecution placed on the roll – many of which are declined due to, potentially, prosecutors who are inept and/or unfamiliar with the APA. Yet, the Manifesto motivates that the core enforcement of the APA resorts to the same Department that currently does not enrol matters for prosecution.



³⁴ Section 6(1) of the SPCAs Act.

³⁵ See the Manifesto at page 19.

³⁶ As above.

³⁷ n35 above.

³⁸ Shelter Animals Count. (2024). *Animal abuse facts and statistics 2024*. Retrieved from <https://www.shelteranimalscount.org/animal-abuse-facts-and-statistics-2024/>

³⁹ South African Law Reform Commission. (n.d.). Criminal procedure: The right to a fair trial. Retrieved from <https://www.justice.gov.za/salrc/rpapers/rp18.pdf>

Engagement

The statement that the “NSPCA does not report on any activities relating to improving the performance of state law enforcement agencies in dealing with animal cruelty” is false.⁴⁰ In 2024 alone, the NSPCA trained 126 police officers, as well as 47 prosecutors.

The NSPCA’s absence from the Livestock Welfare Coordinating Committee (LWCC) is due to the fact that the LWCC is supportive of the export of live animals by sea – which the NSPCA has been fighting for years on end. A simple search yielded the NSPCA’s statement for its reasons for withdrawing from the LWCC.⁴¹

In respect of the Mintech Animal Welfare Working Group, the Manifesto fails to mention that this is exclusively a state department structure, comprised of a representative of each province and the Deputy Director: Primary Animal Health Care. No other organisation sits on this committee.

- └ As an aside, the Manifesto yet again presents a glaring contradiction: firstly, critiquing the alleged “conflict of interest” of DALRRD in respect of its oversight of the NSPCA, but then critiquing the NSPCA for not serving on a body constituted by DALRRD.

Regarding “support” for the animal protection sector, we draw attention to the fact that this Manifesto is non-representative.⁴² Therefore, it is unclear what standing and authority the “broad consensus” that the NSPCA is lacking, has.⁴³

- └ The NSPCA places the interest of animals first and does not indulge politics in the “animal protection sector”.
- └ Many of the so-called “difficulties” have been, by way of example, due to other organisations supporting stances that are contrary to animal welfare, as recently as HSI/Africa and three other “animal welfare organisations” in standard-setting.

In sum, the Manifesto demonstrates a fundamental misunderstanding of the NSPCA’s history, structure, governance, and statutory obligations. It selectively frames facts to suit a narrative that misrepresents the NSPCA’s role and the SPCA movement and fails to acknowledge the organisation’s significant contributions to animal welfare in South Africa. While constructive critique is welcome in any sector, the Manifesto’s assertions lack factual grounding, overlook the NSPCA’s accountability mechanisms, and ignore the realities of operating as an independent statutory body without government funding.

Despite the challenges the NSPCA and SPCAs face, including financial constraints and the ongoing need to defend its functioning, the organisation remains steadfast in its mission to prevent cruelty to ALL animals and uphold the principles enshrined in the Animals Protection Act. The NSPCA’s governance structures, financial transparency, and democratic decision-making processes ensure that its member Societies have a voice in shaping its policies. Furthermore, the NSPCA’s legal, advocacy, and enforcement efforts continue to play a vital role in advancing animal protection in South Africa.

Rather than engaging in misleading critiques, those genuinely concerned about animal welfare should support efforts to strengthen and sustain the NSPCA’s and SPCAs’ work. The Manifesto’s failure to provide practical solutions or acknowledge the SPCAs’ achievements underscores its lack of constructive engagement. Ultimately, the NSPCA and SPCAs will remain committed to their mandate, guided by the principles of integrity, accountability, and a steadfast dedication to protecting the voiceless.

⁴⁰ n35 above.

⁴¹ National Council of SPCAs. (1 March 2021). NSPCA withdraws membership from the LWCC. Retrieved from <https://nspca.co.za/nspca-withdraws-membership-from-the-lwcc/>

⁴² n11 above.

⁴³ n37 above.

Constitutional Misalignment

It is quite ironic that the Manifesto uses the 2016 Constitutional Court judgment⁴⁴ to motivate “developments in South African law that reflect this constitutional ethos...” – a change brought by the NSPCA’s intervention and approach to the Court, whilst failing to mention or give due credit to the NSPCA for this landmark moment in South African animal welfare.

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PART III TRANSFORMING ANIMAL PROTECTION IN SOUTH AFRICA: A CONSTITUTIONAL IMPERATIVE

The Foundations of a Just Protection Paradigm For Animals: Values and Principles

The NSPCA feels satisfied that it has adequately addressed the points above to include the statements made in this specific section, save to state that it is so far removed from reality, that no functionary (whether non-profit organisations, or the ALP’s proposed governmental animal welfare inspectors), would be able to reasonable apply and enforce the ten guiding principles.

If the ALP had studied the NSPCA’s Statement of Policy, it would have easily gathered the NSPCA’s stance on many of the present problem-areas discussed in the ten guiding principles.

Towards a Just Animal Protection Paradigm in Practice: Enablers and Mechanisms

In terms of the Manifesto’s list of minimum outcomes of its practical measures, enablers, and mechanisms, it is clear that the ALP and its supporters have little experience in the enforcement of animal protection legislation on the ground.

Calling for “sound and transparent justification” for harm shows its ignorance of the subjectivity of these justifications.⁴⁵ Anyone could motivate or argue why the harm they inflict on animals, especially in activities like rodeos, animals used for testing, “conservation” by zoos, et cetera, is justifiable in terms of the “advantages” it has for humans. The problem here would be the functionaries who are able to consider and make decisions on such justifications, which the ALP proposes resorts in government, who have time after time been exposed for not acting in the best interests of animals.

Enabler 1 Appropriate, Co-operative and Non-Conflicted Institutional and Structural Arrangements

Save for what is mentioned below, the NSPCA has commented sufficiently on the aspects raised in Enabler 1 above.

Custodianship and Guardianship

The ALP provides no basis or argument as to why the DOJCD has “competencies” to administer the proposed animal welfare legislation, as opposed to the DALRRD.⁴⁶ Having not administered the APA since 1997, the NSPCA is curious as to why the ALP would propose for the administration to fall back to the DOJCD, i.e., to the pre-constitutional era, and further, what significant reforms were implemented by the DOJCD prior to the administration of the Act devolving to the DALRRD.

⁴⁴ n2 above.

⁴⁵ See the Manifesto at page 30.

⁴⁶ See the Manifesto at page 31.

In terms of “Criminal Law Capacities”, it is crystal clear that there is little to no prosecution experience or expertise within the ALP, failing to recognise that prosecutions are, at best, a subjective exercise guided broadly by the Prosecution Policy.

The Manifesto further fails to acknowledge that the National Prosecuting Authority, which falls under the DOJCD, is currently and has always struggled to cope with its current caseload. How it would be equipped and capable to handle matters relating to animal welfare is unsupported, unmotivated, and thus unclear.

Despite the DOJCD administering legislation relating to sexual offences, the Manifesto fails to mention whether the DOJCD has taken any proactive or reactive measures in enforcing the Criminal Law (Sexual Offences and Related Matters) Amendments Act 32 of 2007. Instead, the enforcement thereof also rests upon organisations like the NSPCA to pursue prosecution for such matters, for example, bestiality.

Animal Protection Office and National Advisory Forum for Animals

It is unclear *how* the proposed APO would be “independent”, as it would primarily reside within government. To be blunt, the “Commissioner for Animal Protection” further seems like an idealistic goal for those executives in the animal welfare space, who up to now, have little to show for their work. The Manifesto lacks specificity in proposing who should convene and elect/choose/appoint the APO and the NAFA, bringing its independence into question.

In terms of realistic governmental functioning, it is further unclear how the DOJCD would establish and operate the “dedicated inspectorate”⁴⁷, as they do not primarily deal with policing duties (such as the Department of Police, or local law enforcement agencies). Therefore, all enforcement powers in animal welfare legislation would reside within the DOJCD – as judge, jury, and executioner (or at least as Inspector, Prosecutor, and Magistrate). How this can be framed as “independent” is questionable.

It is further easy to write that “designated resources and funding for enforcement would be required”,⁴⁸ without considering or realistically reflecting South Africa’s fiscal position, and the priorities of the government of the day. Here, especially, the utopian visions shine bright, instead of pursuing a realistic solution.

We would be remiss not to record that the motivation for the establishment of the DOJCD Inspectorate clearly aims to stifle the NSPCA, SPCAs, and indeed all animal welfare organisations with enforcement powers (including those who participated in the shaping of the Manifesto).

Enabler 2 Effective and Efficient Governance and Enforcement

Public Law Provisions & Remedies

The Manifesto’s proposed “regulated activities” are akin to those established in terms of the Performing Animals Protection Act 24 of 1935; yet these conditions on licenses have not gone a long way in protecting animals, especially in instances such as rodeos, circuses, and reptile exhibitions. Accordingly, how the proposed “regulated activities” would be different, is unclear.

The rightist approach of the Manifesto shines through clearly when aiming to classify farming as a “restricted activity” which would, especially, have a tremendous impact on emerging/subsistence farmers, who farm for the table, as opposed to commercial farming. In this regard, the Manifesto fails to bear in mind and incorporate the socio-economic circumstances of regular South Africans in its pursuit of its utopian vision, written from the comfort of their desks.

The NSPCA has already commented on the interplay between “sound justification” and “unnecessary suffering” herein above.

⁴⁷ See the Manifesto at page 32.

⁴⁸ As above.

Expanded Enforcement Capabilities

The APA already makes provision for the custody of animals pending criminal prosecution. The ALP should have considered Regulation 468 of 14 March 1986, as well as section 8(1)(c) of the APA.

The Manifesto argues for “other qualified animal protection organisations” who maintain a “bona fide inspectorate department” to be allowed to privately prosecute; however, fails to outline what such “bona fide inspectorate department” would entail. In the vast animal welfare landscape of South Africa, it would be nearly impossible for a single entity (presumably the DOJCD) to assess and examine whether an entity maintains a “bona fide inspectorate department”.

Quite plainly, what is clear, is that such provision is solely to the benefit of organisations like HSI/Africa, and would not be beneficial to the cash-strapped smaller, local animal welfare organisations.

The Manifesto speaks of “watching briefs” as if it is a strange phenomenon. With a little research, it would have been noted that all the NSPCA's and SPCAs' matters are followed up and pursued in a watching brief manner.

Minimum Standards and Progressive Realisation

It is quite disingenuous for the ALP to comment that current standards for animal use are “set solely by animal-use industries”, whilst HSI/Africa serves on numerous standards committees in this regard, and has, in fact, voted against the NSPCA and with the industry on matters that were in the best interest of animals from the NSPCA's view.

Enabler 3 Promotion of Democratic Doctrines that Advance Animal Protection and Social Justice

The NSPCA has commented sufficiently on the aspects raised in Enabler 3 above.

Enabler 4 Ensuring Sustainability and Justice through Social, Environmental, Economic, Technological, and Other Commitments

The NSPCA has commented sufficiently on the aspects raised in Enabler 4 above.

Summary of Key Recommendations

Recommendation 1

The Manifesto argues that “certain provisions of animal protection legislation such as the APA, PAPA, and SPCA Act” should be repealed, without expanding on such proposed repeals and providing justification therefore. The unintended consequence is that a colloquium of ‘animal welfare organisations’ are now publicly calling for the repeal of animal protection laws. When read in isolation, this might realistically happen.

Recommendation 5

It would be the dream of those connected to the State who commit animal cruelty to be “policed” by an APO that is solely run and funded by the government.

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The NSPCA has thoroughly examined and addressed the ALP's proposed framework for transforming animal protection in South Africa. While the vision presented in the Manifesto is ambitious, it is largely disconnected from the realities of enforcement, governance, and resource allocation in the country. The NSPCA remains committed to practical, enforceable solutions that genuinely improve animal welfare rather than idealistic and impractical proposals that fail to consider South Africa's socio-economic landscape. Effective animal protection requires realistic policy-making, strong enforcement mechanisms, and collaboration with experienced entities rather than the creation of untested bureaucratic structures. As such, the NSPCA reaffirms its stance on the importance of evidence-based, pragmatic approaches to legislative reform,

ensuring that any changes to the legal and institutional framework serve the best interests of animals and those working tirelessly to protect them.

...

CONCLUSION

The Animal Law Project's (ALP) Manifesto presents a misguided and deeply flawed critique of the NSPCA, built on selective framing, theoretical assumptions, and a fundamental misunderstanding of the legal and practical realities of animal welfare enforcement in South Africa. While the document claims to advocate for reform, it is, in reality, an exercise in undermining the country's only statutory animal protection body - one that has tirelessly worked to enforce the Animals Protection Act (APA) despite severe financial and logistical constraints.

At its core, the Manifesto disregards the NSPCA's long history of legal victories, policy advancements, and frontline enforcement efforts. It fails to acknowledge that the NSPCA has been at the forefront of securing critical animal welfare protections, including the landmark Constitutional Court judgment recognising animals as sentient beings with intrinsic value. Instead, the ALP seeks to discredit an organisation that has achieved more for animal protection than any other entity in South Africa.

The Manifesto's Fundamental Shortcomings

Misrepresentation of the NSPCA's Role and Authority

The Manifesto mischaracterises the NSPCA as merely a non-profit organisation rather than recognising its statutory status as the only animal welfare entity empowered by law. It falsely implies that local SPCAs are managed by the NSPCA, ignoring the fact that each SPCA is autonomous, with the NSPCA serving as the coordinating and regulatory body under the Societies for the Prevention of Cruelty to Animals Act (SPCAs Act).

Furthermore, the Manifesto attempts to conflate the NSPCA's independence with a supposed lack of accountability, failing to grasp that its autonomy from the State is precisely what enables it to hold government and private actors accountable for animal cruelty.

A Theoretical, Desk-Based Approach with No Practical Viability

The ALP's proposals lack any real-world understanding of the challenges associated with enforcing animal protection laws. While the Manifesto calls for an "independent" Animal Protection Office (APO) housed within the Department of Justice and Constitutional Development (DOJCD), it provides no explanation for how such an entity would function effectively in a government that has consistently failed to prioritise animal welfare. The NSPCA has witnessed firsthand the government's inability to enforce existing laws, yet the ALP naively assumes that placing enforcement in government hands will somehow improve conditions for animals.

The Manifesto also proposes vague, unrealistic concepts such as requiring "sound and transparent justification" for harm to animals - ignoring the fact that such justifications are often subjective and can be manipulated to justify cruel practices. Additionally, its vision for a government-run enforcement system is detached from South Africa's fiscal realities, where even existing law enforcement agencies struggle to secure adequate funding.

Contradictions and Selective Arguments

The ALP's criticisms of the NSPCA are riddled with contradictions. It decries the NSPCA's lack of government funding while simultaneously opposing its independence from state control. It calls for increased enforcement but fails to recognise the barriers to prosecution, including an overburdened criminal justice system that potentially deprioritises animal cruelty cases.

Moreover, the Manifesto questions the NSPCA's financial transparency without a shred of evidence, despite the fact that the NSPCA and SPCAs are some of the only animal welfare organisations legally required to publish audited financial statements. The Manifesto conveniently ignores that other contributing organisations, including some of its founding entities, are not held to the same standards.

Failure to Provide Constructive Solutions

While the NSPCA welcomes meaningful discussions on strengthening animal protection, the Manifesto offers little beyond an unfounded attack on an organisation that has dedicated decades to this cause. It fails to engage with the NSPCA's practical, on-the-ground experience and provides no workable solutions to the pressing issues of enforcement, prosecution, or animal welfare policy development.

Had the ALP genuinely sought to improve animal protection in South Africa, it would have engaged with the NSPCA constructively, rather than crafting a document designed to erode public confidence in the organisation. Instead of proposing mechanisms to support SPCAs and increase resources for enforcement, the Manifesto focuses on utopian ideals that have no grounding in legal or practical reality.

Animal Law Project's Misguided Criticism

The Animal Law Project's attacks on the NSPCA's methods and effectiveness are nothing short of hypocrisy, and a slap in the face to the tireless efforts of our dedicated Inspectors and staff. The irony is stark - the ALP, operating solely from behind a desk, questions the NSPCA's functioning while having done nothing to enforce animal protection laws or provide meaningful support for animals in distress.

Despite its limited resources, the NSPCA works across the entire country, holding perpetrators - including the State - accountable for animal cruelty. The Manifesto's unfounded allegations fail to recognise the immense challenges faced in enforcement and instead promote an impractical, government-heavy framework that lacks any proven viability.

As a public body accountable to its supporters, the NSPCA has always been transparent about its operations, finances, and enforcement efforts. Unlike organisations that seek only to grandstand, the NSPCA is actively on the ground, working to protect animals every day.

What has the ALP done to support animal welfare in South Africa? The answer, quite simply, is nothing.

Their pursuit of discrediting the NSPCA reeks of desperation and a clear lack of substance. The NSPCA will continue to do what it does best: protecting animals and fighting for justice - regardless of how many empty attacks it faces from armchair critics.

Moving Forward

While the NSPCA **strongly rejects the Manifesto's misrepresentations and impractical proposals**, it remains committed to engaging in **meaningful discussions** about the future of animal protection in South Africa. However, such discussions must be **grounded in reality**, informed by those who have dedicated their lives to this cause, and **free from the misleading rhetoric and agendas** that underpin the ALP's critique.

Rather than undermining the only statutory body fighting for animal welfare, those truly invested in animal protection should focus on supporting and strengthening enforcement mechanisms, increasing funding for frontline operations, and advocating for practical legislative reforms that can be realistically implemented.

The NSPCA will continue to stand as the leading force in animal protection, upholding its mandate with integrity, transparency, and an unwavering commitment to safeguarding the lives of all animals in South Africa.

Disclaimers, Limitations & Status of Document

Authors and Inputs

This response is the intellectual property of the NSPCA and has been drafted in the organisation's official capacity. The primary contributors include members of the NSPCA's executive and inspectorate teams, all of whom possess extensive experience in animal welfare law, policy, and frontline enforcement. While this document has been informed by legal precedents, statutory obligations, and operational realities, it is not intended to be an exhaustive analysis of all possible legal and policy considerations.

Intention

This document serves as a formal response to the Animal Law Project's (ALP) Manifesto, addressing its proposals and critiquing its misrepresentations of the NSPCA's role and effectiveness. It is intended to provide clarity on the NSPCA's statutory mandate, legal authority, and practical enforcement experience while highlighting the flaws, contradictions, and impracticalities within the Manifesto. The NSPCA does not endorse the Manifesto in any way, nor does it view the document as an accurate or authoritative framework for reforming animal protection in South Africa.

Scope and Limitations

This response does not contain a detailed legal analysis of every aspect of South African animal protection law but rather focuses on key areas where the Manifesto presents misleading, incorrect, or impractical proposals. While every effort has been made to provide a comprehensive critique, this document should not be interpreted as a full or exhaustive response to all aspects of the Manifesto. The NSPCA reserves the right to provide further commentary, legal input, or additional responses as necessary. Furthermore, this document should not be considered legal advice, policy guidance, or an endorsement of any specific legislative amendments proposed by the ALP.

Non-Endorsement and Lack of Approval

As the statutory authority in animal protection, the NSPCA explicitly states that it does not approve, endorse, support, or align itself with the Manifesto or its contents. The Manifesto does not carry the NSPCA's approval, nor does it reflect the realities of effective animal welfare enforcement in South Africa. Any references to the NSPCA within the Manifesto should not be construed as an indication of involvement, agreement, or recognition of its legitimacy.

Right to Update and Amend

This response is based on the information available at the time of drafting and reflects the NSPCA's position as of February 2025. The NSPCA reserves the right to update, amend, or supplement this response should new developments arise, further legal interpretations become necessary, or additional engagements on the subject matter occur.

Reliance and Limitation of Liability

This document is intended solely for the purpose of responding to the ALP's Manifesto. No person or entity may rely on its contents for legal or policy decisions unless expressly agreed upon in writing by the NSPCA. The NSPCA accepts no liability for any direct, indirect, or consequential loss or damage arising from the use or misinterpretation of this response. This response has been prepared in the public interest and in furtherance of the NSPCA's statutory mandate to prevent cruelty to animals, ensure lawful enforcement of animal protection legislation, and promote informed discussions on animal welfare in South Africa.

No Allegations or Malicious Intent

Nothing contained in this document should be interpreted as an allegation against any individual, organisation, or entity of contravening any South African or international law. The NSPCA does not intend to defame, disparage, or harm the reputation of any party. Any criticism contained herein is based on fact, legal precedent, and operational realities, with the sole objective of ensuring that animal protection in South Africa is guided by lawful, enforceable, and effective measures rather than impractical proposals.

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