

ERICA STRADER\*

## The Future of Horse Slaughter: What Is Best?

I.	Before the U.S. Ban: Horse Slaughter at Home and Abroad.....	294
II.	The U.S. Horse Slaughter Ban .....	295
III.	Recent Trends: The Return of Horse Slaughter.....	298
IV.	Horse Slaughter: Why Bring It Back?.....	300
V.	The Other Side: Horse Slaughter Is the Wrong Answer?.....	305
VI.	Outlook: A Return to Horse Slaughter .....	310
VII.	A Proposed Solution: Horse Slaughter Regulations and Audits .....	311
	Conclusion.....	313

Until recently, horse slaughter for human consumption in the United States was effectively illegal. Federal legislation effectively banned the practice at the national level, while state bans were enacted and upheld by the courts. The European Union enacted stricter regulations on horsemeat, signaling the demise of the international market as well. Animal rights groups declared victory. Horse slaughter was dead in the United States, and declining abroad.

Still, American horses were being slaughtered for human consumption. While the ban prevented domestic slaughter, U.S. horses were shipped to Canada and Mexico instead. Despite some movement in Canada to ban horse slaughter, imports to the country increased dramatically as a result of the U.S. ban. Reports of mistreatment in these countries, along with increasing numbers of abandoned horses in the United States, led some government entities and activists to call for a change in policy. Even some former horse slaughter opponents were beginning to reconsider the practice. And

---

\* J.D. Candidate 2013, University of Oregon School of Law. Before attending law school, Erica Strader worked as a staffer for U.S. Senator Conrad Burns (R-MT) and as a federal lobbyist in Washington, D.C. I would like to thank Professor Caroline Forell for her feedback and suggestions, the staff of the Oregon Review of International Law for their hard work, and of course, my husband Nick and my family for their support.

then, for the first time in five years, Congress allowed funding for federal inspection of horses bound for slaughter. The result: the likely return of domestic horse slaughter to the United States.

In light of this major policy shift, parties on each side of the debate must consider what is truly in the best interest of everyone—animal and human alike—affected by this contentious issue. This article explores the history and recent shifts in horse slaughter policy both at home and abroad, and offers a solution centered on compromise. Sound federal regulations and cooperation with nations that process and consume horsemeat is essential to ensure the future of the industry and proper treatment of these animals. While neither side appears ready to budge, each side risks losing their respective policy battles while thousands of unwanted horses continue to suffer.

## I

### BEFORE THE U.S. BAN: HORSE SLAUGHTER AT HOME AND ABROAD

While horsemeat has not been traditionally popular in the United States, there have been times when Americans have dined on equine. Horsemeat was reportedly eaten during World War II and some post-war years when other meats were too expensive.<sup>1</sup> In the 1970s, inflation led to higher prices for other meats and many Americans resorted to eating horse once again.<sup>2</sup> The practice was not necessarily relegated to times of crisis; Harvard Dinner Club served horsemeat up until the late 1970s and stopped only when traffic and road redesign prevented the delivery truck from getting through.<sup>3</sup>

For the most part, however, horses are not food in America. Citizens of many other countries, on the other hand, have and continue to regularly eat horse. By 2005, China was largest, consuming more than 420,000 tons of equine meat per year.<sup>4</sup> Mexico was second at more than 84,000 tons, and Russia third at about 76,000 tons.<sup>5</sup> Because Americans traditionally do not eat horsemeat, the market was and remains exclusively foreign. Before the U.S. ban,

---

<sup>1</sup> Christa Weil, *We Eat Horses, Don't We?*, N.Y. TIMES, Mar. 5, 2007, <http://www.nytimes.com/2007/03/05/opinion/05weil.html>.

<sup>2</sup> *Id.* In 1973, one Connecticut shop reportedly sold as much as 6000 pounds of horsemeat per day. *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> ALBERTA FARM ANIMAL CARE, THE ALBERTA HORSE WELFARE REPORT 6 (2008), available at <http://equineenews.osu.edu/documents/HorseWelfareReport1-AFAC.pdf> (quoting U.N. figures from 2005).

<sup>5</sup> *Id.*

the primary importers of U.S. horsemeat included Belgium, Italy, Japan, Switzerland, France, and Mexico.<sup>6</sup>

Until 2003, the U.S. horse slaughter industry was declining.<sup>7</sup> The number of horses slaughtered domestically decreased from 345,900 in 1990 to just 42,312 in 2002, and the number of horse slaughter facilities fell from sixteen to two.<sup>8</sup> The overall shift was attributed at least in part to a global movement away from red meat and an increase in lower-priced imports from other parts of Europe and South America.<sup>9</sup>

In 2003, however, a previously closed plant in Illinois reopened; as a result, by the end of 2006, number of horses processed in the United States had steadily increased again to just under 105,000.<sup>10</sup> At that time, U.S. facilities exported more than 17,000 metric tons of horsemeat abroad valued at \$65 million.<sup>11</sup> Still, the end was near for horse slaughter in the United States.

## II THE U.S. HORSE SLAUGHTER BAN

Despite the growth of the horse slaughter industry, state and federal legislative and judicial movement eventually ended domestic horse slaughter. In response to pressure from animal rights groups, Illinois and Texas—where the last three plants remained in operation—took action.<sup>12</sup> In May 2007, Illinois outlawed horse slaughter and export of horsemeat for human consumption.<sup>13</sup> Texas had also begun to enforce a similar law on its books since 1949.<sup>14</sup>

<sup>6</sup> Laura J. Durfee, Note, *Anti-Horse Slaughter Legislation: Bad for Horses, Bad for Society*, 84 IND. L.J. 353, 356–57 (2009).

<sup>7</sup> *Id.*

<sup>8</sup> U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-11-228, HORSE WELFARE: ACTION NEEDED TO ADDRESS UNINTENDED CONSEQUENCES FROM CESSATION OF DOMESTIC SLAUGHTER 10 (2011) [hereinafter GAO REPORT].

<sup>9</sup> Michael S. North et al., *The Potential Impact of a Proposed Ban on the Sale of U.S. Horses for Slaughter and Human Consumption*, 23 J. AGRIBUSINESS 1, 11–12 (2005). In 2001, the number of horses slaughtered increased slightly to 56,332, perhaps due to increased demand in EU countries affected by mad cow disease. See Hallie S. Ambriz, *The American Horse Slaughter Prevention Act*, 14 SAN JOAQUIN AGRIC. L. REV. 143, 154–55 (2004). The numbers once again stabilized in 2002 at 42,312 before increasing again between 2003 and 2006. See GAO REPORT, *supra* note 8, at 10.

<sup>10</sup> See GAO REPORT, *supra* note 8, at 10. The GAO seems to attribute the resulting increase in number of horses slaughtered to the reopening of the Illinois facility. See *id.*

<sup>11</sup> *Id.* at 8.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> North et al., *supra* note 9, at 1.

Owners of the facilities promptly challenged the bans as unconstitutional. In *Empacadora de Carnes de Fresnillo, S.A. de C.V. v. Curry*, the district court granted the Texas plants' request for an injunction on preemption grounds.<sup>15</sup> The Court of Appeals for the Fifth Circuit reversed, holding that the Federal Meat Inspection Act, which governs meat processing and inspection activities, did not expressly or impliedly preempt Texas horse slaughter ban.<sup>16</sup> The Texas plants had argued that the Federal Meat Inspection Act expressly preempted the state law with a clause reserving inspection authority over slaughter facilities for the federal government.<sup>17</sup> Specifically, the law requires that "premises, facilities and operations of any establishment at which inspection is provided. . . which are in addition to, or different than those made under this chapter may not be imposed by any state."<sup>18</sup> However, the Fifth Circuit held that the clause limited states' powers only with respect to labeling and inspection; states could still regulate the types of meat being sold for human consumption.<sup>19</sup>

The court also held that the state law was not impliedly preempted because the Federal Meat Inspection Act explicitly states that it "shall not preclude any State . . . from making requirements or taking other action, consistent with this chapter, with respect to any other matters regulated under this chapter."<sup>20</sup> Thus, the court held, Congress did not intend to occupy the field of meat inspections and the Texas ban was permissible.<sup>21</sup> The court finally held that the law did not violate the Dormant Commerce Clause because it treats "intrastate and interstate trade of horsemeat equally" by banning all horsemeat from entering the food chain.<sup>22</sup> In short, states were permitted to independently ban horse slaughter for human consumption.

Soon after *Empacadora*, the Seventh Circuit upheld a similar Illinois horse slaughter ban in *Cavel v. Madigan*. Cavel International was a subsidiary of a Belgian company, and its entire output was exported to other countries including Belgium, France, and Japan.<sup>23</sup>

---

<sup>15</sup> *Empacadora de Carnes de Fresnillo, S.A. de C.V. v. Curry*, 476 F.3d 326, 326 (5th Cir. 2007).

<sup>16</sup> *Id.* at 337.

<sup>17</sup> *See id.*

<sup>18</sup> 21 U.S.C. § 678 (2006).

<sup>19</sup> *Empacadora*, 476 F.3d at 333.

<sup>20</sup> 21 U.S.C. § 678 (2006).

<sup>21</sup> *Empacadora*, 476 F.3d at 334.

<sup>22</sup> *Id.* at 335. *See also* Durfee, *supra* note 6, at 362 n.77.

<sup>23</sup> *Cavel Int'l v. Madigan*, 500 F. 3d 551, 553 (7th Cir. 2007).

At the time, Cavel slaughtered between 40,000 and 60,000 horses per year and had about \$20 million in annual revenue.<sup>24</sup>

Like the facilities in *Empacadora*, Cavel claimed that the Federal Meat Inspection Act expressly and impliedly preempted the Illinois ban. The Seventh Circuit quickly disposed of Cavel's preemption claims, also finding that states were only limited with regard to meat inspection and labeling.<sup>25</sup> The Federal Meat Inspection Act, "in no way limit[ed] states in their ability to regulate what types of meat may be sold for human consumption."<sup>26</sup>

The court more closely considered Cavel's argument that the statute violated the Dormant Commerce Clause. Because the effect on foreign commerce was found to be "slight," the law was upheld for its link to a legitimate state interest of prolonging the lives of animals "that [states'] populations like or enjoy."<sup>27</sup> Still, the court had some reservations, noting that it was "not entirely happy about having to uphold the Illinois statute" because those harmed by the ban (i.e. foreign shareholders and consumers) had no influence over state politics.<sup>28</sup> Despite these concerns, the court treated the appeal as a final judgment and affirmed the lower court's denial of injunctive relief.<sup>29</sup>

As certain states eliminated horse slaughter, Congress also took action. Beginning in 2005, Congress effectively prohibited horse slaughter in the United States.<sup>30</sup> Specifically, Congress enacted appropriations legislation barring the United States Department of Agriculture (USDA) from using federal funds to inspect horses going to slaughter for human consumption.<sup>31</sup> Because the Federal Meat Inspection Act requires that all animals intended for human consumption be inspected at slaughter facilities, the language served as an effective ban on horse slaughter.<sup>32</sup>

---

<sup>24</sup> *Id.* at 552.

<sup>25</sup> *Id.* at 553.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 557–58.

<sup>28</sup> *Id.* at 558.

<sup>29</sup> Bradley J. Sayles, *The Decline of Edible Equine: A Comment on Cavel International Inc. v. Madigan*, 2 KY. J. EQ. AG. & NAT'L RES. L. 103, 111 (2009–10).

<sup>30</sup> GAO REPORT, *supra* note 8, at 8. The prohibition was part of the Fiscal Year 2006 Agriculture Appropriations Act and became effective 120 days after the legislation was enacted on November 10, 2005. *Id.*

<sup>31</sup> *Id.* The language was apparently in response to a 2004 appropriations amendment by then-Montana Senator Conrad Burns that allowed selling wild horses and burros for slaughter. Durfee, *supra* note 6, at 360.

<sup>32</sup> GAO REPORT, *supra* note 8, at 8.

Still, domestic horse slaughter continued for a brief time after the facilities successfully petitioned the USDA for a fee-for-service inspection program; the program allowed the plants to pay for USDA inspections and thus continue operations.<sup>33</sup> The Humane Society, however, soon filed suit challenging the program. In *Humane Society of the U.S. v. Johanns*, the Humane Society claimed that the expedited regulation implementing the fee-for-service program violated the Administrative Procedures Act (APA) and National Environmental Policy Act (NEPA).<sup>34</sup> The U.S. District Court for the District of Columbia agreed and held that the USDA was legally required to conduct an environmental review before allowing the fee-for-service program.<sup>35</sup> The court held that the rule implementing the program therefore also violated the APA and permanently enjoined the USDA from implementing the program.<sup>36</sup> By that time, Congress had also responded with language in the fiscal year 2007 Agriculture Appropriations Act that prohibited federal funds for inspections *and* the fee-for-service program.<sup>37</sup> By that time, the facilities in Texas and Illinois had closed,<sup>38</sup> and domestic horse slaughter was officially dead.

### III

#### RECENT TRENDS: THE RETURN OF HORSE SLAUGHTER

After five years without horse slaughter, the industry is now making a comeback in the United States. Some states are easing restrictions on horse slaughter<sup>39</sup> with Wyoming leading the charge.<sup>40</sup> In 2010, Wyoming enacted legislation allowing slaughter as an option to address the growing problem of abandoned horses in the state.<sup>41</sup> When the federal inspection ban was in effect, state officials

---

<sup>33</sup> Durfee, *supra* note 6, at 360.

<sup>34</sup> *Humane Soc’y of the U.S. v. Johanns*, 520 F.Supp.2d 8, 11 (D.D.C. 2007). The Humane Society’s original complaint also claimed violations of the Federal Meat Inspection Act and Fiscal Year 2006 Appropriations Act. *Id.*

<sup>35</sup> *Id.* at 27. The court said that the effects should have been assessed because they were “reasonably causally related” to be considered effects of the rule itself. *Id.*

<sup>36</sup> *Id.* at 40.

<sup>37</sup> GAO REPORT, *supra* note 8, at 9.

<sup>38</sup> *Id.* at 8–9.

<sup>39</sup> TADLOCK COWAN, CONG. RESEARCH SERV., RS 21842, HORSE SLAUGHTER PREVENTION BILLS AND ISSUES 2 (2012).

<sup>40</sup> Sarah Beatty, *Wyoming Governor Enacts Legislation to Initiate Horse Slaughter*, THE CHRONICLE OF THE HORSE, Mar. 19, 2010, <http://www.chronofhorse.com/article/wyoming-governor-enacts-legislation-initiate-horse-slaughter>.

<sup>41</sup> *Id.*

considered possibly using horsemeat at the state's prisons or donating it to the needy.<sup>42</sup> The meat could also be sold across state lines, but only for zoos or other purposes not associated with human consumption.<sup>43</sup> Now, a facility could open and after state inspection, transport the meat across state lines, even if for human consumption. At the forefront of the issue has been Wyoming State Rep. Sue Wallis, who recognizes that the state must overcome "the ick factor" associated with killing these animals.<sup>44</sup> To address these concerns, Rep. Wallis and other pro-slaughter advocates came together in January 2011 and invited animal expert Dr. Temple Grandin to speak on humane slaughter protocols for horses.<sup>45</sup>

Other states are also easing restrictions on horse slaughter. Nebraska recently passed legislation that would loosen restrictions on horse slaughter in the state.<sup>46</sup> In Montana, legislation allowing investor-owned horse processing facilities went into effect in 2009.<sup>47</sup> In 2010, Idaho amended the state's animal cruelty laws to make clear that they should not interfere with the humane slaughter of horses.<sup>48</sup> Similar movements are occurring in South Dakota, North Dakota, Tennessee,<sup>49</sup> and Missouri.<sup>50</sup>

Most notably, however, pro-slaughter interests have succeeded at the federal level. For the first time in five years, Congress has allowed federal funds for inspection of horses intended for human

---

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> Stephanie Simon, *Rethinking Horse Slaughterhouses*, WALL ST. J., Jan. 5, 2011, <http://online.wsj.com/article/SB10001424052748703808704576062064022541024.html>.

<sup>45</sup> Beatty, *supra* note 40. *But see* Laura Allen, *Pro Horse Slaughter "Summit" Not Happy With Dr. Grandin*, STRAIGHT FROM THE HORSE'S HEART (Jan. 7, 2011), <http://rtfitch.wordpress.com/2011/01/07/pro-horse-slaughter-summit-not-happy-with-dr-grandin/> (observing that Dr. Grandin's suggestions were not well-received). Dr. Grandin's suggestions are discussed in more detail below.

<sup>46</sup> A.G. Sulzberger, *Slaughter of Horses Goes On, Just Not in U.S.*, N.Y. TIMES, Oct. 23, 2011, <http://www.nytimes.com/2011/10/24/us/Horse-Slaughter-Stopped-in-United-States-Moves-Across-Borders.html>.

<sup>47</sup> COWAN, *supra* note 39, at 3.

<sup>48</sup> Jacques Von Lunen, *Horse Slaughter Ban Boosts Numbers in Canada, Mexico*, THE OREGONIAN, May 12, 2010, [http://www.oregonlive.com/pets/index.ssf/2010/05/horse\\_slaughter\\_ban\\_boosts\\_num.html](http://www.oregonlive.com/pets/index.ssf/2010/05/horse_slaughter_ban_boosts_num.html).

<sup>49</sup> COWAN, *supra* note 39, at 2.

<sup>50</sup> Michael Winter, *Mo. Lawmaker Wants to Revive U.S. Horse Slaughter for Food*, USA TODAY, Mar. 10, 2010, <http://content.usatoday.com/communities/ondeadline/post/2010/03/mo-lawmaker-wants-to-revive-us-horse-slaughter-for-food-1>.

consumption.<sup>51</sup> While longtime horse slaughter opponent Rep. Jim Moran (D-VA) had successfully added the language to the House version of the Fiscal Year 2012 Agriculture Appropriations bill, the Senate version did not contain the language.<sup>52</sup> The final version of the legislation, which President Obama signed into law on November 21, 2011, also did not contain the language.<sup>53</sup> Because the ban on funds for USDA inspections has not been renewed, horse slaughter facilities can once again set up shop in states that want them.

The policy change coincides with what appears to be increasing Congressional support for a return to horse slaughter. After the Senate passed its version of the fiscal year 2012 appropriations bill, U.S. Senator Max Baucus (D-Mont.) lauded the fact that Congress was “one step closer” to ending the ban that “has resulted in the inhumane treatment of injured and sick horses along with hurting the economy.”<sup>54</sup> Rep. Adrian Smith (R-Neb.) also called on Congress to reevaluate the current “misguided” ban on horse slaughter to make way for “responsible horse management” instead.<sup>55</sup>

#### IV

#### HORSE SLAUGHTER: WHY BRING IT BACK?

Horse slaughter advocates point to several reasons for reviving the industry in the United States. Most notably, horses are increasingly being abandoned, abused, and neglected both domestically and internationally as a result of the ban on horse slaughter. The number of horses Americans own has increased from about 6 million horses in the 1990s to more than 9 million horses in 2005.<sup>56</sup> Some have attributed the increase at least in part to the increased number of baby

---

<sup>51</sup> *Ban on Horse Slaughter Lifted in Ag Appropriations Bill*, AGRI-PULSE, [http://www.agri-pulse.com/lift\\_ban\\_horse\\_slaughter\\_approps\\_11172011.asp](http://www.agri-pulse.com/lift_ban_horse_slaughter_approps_11172011.asp) (last visited Mar. 2, 2012) [hereinafter *Ban on Horse Slaughter*].

<sup>52</sup> Jim Moran, *U.S. Should Get Out of the Horse Meat Business*, THE HILL, June 7, 2011, <http://thehill.com/special-reports/animal-welfare-june-2011/165257-us-should-get-out-of-the-horse-meat-business?page=4>.

<sup>53</sup> *Ban on Horse Slaughter*, *supra* note 51.

<sup>54</sup> Press Release, Office of U.S. Senator Max Baucus, Baucus: Time to Lift Slaughter Ban That Hurts Horses, Farmers and Ranchers (Sept. 9, 2011), *available at* [http://baucus.senate.gov/?p=press\\_release&id=665](http://baucus.senate.gov/?p=press_release&id=665).

<sup>55</sup> Stephan Dinan, *Slaughter Ban Sending Horses Across Borders*, WASH. TIMES, June 23, 2011, <http://www.washingtontimes.com/news/2011/jun/23/slaughter-ban-sending-horses-across-borders/>.

<sup>56</sup> Jenny Jarvie, *Drought is a Hard Time for Horses*, L.A. TIMES, Jan. 13, 2008, <http://articles.latimes.com/2008/jan/13/nation/na-horses13>.



boomers and disposable income.<sup>57</sup> However, as the economy worsened, so too has the fate of unwanted horses. There are few government statistics available, but the nonpartisan Government Accountability Office (GAO) has found that horse welfare is generally decreasing.<sup>58</sup> Specifically, all seventeen State Veterinarians that the GAO surveyed agreed that the level of horse welfare had generally declined over the last five years and cited increased instances of horse abandonment and neglect as evidence.<sup>59</sup> Veterinarians and animal officials interviewed by the GAO also indicated that the economy and the horse slaughter ban are largely to blame, although the officials did not indicate which was the most prevalent factor.<sup>60</sup>

With such a large number of abandoned horses, rescue groups are unable to handle the high number of unwanted horses. The estimated nationwide capacity for horse rescue facilities is about 6,000 horses,<sup>61</sup> leaving at least 94,000 horses with estimates indicating that number may grow.<sup>62</sup> Not long after the ban on horse slaughter went into effect, rescue groups were bombarded with unwanted horses. For example, the U.S. Equine Rescue League rescued 186 neglected or abused horses in 2007, nearly twice its usual number.<sup>63</sup> Some estimate that there would need to be 2,700 new rescue groups created each year to accommodate the growing number of abandoned horses.<sup>64</sup> Unable to keep up, rescue groups have been forced turned away horses instead.<sup>65</sup> The problem has prompted at least some rescue groups that formerly opposed slaughter to rethink their stance on the issue.<sup>66</sup>

Supporters also argue that a return to slaughter is ultimately in the best interest of these animals. After all, U.S. horses are still being slaughtered, but they are going to Canada and Mexico instead: approximately 138,000 U.S. horses are now transported to Canada or

---

<sup>57</sup> *Id.*

<sup>58</sup> GAO REPORT, *supra* note 8, at 19.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 23.

<sup>62</sup> *See id.*

<sup>63</sup> Jarvie, *supra* note 56.

<sup>64</sup> *Unwanted Horses and Horse Slaughter: Frequently Asked Questions*, AMERICAN VETERINARY MEDICAL ASSOCIATION (AVMA), <https://www.avma.org/KB/Resources/FAQs/Pages/Frequently-asked-questions-about-unwanted-horses-and-horse-slaughter.aspx> (last updated Feb. 1, 2012) [hereinafter AVMA].

<sup>65</sup> Jarvie, *supra* note 56.

<sup>66</sup> *See* Simon, *supra* note 44.

Mexico to be processed each year.<sup>67</sup> The number is equivalent to the number of U.S. horses slaughtered domestically in 2006.<sup>68</sup> As a result of the U.S. ban, Canadian imports of U.S. horses intended for slaughter increased by 148 percent, and Mexican imports increased by 660 percent.<sup>69</sup>

At the same time, U.S. horses are treated far worse than they were before the domestic ban. Trucking horses to slaughterhouses in Canada and Mexico is extremely difficult on the animals.<sup>70</sup> Even after arriving in these countries, horses are sometimes shipped hundreds of miles with little food or water (if any) to slaughter facilities.<sup>71</sup>

Horses fare no better once they arrive at these foreign facilities. One hidden-camera investigation at a plant in Canada showed that operators are not always able to fully render horses unconscious before slaughter.<sup>72</sup> Workers are then forced to slit the animals' throats with a knife.<sup>73</sup> Slippery floors and poorly designed kill pens resulted in "sheer panic" by some of the horses on tape.<sup>74</sup> Canadian officials were reportedly investigating the allegations; two Canadian plants later closed.<sup>75</sup>

In Mexico, conditions for horses intended for slaughter are even worse. Most Mexican facilities are equipped with captive bolt guns to kill the animals. Captive bolts, which are considered humane by the USDA, send a shot to the head and quickly kill the animals.<sup>76</sup> However, at many plants in Mexico, these guns often do not operate

---

<sup>67</sup> GAO REPORT, *supra* note 8, at 13.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 12.

<sup>70</sup> Lynda V. Mapes, *Too Many Horses: Northwest Tribes Consider Slaughter Facility for Wild Horses*, SEATTLE TIMES, May 3, 2009, [http://seattletimes.nwsourc.com/html/localnews/2009164786\\_horse03m.html](http://seattletimes.nwsourc.com/html/localnews/2009164786_horse03m.html).

<sup>71</sup> Durfee, *supra* note 6, at 366. See also Lisa Sandberg, *Horse Slaughter Ban Has Gruesome Results*, HOUSTON CHRON., Sept. 30, 2007, <http://www.chron.com/news/houston-texas/article/Horse-slaughter-ban-has-gruesome-results-1817383.php>.

<sup>72</sup> *CBC Probe Raises Questions About Horse Slaughtering*, CBC NEWS CANADA, June 11, 2008, <http://www.cbc.ca/news/canada/story/2008/06/10/horses-slaughter.html> [hereinafter *CBC Probe*].

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> British Columbia Society for the Prevention of Cruelty to Animals, *Report on Horse Slaughter Practices in Canada* (Apr. 23, 2010), <http://www.spca.bc.ca/assets/documents/welfare/horse-slaughter/horse-slaughter-report.pdf>.

<sup>76</sup> Sandberg, *supra* note 71. The American Veterinary Medicine Association also considers captive bolts humane. AVMA, *supra* note 64.

properly.<sup>77</sup> As a result, workers instead disable horses by severing their spinal cords with knives.<sup>78</sup> The process, known as the “puntilla technique,” sometimes requires as many as thirteen stabs before the animal collapses.<sup>79</sup> Workers then attach the horse to a chain, hoist it up, and slit its throat.<sup>80</sup> The horse, meanwhile, remains conscious and senses everything being done to them.<sup>81</sup> Mexican authorities have officially stated that this technique is illegal,<sup>82</sup> but many Mexican facilities—especially older ones—reportedly continue to slaughter horses this way.<sup>83</sup>

By contrast, the United States requires that all animals intended for food, including horses, be slaughtered humanely.<sup>84</sup> Specifically, federal law requires that the animals be “rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective” before being shackled, hoisted, or cut.<sup>85</sup> Many states have humane slaughter laws with the same or similar language; Oregon, for example, also requires the animal to be rendered insensible to pain before slaughter.<sup>86</sup> Today, however, horses intended for slaughter leave the USDA’s jurisdiction as soon as they cross the Canadian or Mexican border.<sup>87</sup> The result is increased suffering and mistreatment of horses overall, and has led some animal advocates—including People for the Ethical Treatment of Animals (PETA)—to support a return to U.S.-regulated and enforced horse slaughter.<sup>88</sup>

Other slaughter supporters also note economic reasons to revive the horse slaughter market. Buyers once paid around 70 cents a pound at auction; today, the price is around 6 cents a pound, assuming packers

---

<sup>77</sup> Sandberg, *supra* note 71. At one Juarez plant, the bolts reportedly work about half the time. *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*; see also Durfee, *supra* note 6, at 366.

<sup>80</sup> Sandberg, *supra* note 71.

<sup>81</sup> Durfee, *supra* note 6, at 366.

<sup>82</sup> *CBC Probe*, *supra* note 72.

<sup>83</sup> Sandberg, *supra* note 71.

<sup>84</sup> 7 U.S.C. § 1901 (2006).

<sup>85</sup> *Id.* § 1902(a). The statute also has special provisions for slaughter in accordance with the Jewish faith. See *id.*

<sup>86</sup> OR. REV. STAT. § 603.065(1)(a) (2011).

<sup>87</sup> Durfee, *supra* note 6, at 366.

<sup>88</sup> Patrik Jonsson, *Lifting Horse Slaughter Ban: Why PETA Says It's a Good Idea*, CHRISTIAN SCI. MONITOR (Nov. 30, 2011), <http://www.csmonitor.com/USA/2011/1130/Lifting-horse-slaughter-ban-Why-PETA-says-it-s-a-good-idea>.

take the animal at all.<sup>89</sup> Some livestock auction owners and horse breeders claim that the ban has removed the floor for horse prices, leading the market to collapse and putting many out of business.<sup>90</sup> In Nebraska, one auction used to sell 100 horses a month, but now that may be the total for the year.<sup>91</sup> Despite lower prices, even “kill buyers” that buy horses for slaughter find it difficult to compete with other countries such as Mexico.<sup>92</sup>

A related problem is that euthanizing these unwanted horses is costly. Some place the cost of euthanizing and removing a horse at \$350.<sup>93</sup> Other estimates are as high as \$750 per horse.<sup>94</sup> The cost includes not only euthanasia, but the disposal of the animal as well.<sup>95</sup> While chemical euthanasia (as opposed to a captive bolt or gunshot) is best and most preferred, carcasses then contain harmful drugs that can contaminate the environment and harm wildlife.<sup>96</sup> Burial of the carcass is also costly—about \$300 to \$500 per horse—and is often prohibited by local environmental ordinances.<sup>97</sup> Landfills also often do not accept these carcasses.<sup>98</sup> Accordingly, owners must pay an added cost to have a euthanized horse disposed of properly, most often at a rendering plant.<sup>99</sup> Rendering plants have also declined in numbers, however, and are less available due to concerns about disease and residue from euthanasia drugs.<sup>100</sup> Closing U.S. horse slaughterhouses, some argue, thus eliminated “the most economically viable and environmentally friendly disposal method” of unwanted horses.<sup>101</sup>

With horse welfare reportedly decreasing, horse slaughter advocates make some compelling arguments. Still, horse slaughter in the United States was banned for a reason, and horse slaughter opponents have legitimate arguments as well.

---

<sup>89</sup> Mapes, *supra* note 70.

<sup>90</sup> Sulzberger, *supra* note 46.

<sup>91</sup> *Id.*

<sup>92</sup> *Id.* As one frustrated buyer said, “[t]he Mexicans are getting rich off us . . . They’re buying these horses cheap because they can. We have no other options.” *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> Mapes, *supra* note 70.

<sup>95</sup> AVMA, *supra* note 64.

<sup>96</sup> *Id.*

<sup>97</sup> Durfee, *supra* note 6, at 369.

<sup>98</sup> *Id.*

<sup>99</sup> AVMA, *supra* note 64.

<sup>100</sup> Durfee, *supra* note 6, at 369.

<sup>101</sup> *Id.*

## V

**THE OTHER SIDE: HORSE SLAUGHTER IS THE WRONG ANSWER?**

Rather than revive the horse slaughter industry, opponents argue that elimination of the horse slaughter market and export ban is the best solution.<sup>102</sup> A return to horse slaughter, they argue, is a return to the cruel treatment of these animals that should instead be humanely euthanized.

While horse slaughter supporters seem to be rising in numbers, many members of Congress continue to work to ban both slaughter and export of horses for human consumption. Most recently, Rep. Dan Burton (R-Ind.) introduced the American Horse Slaughter Prevention Act (House Bill 2966) in the U.S. House of Representatives in September 2011.<sup>103</sup> Sen. Mary Landrieu (D-La.) had introduced the Senate version of the bill (Senate Bill 727) earlier in the year.<sup>104</sup> The legislation prohibits the “shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption.”<sup>105</sup> Essentially, the bill would prohibit the slaughter of U.S. horses domestically or internationally.<sup>106</sup> At the time of this writing, the House version had 114 cosponsors while the Senate version had 25 cosponsors.<sup>107</sup> The same or similar legislation banning horse slaughter for human consumption has been introduced in the past, but has not been signed into law.<sup>108</sup>

Slaughter opponents seem to recognize that more recent numbers indicate a decline in horse welfare overall, but point to the economy (rather than the slaughter ban) as the true cause of these problems. Even the GAO study, which has been criticized by some animal rights groups as being too pro-slaughter,<sup>109</sup> acknowledged that the economy

---

<sup>102</sup> See *The Facts on Horse Slaughter*, HUMANE SOCIETY OF THE U.S. (Jan. 25, 2010), [http://www.humanesociety.org/issues/horse\\_slaughter/facts/facts\\_horse\\_slaughter.html](http://www.humanesociety.org/issues/horse_slaughter/facts/facts_horse_slaughter.html) [hereinafter *Facts on Horse Slaughter*].

<sup>103</sup> H.R. 2966, 112th Cong. (2011), 2011 CONG US HR 2966 (Westlaw).

<sup>104</sup> S. 1176, 112th Cong. (2011), 2011 CONG US S 1176 (Westlaw).

<sup>105</sup> *Id.*

<sup>106</sup> *See id.*

<sup>107</sup> *Id.*

<sup>108</sup> Durfee, *supra* note 6, at 360. In 2003, Rep. John Sweeney (R-NY) introduced the American Horse Slaughter Prevention Act, which he introduced because horse slaughter plants had remained open despite the federal inspections funding ban. *Id.* at 360–61. *See also* COWAN, *supra* note 39, at 4.

<sup>109</sup> See R.T. Fitch, *GAO Follows Horse Slaughter Lobby Down the Rabbit Hole, STRAIGHT FROM THE HORSE’S HEART* (Sept. 7, 2011), <http://rtfitch.wordpress.com/2011/09/07/gao-follows-horse-slaughter-lobby-down-the-rabbit-hole/>.

may have just as much, if not more, of a role in decreased horse welfare.<sup>110</sup> Thus, opponents argue, horses welfare will improve as the economy improves.

Horse slaughter opponents also argue that there is no reason to revive domestic horse slaughter because the global market is declining. The European Union (EU), for example, is now prohibiting horsemeat imports that are treated with certain drugs and require a “horse passport” or microchip for all horses entering the EU.<sup>111</sup> The EU rules, which became effective in 2010, require complete health records for slaughtered animals; they must not have received certain harmful drugs or be quarantined for 180 days.<sup>112</sup>

The EU regulations are significant because U.S. horses are often treated with drugs that are harmful to humans. Prescription drugs are regulated differently for animals intended as food as opposed to horses and other companion animals.<sup>113</sup> Substances banned from food animals include certain wormers, known carcinogen phenylbutazone (PBZ), and some fertility drugs that can cause miscarriages in women.<sup>114</sup> The EU rules require affidavits from exporters of horsemeat to certify that the horses have not been treated with harmful drugs.<sup>115</sup> Both Canada and Mexico appear to be complying with the rules,<sup>116</sup> although there have been problems with adapting the certain tracking systems to production of horsemeat in Mexico.<sup>117</sup>

The regulations have affected some procedures at the border. Because U.S. horses are first imported by Canada and Mexico before being exported to the EU, they are identified on a voluntary basis in

---

<sup>110</sup> GAO REPORT, *supra* note 8, at 19. The most frequently cited reasons for the decline were the economy and the 2007 domestic horse slaughter ban.

<sup>111</sup> Chris Irvine, *EU Asks Horse Owners to Pledge Not to Eat Their Animals*, THE TELEGRAPH (June 22, 2009), <http://www.telegraph.co.uk/news/worldnews/europe/eu/5600337/EU-asks-horse-owners-to-pledge-not-to-eat-their-animals.html>.

<sup>112</sup> Carrie Gobernatz, *New EU Rules May End Slaughter of American Horses*, EXAMINER.COM (Aug. 4, 2009), <http://www.examiner.com/horse-news-in-national/new-eu-rules-may-end-slaughter-of-american-horses>.

<sup>113</sup> Ambriz, *supra* note 9, at 155.

<sup>114</sup> Gobernatz, *supra* note 112 (quoting Equine Welfare Alliance’s Dr. Ann Marini, M.D., Ph.D.).

<sup>115</sup> *Important Changes for Equine Owners*, CANADIAN FOOD INSPECTION AGENCY (Jan. 29, 2010), <http://www.inspection.gc.ca/english/corpaffr/newcom/2010/20100129e.shtml>.

<sup>116</sup> *See id.*

<sup>117</sup> EUROPEAN COMMISSION: HEALTH AND CONSUMERS DIRECTORATE-GENERAL, DG(SANCO) 2010-8524, FINAL REPORT OF A MISSION CARRIED OUT IN MEXICO, Apr. 4, 2011, available at [http://ec.europa.eu/food/fvo/act\\_getPDF.cfm?PDF\\_ID=8811](http://ec.europa.eu/food/fvo/act_getPDF.cfm?PDF_ID=8811).

U.S. collection centers.<sup>118</sup> The identification information is included in the export certificate issued by the USDA; the animals have both a microchip and a label on their skin.<sup>119</sup> Some speculate that the additional certification requirements may eventually lead to fewer U.S. horse exports to these countries overall.<sup>120</sup> Others, however, note that many horse owners will not report which drugs the animals have received within the required time period.<sup>121</sup>

Slaughter opponents also point to increased awareness abroad of animal rights and inhumane slaughter practices as a reason the market will decline. Perhaps the most progress has occurred in Canada, where anti-slaughter legislation has been recently introduced; among other things, the bill would ban the import or export of horses for human consumption.<sup>122</sup> Canadian animal welfare groups support the ban and have recently increased efforts to ban horse slaughter.<sup>123</sup>

Slaughter opponents also argue that domestic horse slaughter was not “humane” before the ban and returning to the practice will not result in better treatment of horses. Specifically, they argue that conditions at U.S. slaughter facilities were just as bad as those in Mexico and Canada; horses awaiting auction for slaughter are injured or nearly starved, or left untreated because antibiotics would render the meat unfit for human consumption.<sup>124</sup> The Humane Society reports that many horses at these facilities were still conscious when shackled and lifted by a rear leg so their throats could be cut.<sup>125</sup> The USDA also has released photos of horses with “protruding broken bones, eyeballs hanging by a thread of skin, and open wounds,” all of which were taken at former U.S. horse slaughterhouses.<sup>126</sup> While horses, like other livestock, were slaughtered with a captive bolt strike, horses have quick movements and a narrow forehead that make the method less effective; as a result, some would need to be hit several times.<sup>127</sup> With recent reports on inhumane treatment of other

---

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> GAO REPORT, *supra* note 8, at 13.

<sup>121</sup> *Id.*

<sup>122</sup> Bill C-322, 41st Canadian Parliament (2011), available at <http://parl.gc.ca/House/Publications/Publication.aspx?Docid=5159966&file=4>.

<sup>123</sup> See *Act Now to Stop the Cruel and Dangerous Horse Slaughter Industry*, HUMANE SOCIETY INTERNATIONAL, <http://e-activist.com/ea-campaign/clientcampaign.do?ea.client.id=104&ea.campaign.id=2501> (last visited Nov. 26, 2011).

<sup>124</sup> Ambriz, *supra* note 9, at 150.

<sup>125</sup> *Facts on Horse Slaughter*, *supra* note 102.

<sup>126</sup> *Id.*

<sup>127</sup> Sandberg, *supra* note 71.

slaughter-bound animals such as chickens and cows in the United States, it is also difficult for some to believe that horse slaughter would be any better the second time around.<sup>128</sup>

Ultimately, anti-slaughter groups contend, the most humane and effective way to deal with unwanted horses is euthanasia. The Humane Society reasons that about 900,000 horses die each year and are safely disposed of by means other than slaughter and that the current infrastructure can “easily absorb” an increase in the number of these horses.<sup>129</sup> The Humane Society also maintains that the average cost of humanely euthanizing a horse is the equivalent of just one month of caring for the animal—about \$225—and is simply a part of responsible ownership.<sup>130</sup> Slaughter opponents also point to California, where horse slaughter was banned in 1998, but cruelty and neglect in that state did not increase.<sup>131</sup> Thus, slaughter opponents maintain, horses can and should be euthanized and eliminating slaughter as an option is the only way to achieve this goal.<sup>132</sup>

Overall, horse slaughter opponents also argue that reviving the industry would simply be a step in the wrong direction. These groups point to the decrease in the total number of horses slaughtered after the ban went into effect—from about 138,000 in 2006 to 105,000 in 2007—as proof that the ban reduced slaughter and suffering overall.<sup>133</sup> The U.S. horse slaughter ban is also progress towards eliminating horse slaughter altogether. As Humane Society Chief Executive Wayne Pacelle said in 2008, the U.S. ban is “a step closer to the long-term goal of banning slaughter in North America.”<sup>134</sup> A return to horse slaughter would therefore prevent the United States from moving forward and eliminating horse slaughter once and for all.

Even with movement in Congress, the states, and possibly the courts towards horse slaughter, opponents also point to practical

---

<sup>128</sup> As one commentator noted, “[o]ur modern meat processing methods don’t have the most humane reputation anyway, with reports of beakless chickens smashed together in tiny cages and cows that are still conscious when being butchered.” Renee Aragon Dolese, *Horsemeat Tartare, Anyone? Not if Sen. Landrieu Can Help It*, NEW ORLEANS CITY BUS., June 14, 2011.

<sup>129</sup> *Facts on Horse Slaughter*, *supra* note 102.

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> *See id.*

<sup>133</sup> Catrin Einhorn, *Horses Spared in U.S. Face Death Across the Border*, N.Y. TIMES, Jan. 11, 2008, <http://www.nytimes.com/2008/01/11/us/11horse.html>.

<sup>134</sup> *Id.*



obstacles. The practice may sound fine in theory, but people don't like it happening in their backyard. In Hardin, Montana, for example, talks of a horse slaughter facility opening there prompted the local city council to pass an ordinance prohibiting the practice.<sup>135</sup> In Texas, residents near one of the facilities at issue in *Empacadora* also voiced opposition to horse slaughter before the plant ultimately shut down; some local business owners even offered to help displaced workers find jobs once the facility closed.<sup>136</sup>

The horsemeat market is also small and has been declining steadily for years, leading some to question whether horse slaughter is a worthy investment. Before the U.S. ban, the industry brought in just \$61 million annually; that figure pales in comparison with the \$70 billion-plus U.S. beef market.<sup>137</sup> Slaughter facilities can also cost millions to build<sup>138</sup> and some say the risk of investing in such an unstable market, combined with stricter European regulations, would be too much to bear at this time.<sup>139</sup> Meanwhile, animal welfare groups such as the Humane Society remain firmly against horse slaughter and have vowed to fight any attempts to revive the industry.<sup>140</sup> These factors combined call into question the true long-term sustainability of the horse slaughter industry overall.

---

<sup>135</sup> Ed Kemmick, *Hardin Says 'Neigh' to Horse Slaughter Proposal*, HELENA INDEP. REC. (Apr. 29, 2010), [http://helenair.com/news/article\\_66333e32-535d-11df-97ce-001cc4c03286.html](http://helenair.com/news/article_66333e32-535d-11df-97ce-001cc4c03286.html). Horse slaughter advocate and state legislator Ed Butcher was not deterred: "We don't need Hardin," he said. "They need us a lot more than we need them." *Id.*

<sup>136</sup> Ambriz, *supra* note 9, at 147.

<sup>137</sup> *Cattle & Beef: Statistics & Information*, U.S. DEPT. OF AGRIC. (USDA), <http://www.ers.usda.gov/topics/animal-products/cattle-beef/statistics-information.aspx> (last updated Oct. 26, 2012).

<sup>138</sup> See Jeremy Pelzer, *Horse Slaughterhouse Slated for Riverton*, CASPER STAR-TRIBUNE (May 23, 2012), [http://trib.com/news/local/state-and-regional/horse-slaughter-house-slated-for-riverton/article\\_89aae6cd-987e-5440-b6b9-58904ba96f57.html](http://trib.com/news/local/state-and-regional/horse-slaughter-house-slated-for-riverton/article_89aae6cd-987e-5440-b6b9-58904ba96f57.html).

<sup>139</sup> See Tom Lutey, *Lifted Ban Means Horse Slaughter Will Likely Resume by Spring*, BILLINGS GAZETTE (Nov. 30, 2011), [http://billingsgazette.com/news/state-and-regional/montana/lifted-ban-means-horse-slaughter-will-likely-resume-by-spring/article\\_96be86d6-91af-5aa4-a31a-b321fff27e04.html](http://billingsgazette.com/news/state-and-regional/montana/lifted-ban-means-horse-slaughter-will-likely-resume-by-spring/article_96be86d6-91af-5aa4-a31a-b321fff27e04.html).

<sup>140</sup> Justin Juozapavicius, *Horse Meat Inspection Ban Lifted in The U.S.*, HUFF POST GREEN (Nov. 30, 2011), [http://www.huffingtonpost.com/2011/11/30/horse-meat-consumption-us\\_n\\_1120623.html](http://www.huffingtonpost.com/2011/11/30/horse-meat-consumption-us_n_1120623.html). Humane Society of the U.S. Chief Executive Wayne Pacelle warned of "controversy, litigation, legislative action and basically a very inhospitable environment" for any potential slaughterhouses. *Id.*

**VI**  
**OUTLOOK: A RETURN TO HORSE SLAUGHTER**

Horse slaughter opponents make some compelling arguments, and some practical obstacles likely remain. Despite these challenges, however, it appears that horse slaughter is returning. With the recent changes in federal policy, some now speculate that facilities will be up and running within just a few months.<sup>141</sup> Some slaughter supporters also claim that investors are ready and willing to establish horse slaughter facilities now that the federal ban has been lifted.<sup>142</sup> And although stricter EU regulations may affect exports, slaughter advocates are exploring other larger international markets—such as China or Russia—as destinations for U.S. horsemeat.<sup>143</sup>

With the momentum in favor of horse slaughter, the passage of an export ban also appears unlikely; Congress has chosen instead to allow horse slaughter once again. An export ban, even if enacted, presents another set of challenges. First, a ban would be difficult, if not impossible, to enforce. Horses would instead be purportedly sold for other purposes such as breeding or riding when in fact they will be slaughtered.<sup>144</sup> Horses could also be smuggled in unventilated dry-freight trailers to unregulated slaughterhouses in Mexico.<sup>145</sup> Second and perhaps more importantly, the ban leaves an important question unanswered: what happens to the approximately 100,000 abandoned or unwanted horses in the United States? Horse rescue groups have to turn away the animals because they simply have no room. Many states and tribes are unable to handle increasing numbers of wild and abandoned horses. These issues warrant a practical and reasonable long-term policy that euthanasia and an export ban do not address.

---

<sup>141</sup> Lutey, *supra* note 139.

<sup>142</sup> Juozapavicius, *supra* note 140. Dave Duquette, president of United Horsemen, estimated he has “personally probably five to 10 investors” willing to invest in horse slaughter. *Id.*

<sup>143</sup> Lutey, *supra* note 139.

<sup>144</sup> Oren Dorell, *Activists Say Horse-Slaughter Plants Face a Rough Ride*, USA TODAY (June 16, 2012), <http://usatoday30.usatoday.com/news/nation/story/2012-06-16/activists-fight-horse-slaughter/55627406/1>.

<sup>145</sup> *Id.*

**VII**  
**A PROPOSED SOLUTION: HORSE SLAUGHTER REGULATIONS AND**  
**AUDITS**

While each side of the horse slaughter debate makes several compelling arguments, one fundamental question remains: what is best for these horses? With the return of domestic slaughter, anti-slaughter groups argue that horses will be mistreated in U.S. facilities due to lack of proper regulations and enforcement. Pro-slaughter groups maintain that horses are treated far worse today in Mexico and Canada. Both are right, which is why a compromise on specialized federal horse slaughter standards and enforcement is needed.

Federal humane horse slaughter standards and enforcement would be in the best interest of all involved. First and foremost, specially tailored slaughter standards would ensure humane treatment of horses, which are naturally “flighty” and can panic when confined.<sup>146</sup> According to renowned researcher Dr. Temple Grandin, a stunning box or kill pen designed for horses designed high enough to contain the horses, non-slip flooring, and a calm environment are key.<sup>147</sup> More compact pens for horses are essential; otherwise, horses slaughtered in pens designed for cattle are also able to move away from the captive bolt used to render them unconscious and often panic or fall on slippery floors.<sup>148</sup> Enclosures and methods specifically designed for horse slaughter would address these problems.<sup>149</sup>

In addition to these standards, proper enforcement is also essential. An auditing system similar to one Dr. Grandin designed for the beef industry could also work for horses.<sup>150</sup> In 1996, Dr. Grandin conducted audits of processing plants per a request from the USDA.<sup>151</sup> She devised a scoring system based on factors such as the percentage of animals killed on the first attempt and how much noise the animals made prior to slaughter.<sup>152</sup> Since then, large meat and poultry buyers such as McDonald’s have hired Dr. Grandin to conduct audits of processing plants.<sup>153</sup> The system appears effective.

---

<sup>146</sup> Ambriz, *supra* note 9, at 154.

<sup>147</sup> *CBC Probe*, *supra* note 72.

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

<sup>150</sup> Jon Bonne, *Can Animals You Eat Be Treated Humanely?*, NBCNEWS.COM (updated June 28, 2004), <http://www.nbcnews.com/id/5271434/>.

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

In 1996, just one third of the plants had passed the audits; by 2003, all but three of the fifty plants that were inspected had passed.<sup>154</sup> According to Dr. Grandin, video monitoring is also essential to make sure these standards are properly enforced.<sup>155</sup>

Horse slaughter proponents need to work to implement these humane slaughter practices. True, doing so will benefit horses, but it will also support other pro-slaughter goals. For now, horse slaughter proponents appear to have Congress on their side. But in the long term, inhumane treatment or slaughter of horses could lead to a shift back to a slaughter ban. Appropriations bills are passed annually, and the language banning USDA inspections of horses for human consumption could very well resurface. In short, horse slaughter has been banned before and can be banned again. Not only that, but local ordinances and public opinion still present challenges for the effective return of horse slaughter. Finally, international shifts in policy regarding horsemeat standards—particularly those in Europe—present additional challenges. Clear, workable, humane regulations are the best way to ensure that horse slaughter remains an option for some states and tribes to address the problem of unwanted and abandoned horses.

Anti-slaughter groups such as the Humane Society should also support, help design, and implement humane horse slaughter standards. Even with the domestic slaughter ban, horses will continue to be slaughtered in Canada and Mexico for the foreseeable future. The data, government reports, and news articles all show that mistreatment of horses has increased. The total number of U.S. horses slaughtered, meanwhile, remains the same. Federal entities have now given the green light to horse slaughter. Rather than fight the trend, animal advocacy groups could instead contribute thoughtful recommendations on humane slaughter and proper treatment of horses. While supporting humane slaughter regulations would certainly mean a change in direction, these groups would not be precluded from continuing efforts to ban horse slaughter and exports in the long term.<sup>156</sup> In addition, these U.S. animal rights groups can continue to work with their global counterparts to reduce the demand

---

<sup>154</sup> *Id.*

<sup>155</sup> Wes Johnson, *Grandin: Humane Practices Essential for Horse Slaughtering Plant*, News-Leader.com (Mar. 3, 2012), <http://www.news-leader.com/article/20120304/BUSINESS04/303040029/Temple-Grandin-horse-slaughter-facility-Mountain-Grove>.

<sup>156</sup> Jonsson, *supra* note 88. Given the conditions in Mexico, PETA maintains that an export ban *and* U.S. domestic slaughter is the best policy. *Id.*

overall for horsemeat. Today and in the near future, however, a federally regulated industry is the better alternative for U.S. horses. Some groups such as PETA recognize this fact and have acted accordingly.<sup>157</sup> It is time that the Humane Society and others do the same.

Finally, both sides should come together to design and support federal horse slaughter regulations encompassing EU standards for horsemeat. Federal regulations—as opposed to voluntary or state regulations—would ensure uniformity among states with regard to slaughter practices, and would be the proper avenue to address international concerns with regard to drug-tainted horsemeat. Federal regulations would also need to comport with inspection procedures in the Federal Meat Inspection Act and ensure adequate enforcement by the USDA both at the slaughterhouse and as the processed meat leaves the United States. By compromising on nationwide federal standards, pro-slaughter advocates could better ensure the future of the industry while anti-slaughter groups could possibly pave the way for more humane procedures for other food animals.

Even if both sides came together, horse slaughter regulations admittedly face other practical difficulties. Federal regulations would need to be authorized by Congress, and the administrative process is slow and has many procedural challenges. It is unlikely that now, with some entities now swiftly working to establish horse slaughter facilities, that regulations could be implemented in time to ensure proper treatment of these horses. The cost of proper enforcement is also a challenge. Despite the success of Dr. Grandin's techniques for other plants, it is questionable that adequate resources would be available given the current political and economic environment. There are no easy solutions to these problems. But for these animals, something is better than nothing, and horse slaughter regulations would be a step in the right direction. If pro- and anti-slaughter groups came together, federal lawmakers and regulators may also be more inclined to listen to requests for more resources or better standards.

### CONCLUSION

Horse slaughter is returning to the United States, but the debate is far from over. With the federal ban lifted, pro-slaughter groups are working to once again open facilities in the United States. Meanwhile,

---

<sup>157</sup> *Id.*

anti-slaughter groups are vowing to fight the change in the courts, state legislatures, and perhaps the halls of Congress. Neither side seems likely to change.

At the same time, horses are suffering both in the United States and once they leave. It is time that this tug-of-war end and make way for a reasonable solution. Federal slaughter regulations, proper audits, and horsemeat standards seem to be the best and most achievable solution. Perhaps animal welfare groups can propose other options. An export ban may also happen one day. But today, advocates on both sides of the issue need to come together and find some middle ground. To do otherwise would be inhumane.