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THE HARM PRINCIPLE AT PLAY: HOW THE ANIMAL WELFARE ACT FAILS TO PROTECT ANIMALS ADEQUATELY

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A walk down the street in any urban setting presents a number of common scenarios. Some of the most distinct features of a city are social inequalities relating to wealth and power, non-agricultural production, and a heavy population within a restricted space.[1] However, there are other subtle undertones occurring in a city that are not obvious to a casual observer. Specifically, a systematic form of animal abuse occurs regularly in cities, but in discrete ways because these abusers keep and train their dogs in unoccupied buildings or basements.[2] This abuse is a product of the dogfighting phenomena.

Dogfighting has been characterized as "…the ultimate betrayal of the unique relationship that exists between humans and animals."[3] Specifically, it is so horrifying because the fighters take advantage of a dog's desire to satisfy its owner.[4] This kind of behavior enforces "…a life of chronic and acute physical and psychological pain…."[5] Dogfighting does involve horrifying behavior, but the cruelty that takes place on puppy mills is equally inhumane towards animals.[6] Puppy mills are abusive to animals by creating an industry out of

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[1] David Little, *What cities have in common*, UNDERSTANDING SOCIETY (June 7, 2009, 6:14 AM), http://understandingsociety.blogspot.com/2009/06/what-cities-have-in-common.html.

[2] Arin Greenwood, *Dog Fighting is Still a Huge National Problem, But You Might Be Able to Help*, HUFFINGTON POST (June 19, 2014, 3:59 PM), http://www.huffingtonpost.com/2014/06/19/dog-fighting_n_5502623.html.

[3] Matthew Bershadker, *Why we can't forget Michael Vick's dog-fighting past*, N.Y. POST (Mar. 26, 2014), http://nypost.com/2014/03/26/why-we-cant-forget-michael-vicks-dog-fighting-past/.

[4] *Id*.

[5] *Id*.

[6] See *infra* Part I.B.

producing dogs to the detriment of the dogs' health, nutrition, and lifestyle.[7] They also increase the output of animals in the pet industry, thereby reducing the number of homes for animals that are living in shelters.[8]

While dogfighting is a cruel practice, the law fails to penalize the abuse that takes place in puppy mills as harshly as dogfighting.[9] Dogfighting in the United States is prevalent in urban cities "where the population tends to be 'disproportionately African American,'"[10] and is a felony under the Animal Welfare Act.[11] As a result, three issues emerge.

This paper first discusses how the suffering of animals involved in dogfights is comparable and in many ways similar to the suffering of animals in puppy mills that have neglectful and abusive breeders.[12] This part also explains the difference in punishment for these actions under the Animal Welfare Act.[13]

The second part of this paper discusses the relevance of dogfighting amongst the African American population,[14] and how animal welfare laws have a greater impact on the African American population because of the goal of animal welfare laws.[15] Specifically,

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[7] *Buyer Beware: The Problem with Puppy Mills and Backyard Breeders*, PAWS, http://www.paws.org/get-involved/take-action/explore-the-issues/puppy-mills/ (last visited Oct. 21, 2015).
[8] *Id.*
[9] *See infra* Part I.A–C.
[10] Kiran Nagulapalli, *Strictly for the Dogs: A Fourteenth Amendment Analysis of the Race Based Formation and Enforcement of Animal Welfare Laws*, 11 RUTGERS RACE & L. REV. 217, 236 (2009) (quoting Lance Hannon & Robert DeFina, *Violent Crime In African American and White Neighborhoods: Is Poverty's Detrimental Effect Race-Specific?*, VILLANOVA SOC. DEPT., 1, http://www88.homepage.villanova.edu/lance.hannon/Forthcoming%20in%20the%20Journal%20of%20Poverty.pdf).
[11] Tadlock Cowan, *The Animal Welfare Act: Background and Selected Welfare Legislation,* CONGRESSIONAL RESEARCH SERVICE (June 12, 2103), http://nationalaglawcenter.org/wp-content/uploads/assets/crs/RS22493.pdf. The statute refers to animal fighting, but the focus of this paper will be dogfighting.
[12] *See infra* I.A–B.
[13] *See infra* I.C.
[14] *See infra* II.A.
[15] *See infra* Part II.B.

the same severity of animal abuse that takes place in puppy mills has fewer consequences under the Animal Welfare Act.[16] On the other hand, dogfighting is a felony[17] that allows a violator to be punished for up to five years in prison.[18]

Third, this paper discusses the Harm Principle,[19] a theory that "has been employed as a means to limit the government's power to criminalize conduct."[20] Under the harm principle, criminal laws should be created to minimize harm to others.[21] This section of the paper discusses the link between dogfighting and other criminal activity,[22] and how the criminal punishment for dogfighting due to that link violates the harm principle.[23] While the legislative history of the Animal Fighting Prohibition Enforcement Act of 2007 does mention a concern for the "cruel and inhumane" practice,[24] it consistently references the association between animal fighting and crime.[25] The legislative history demonstrates that the *primary* reason for criminalizing the act was to deter criminal activity, and this reason violates the harm principle.[26] In addition to illustrating how the Animal Welfare Act violates the harm principle, this paper explores the barriers to creating a uniform punishment for dogfighting and puppy mills,[27] and how focusing solely on the abuse itself would prevent animal abuse in a more uniform and effective way.[28]

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[16] *See infra* Part II.B–C.
[17] Cowan, *supra* note 11.
[18] 110 CONG. REC. 153, 7644 (2007); *see also* KENNETH N. ROBINSON, FROM VICK-TIM TO VICK-TORY: THE FALL AND RISE OF MICHAEL VICK 45 (2013) (noting that under P.L. 110-246, June 18, 2008, Congress amended the Animal Welfare Act and changed the maximum prison sentence to five years).
[19] *See infra* III.A.
[20] Luis Chiesa, *Why is it a Crime to Stomp on a Goldfish? Harm, Victimhood and the Structure of Anti-Cruelty Offenses*, PACE UNIV. SCHOOL OF LAW 4, 24–25 (2008).
[21] *Id.* at 25 (citing John Stuart Mill, *On Liberty*, 10–11 (Elizabeth Rapaport ed., 1978)).
[22] *See infra* Part III.B.
[23] *See infra* Part III.C.
[24] 110 CONG. REC. 153, 7643 (2007).
[25] *See infra* text accompanying notes 181–184.
[26] See *infra* Part III.C.
[27] See infra Part III.C.
[28] See *infra* Part III.C.

I. THE PUNISHMENTS FOR DOGFIGHTING AND THE ABUSE THAT OCCURS ON PUPPY MILLS ARE DRASTICALLY DIFFERENT

Dogfighting inflicts the same amount of suffering on an animal as abusive puppy mill owners cause to the animals they breed.[29] Not only is the severity of the abuse the same, but the specific kind of abuse over which the animals suffer is similar.[30] However, while dogfighting is a felony,[31] puppy mill breeders are not faced with criminal charges when they are abusive.[32]

A. What is dogfighting?

Dogfighting is a contest between two dogs,[33] but there are various types of dog fighters. The three varieties are street dog fighters,[34] dog fighters that fight as a hobby,[35] and professional dog fighters.[36] The dogs are treated differently based on the types of people who participate in dogfights.[37] Specifically, street fighters give

[29] See *infra* Part I.B.
[30] See *infra* Part I.B.
[31] Cowan, *supra* note 11.
[32] *Animal Welfare Act Enforcement*, U. S. DEP'T OF AGRIC., ANIMAL AND PLANT HEALTH INSPECTION SERVICE, http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/animalwelfare/sa_ac_enforcement_actions/sa_ac_enforcement_actions_awa/!ut/p/a0/04_Sj9CPykssy0xPLMnMz0vMAfGjzOK9_D2MDJ0MjDzd3V2dDDz93HwCzL29jAyCzfQLsh0VAbJgL_A!/ (last modified Jul. 30, 2015) [hereinafter *Animal Welfare Act Enforcement*].
[33] *Dogfighting Fact Sheet*, THE HUMANE SOCIETY OF THE UNITED STATES (Jan. 15, 2014), http://www.humanesociety.org/issues/dogfighting/facts/dogfighting_fact_sheet.html [hereinafter *Dogfighting Fact Sheet*].
[34] Kathryn Destreza, *Dog fighting: A basic overview*, 64 VETERINARY IRELAND J. 281, 281 (2011) (noting that street dogfighting is not planned and occurs when two individuals decide to fight their dogs in that moment); see also Orhan Yilmaz, Fusum Coskun, and Mehmet Ertugrul, *Dog Fighting: A Nasty Work*, 5 RES. OPIN. IN ANIM. & VET. SCI. 219, 221 (2015) (noting that street dogfighting is spontaneous).
[35] Destreza, *supra* note 34, at 282 (noting that this kind of fighting normally involves fights that are planned—but sometimes occurs in the same manner as street fighting does—and is for people who do not derive substantial income from the sport, but do invest some money into their hobby and the animals).
[36] *Id.* at 281; *see also id.* at 282 (noting that professional dog fighters plan their fights beforehand, and derive a significant amount of income from fighting).
[37] James M. Lewis, *The violent underworld of dog fighting*, DVM360 MAG., 1, 2 (July 1, 2007).

very little attention and care to their pets, and are quite abusive.[38] Similarly, hobby dog fighters care more about the money they obtain from the fight than the condition of their animal.[39] Professional dog fighters specifically breed their dog to be fighting dogs and will sometimes take their dog to see a veterinarian if the dog is injured,[40] but they are more likely to treat the animals themselves.[41] If the dog is a "winning dog," the owner believes he or she is valuable and will seek some sort of care for the animal.[42] While professional fighters seem to be the less of the three evils, the way they treat their dog demonstrate that they view their dog as a commodity rather than a living being. Even though the owner seeks treatment for the dog, he or she only does so if the dog won and is therefore serving his or her purpose to the owner. Jim Gorant, author of the *The Lost Dogs*, describes the conditions:

> [Dog fighters] '…[talk] about how much they love the dogs and how sad they are that they lose and have to put them down,'… but yet they subject them to this horrible sport … and let them get torn to shreds.'[43]

To understand the plight of these dogs, it is important to demonstrate the conditions to which dogs involved in dogfighting are subjected. In Baltimore in June of 2013, investigators found a number of injured pit bulls that were chained up with no available water.[44] As the investigation continued, they found other neglected dogs along with "dogfighting training equipment, steroids and surgical

[38] *Id.* at 2.
[39] *Id.*
[40] *Id.* at 6 (noting that dog fighters will sometimes ask for surgical supplies such as saline or steroids).
[41] *Id.* at 2; *see also* Brittany Bacon, *Inside the Culture of Dogfighting*, ABC NEWS, http://abcnews.go.com/TheLaw/story?id=3390721&page=1 (Jul. 19, 2007) (noting that it is rare for a dog fighter to take his or her animal to the vet, and as a result the breeders treat the dogs themselves by stabling their wounds together or leaving them to die.)
[42] Lewis, *supra* note 37, at 2.
[43] Justin George, *Vast dogfighting ring in Baltimore, Baltimore County broken up*, BALT. SUN (Dec. 22, 2014 , 7:36 PM), http://www.baltimoresun.com/news/maryland/crime/blog/bs-md-ci-dog-fighting-20141222-story.html.
[44] *Id.*

supplies…"[45] During a number of other raids in Baltimore County and in West Virginia, the police found and obtained "treadmills specially made for dogs, chains, harnesses, steroids, bloodstained dogfighting rings, plastic bite sticks to pry apart dogs' jaws, scales and 'rape stands.'"[46] Specifically, rape stands force female dogs to keep their back legs apart so that they can breed with male dogs.[47] In a case in Chicago, the Chicago police department raided a home and found six dogs confined in one room with no food or water. Additionally, their ears were infected and had a number of "lacerations consistent with dogfighting injuries."[48]

A veterinary magazine reported that veterinarians can identify certain dogs who were brought to them as "fighting dogs" because they will have scars "associated with the biting, gripping and tearing from the dogs' teeth."[49] The violence the dogs are subjected to is so severe that dogs suffer from broken jaws and death from excessive bleeding during the fight.[50] Additionally, as will be discussed in detail later in this paper, during fights, spectators gamble and engage in other illicit activity.[51]

[45] *Id.*
[46] *Id.*
[47] *Id.*
[48] Animal Fighting *Case Study: Craig Boyd*, ANIMAL LEGAL DEFENSE FUND, http://aldf.org/resources/laws-cases/animal-fighting-case-study-craig-boyd/ (last revised Feb. 2009).
[49] Destreza, *supra* note 34, at 283–84 (noting that Dogs involved in fighting will show signs that they have been involved in fighting through: "the fresh, healing and healed scars associated with the biting, gripping and tearing from the dogs' teeth. Additionally, they may find other injuries including broken bones (particularly the forelegs), damaged muzzles, rips or tears to the tongue, ears or lips as well as the cutting or filing (blunting) of the canines or all the teeth. . . [Furthermore], fighting dogs have been trained for gameness – a drive to continue to fight until they are stopped – and will no longer recognize the signs of submission and will ignore submissive postures.").
[50] Lewis, *supra* note 37, at 5.
[51] 153 CONG. REC. S10409-01 (2007) (statement of Senator Kerry).

B. Puppy Mills Produce the Same Harm as Dog-Fighting

Puppy mills came into existence after World War II when many farmers began to lose their income due to crop failure.[52] To supplement their income, they started raising and selling puppies.[53] Many of these "farmers-turned-breeders" viewed their dogs as money-making commodities, and "do not share the same sense of moral responsibility or duty that animal welfare activists infer from their own relationships with animals."[54] Because they viewed their dogs as a means of making money, they ended up raising "genetically and physically deficient animals…" that are given improper food and living conditions.[55]

In puppy mills, although the breeders do not actively fight their animals against each other, the abuse and neglect the animals face on a day-to-day basis in puppy mills is very similar to the conditions that fighting dogs endure. Because breeders want to produce as cost-effectively as possible, they allow their dogs to live in unsafe and unacceptable living conditions.[56] The dogs they raise tend to not be socialized well, aggressive, and sick due to the conditions of the environment in which they are bred.[57]

[52] *Puppy Mills and Backyard Breeders*, DOGSTER.COM, http://www.dogster.com/dog-breeds/puppy-mills-and-backyard-breeders (last visited Oct. 27, 2015).
[53] *Id.*
[54] Kailey A. Burger, *Solving the Problem of Puppy Mills: Why the Animal Welfare Movement's Bark is Stronger than its Bite*, 43 WASH. U. J.L. & POL'Y 259, 265 (2013).
[55] Adam J. Fumarola, *With Best Friends Like Us Who Needs Enemies? The Phenomenon of the Puppy Mill, the Failure of Legal Regimes to Manage it, and the Positive Prospects of Animal Rights*, 6 BUFF. ENVTL. L.J. 253 at 260 (1999) (citing Norma Bennett Woolf, *Just What is a Puppy Mill?*, DOG OWNERS GUIDE; THE ONLINE NEWSPAPER FOR ALL PET AND SHOW DOG OWNERS, www.canismajor.com/dog/puppymil.html (last visited Oct. 11, 2015)).
[56] Burger, *supra* note 54, at 261.
[57] *Id.* at 262 (citing *Puppy Mill FAQ*, ASPCA, https://www.aspca.org/fight-cruelty/puppy-mills/puppy-mill-faq).

Licensed or not, puppy mills "are notorious for their filthy, overcrowded conditions, and the unhealthy animals they produce."[58] Breeders spend few resources on grooming the dogs, feeding them, and maintaining clean living conditions.[59] While a significant amount of ammonia develops in their cages because the breeders do not clean their urine,[60] the unsanitary conditions also bring bugs, rodents, and infectious diseases to their homes.[61] Because veterinary visits cost money, breeders normally let sick puppies suffer and eventually die.[62] Another reality is that the breeders make sure the female puppies are constantly pregnant, and they normally kill the female dogs when they are no longer useful.[63] Once the dog becomes non-profitable, the breeders dispose of the dog in a cheap manner, such as starving, drowning, shooting, or burying the dog alive.[64]

The two descriptions of dogfighting and puppy mills demonstrate that the harm dogs suffer from these two activities is identical in a number of ways. First, dog fighters and puppy mill breeders treat their dogs as commodities that exist for the purpose of making money.[65] Puppy mill breeders neglect to give their dogs proper medical treatment,[66] and so do dog fighters.[67] The most common time that a dog fighter does provide treatment to a dog is when he or she has won a fight and is economically valuable.[68] Even so, the fighters sometimes collect the medical supplies and treat their pets at home,[69] even though they are not trained medical professionals.

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[58] *Puppy Mill Facts*, LAST CHANCE FOR ANIMALS, http://www.lcanimal.org/index.php/campaigns/puppy-mills/puppy-mill-facts (last visited Oct. 11, 2015) [hereinafter LAST CHANCE FOR ANIMALS].
[59] *What is a Puppy Mill*, ANIMAL RESCUE CORP., http://animalrescuecorps.org/learn/puppy-mills/ [hereinafter ANIMAL RESCUE CORP.].
[60] *Id.*
[61] *Id.*
[62] *Id.*
[63] *Id.*
[64] ANIMAL RESCUE CORP., *supra* note 59.
[65] *See* Fumarola, supra note 55, at 260; *see also* Lewis, *supra* note 37, at 2; George, *supra* note 43.
[66] *See* ANIMAL RESCUE CORP., *supra* note 59.
[67] Bacon, *supra* note 41; see also Lewis, *supra* note 37, at 3.
[68] Lewis, *supra* note 37, at 2.
[69] *Id.* at 6.

Additionally, similar to how breeders in puppy mills dispose of non-profitable animals,[70] the dogfighting handlers do the same.[71] A dog's first fight takes place at the age of 15 months, and if the dog is labeled a "non-prospect," the owner kills or neglects the dog.[72] Female dogs are also forced to reproduce in both puppy mills[73] and when involved in dogfighting.[74]

Beyond the physical treatment of the animals, the daily conditions of these dogs are similar. Specifically, "the process of raising and training fighting dogs is . . . cruel and harmful to animals."[75] Like in puppy mills, the dogs trained for dogfighting live in filthy conditions.[76] Additionally, the dogs only receive minimal amounts of food to develop their strength after being treated with steroids and supplements.[77] After their muscles have developed, dog-fighting professionals often beat or starve the animals to enhance aggressiveness.[78]

C. Congress' penalties for puppy mill breeders is not criminal, whereas the punishment for dogfighting is criminal.

It is estimated that the U.S. Department of Agriculture regulates less than 3,000 of the 10,000 puppy mills in the United States.[79] Dealers that sell directly to the public are not regulated under the Animal Welfare Act.[80] Regardless of whether the breeders sell

[70] ANIMAL RESCUE CORP., *supra* note 59.
[71] Jacob Silverman, *How Dogfighting Works: Breeding and Training a Fighting Dog*, HOW STUFF WORKS, http://people.howstuffworks.com/dogfighting3.htm (last visited Nov. 1, 2015).
[72] *Id.*
[73] *See* ANIMAL RESCUE CORP., *supra* note 59.
[74] George, *supra* note 43.
[75] Silverman, *supra* note 71.
[76] *Id.*
[77] *Id.*
[78] *Id.*
[79] *Puppy Mills Research*, THE HUMANE SOCIETY OF THE UNITED STATES (Jun. 30, 2015), http://www.humanesociety.org/news/publications/whitepapers/puppy-mill-research.html.
[80] ANIMAL RESCUE CORP., *supra* note 59; *see also Puppy Mill FAQ*, ASPCA, https://www.aspca.org/fight-cruelty/puppy-mills/puppy-mill-faq (noting that many of these sales are internet sales, which are regulated under the USDA pursuant to a

directly to the public or through pet stores, the conditions are "equally horrific."[81] However, this paper will focus on licensed puppy breeders who sell animals commercially in the United States who are regulated under the Animal Welfare Act.

In United States, the Animal Welfare Act is the main federal statute that regulates the treatment of animals.[82] Specifically, the Animal Welfare Act requires animal dealers and exhibitors to obtain from the Secretary[83] a license.[84] The dealer or exhibitor may not obtain a license until it has "demonstrated that his facilities comply with the standards promulgated by the Secretary pursuant to section 2143 of this title."[85] However, these standards include minimum requirements for the treatment of animals:

> **(2)** The standards described in paragraph (1) shall include minimum requirements--
>
> **(A)** for handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, and separation by species where the Secretary finds necessary for humane handling, care, or treatment of animals; and…[86]

These minimum standards are "survival standards for dogs."[87] For example, a dog that lives in a breeding facility that has a federal license can be forced to live in a cage that is six inches beyond the dog on all sides of the cage.[88] The Animal and Plant Health Inspection Service (APHIS) are responsible for investigating possible violations when "licensees or registrants" are not complying with the animal

rule effective November 8, 2013); however, this paper will focus on puppy mills that sell directly to the public without going through the internet or pet stores.

[81] LAST CHANCE FOR ANIMALS, *supra* note 58.

[82] JOAN E. SCHAFFNER, AN INTRODUCTION TO ANIMALS AND THE LAW 71 (2011).

[83] Under 7 U.S.C. § 2132 (2015), Secretary "means the Secretary of Agriculture of the United States or his representative who shall be an employee of the United States Department of Agriculture."

[84] 7 U.S.C. § 2134 (2015).

[85] 7 U.S.C. § 2133 (2015).

[86] *See* 7 U.S.C. § 2143(2)(A) (2015).

[87] *Laws that Protect Dogs in Puppy Mills*, ASPCA, https://www.aspca.org/fight-cruelty/puppy-mills/laws-protect-dogs-puppy-mills (last visited Aug. 28, 2015).

[88] *Id.*

Welfare Act.[89] While the violations can sometimes require a formal administrative complaint, and can result in "license suspensions, cease-and-desist orders, civil penalties, or combinations of these penalties" through the formal administrative process,[90] in many situations, the violator simply receives an official notice of warning or stipulation offer.[91] Ultimately, violators face *civil* penalties.[92]

The laws pertaining to dogfighting are different. In 2007, Congress passed the Animal Fighting Prohibition Act, which was an amendment to the Animal Welfare Act.[93] With a large amount of bipartisan support, this law made dogfighting and cock fighting a felony.[94] The congressional record of the Animal Fighting Prohibition Enforcement Act explains the motivation for passing *criminal* penalties for conduct associated with dogfighting.[95]

II. THE ANIMAL WELFARE ACT DISPROPORTIONATELY IMPRISONS THE BLACK POPULATION

A law that has a disparate impact on a certain race ("unconscious race discrimination") must fail the rational basis

[89] *Animal Welfare Act Enforcement*, *supra* note 32.
[90] *Id.* ; *see also* 7 U.S.C.S § 2149 (2015) (stating that "If the Secretary has reason to believe that any person licensed as a dealer . . . has violated or is violating any provision of this Act [7 U.S.C.S. § 2131 et. seq], or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person's license temporarily, but not to exceed 21 days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred," as well as "any dealer . . . . that violates any provision of this Act [7 U.S.C.S. § 2131 et. seq.], or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation.")
[91] *Animal Welfare Act Enforcement*, *supra* note 32.
[92] *Id.*
[93] Cowan, *supra* note 11. Although this law refers to animal fighting, this paper will focus only on dogfighting. The law has other provisions, but this paper will only focus on the increase in punishment under 18 U.S.C.§ 49 (2015) as applied to the Animal Fighting Prohibition Enforcement Act, 7 U.S.C.§ 2156.
[94] This law states "whoever violates subsection (a), (b), (c), or (e) of section 26 of the Animal Welfare Act shall be fined under this title, imprisoned for not more than 5 years, or both, for each violation." 18 U.S.C.§ 49 (2015).
[95] *See infra* notes 170–174 and accompanying text.

standard to be unconstitutional.[96] While the Animal Welfare Act meets the rational basis standard,[97] it disproportionately affects the Black population.[98]

A. *How Dogfighting Became Popular amongst the African American Population*

Dogfighting is an ancient practice, whose roots trace back to ancient Europe.[99] During that era, dogfighting occurred between a dog and chained bulls and bears.[100] Romans categorized dogfighting as a sport in which spectators watched in their free time.[101] In England, dogfighting was most popular amongst the English nobility who greatly respected the sport and found it useful because the fights helped to tenderize the bull meat before eating.[102] By the 19th century the popularity of the practice began to fade because bulls and bears were increasing in price.[103] Additionally, as European society began to evolve, people became more concerned about animal welfare and protection against animal cruelty.[104]

By 1835, the British parliament made baiting, the practice of fighting dogs against bulls, illegal.[105] Following the Parliament decision, European citizens fought dogs against each other, which was a legal practice because it did not involve bulls or bears.[106] Dogfighting also made its way to the United States around this time.[107]

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[96] Barbara J. Flagg, "Was Blind but now I see": White race consciousness and the requirement of discriminatory intent, 91 MICH. L. REV. 953 (1993).
[97] See infra Part II.B.
[98] See infra Part II.B.
[99] ROBINSON, *supra* note 18, at 27.
[100] Monica Villavicencio, *A History of Dogfighting*, NPR (July 19, 2007), http://www.npr.org/templates/story/story.php?storyId=12108421.
[101] *Id.*
[102] *Id.*
[103] *Id.*
[104] *Id.*
[105] *Id.*
[106] Id.
[107] ROBINSON, *supra* note 18, at 12.

In 1817 when the Staffordshire Terrier arrived in America,[108] the Black population learned about dogfighting as a plantation game.[109]

B. Punishments under the Animal Welfare Act have a Harsher Impact on African Americans

The legislature's punishment for dogfighting raises a discussion of an equal protection issue under the Fifth Amendment. Under the Fifth Amendment, "No person shall be . . . deprived of life, liberty, or property without due process of law."[110] Although the Fifth Amendment does not have an equal protection clause,[111] the Supreme Court has held that it does not allow discrimination that is "'so unjustifiable as to be violative of due process.'"[112] Additionally, the Court stated that its "approach to Fifth Amendment equal protection claims has always been precisely the same as to equal protection claims under the Fourteenth Amendment."[113]

Strict scrutiny is a standard that racially discriminatory laws must meet to be constitutional under the Equal Protection Clause of the 14th Amendment.[114] Specifically, the standard requires that the law must be narrowly tailored towards the least restrictive means to a compelling end.[115] On the contrary, laws that are not facially discriminatory but have a disproportionate affect on a certain race are tested using the rational basis standard.[116] The Supreme Court announced that under the rational basis standard, when the legislature creates a law that has a disproportionate affect on a certain race, the legislature had to have been motivated by the reason it gave to sustain the statute, and it has to explain how the reason works in at least some cases.[117]

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[108] *Id*. at xvii (noting the Staffordshire terrier became known as the American pit bull terrier).
[109] *Id.*
[110] U.S. CONST. amend. V.
[111] Weinberger v. Wiesenfeld, 420 U.S. 636, 638 n.2 (1975).
[112] *Id.* (citations omitted).
[113] *Id.* (citations omitted).
[114] Korematsu v. United States, 323 U.S. 214, 216 (1944).
[115] United States v. Carolene Products Co., 304 U.S. 144, 152 n.4 (1938).
[116] Flagg, *supra* note 96, at 985.
[117] Williamson v. Lee Optical of Oklahoma, Inc., 348 U.S. 483, 487–88 (1955).

The Animal Welfare Act, specifically the Animal Fighting Enforcement Act, is not on its face a racially discriminatory law. As mentioned, laws that are not facially discriminatory must pass the rational basis test as opposed to the strict scrutiny standard to be a violation of the Equal Protection Clause.[118] The Animal Welfare Act meets the rational basis standard based on the following analysis. Deterring criminal activity was a motivation for the legislature,[119] and the rationale works in some cases as evidenced by the fact that dog-fighting is closely linked with criminal activity.[120] Specifically, the law in many cases is punishing people that are likely to engage, and have engaged, in other criminal and/or violent behavior[121] by making dog-fighting a felony.

Although the above analysis demonstrates that the Animal Welfare Act passes constitutional muster, the disparate impact the law has had on African Americans is still an issue. "Dog-fighting laws were created and are enforced in a way that specifically target[ed] African Americans . . ."[122] because the laws made dog-fighting, which whites are not "known to practice,"[123] a felony by allowing a violator to be sentenced up to five years.[124] These laws allow the "torture and killing of animals where whites find entertainment value."[125] The government is prosecuting dog fighters "at an alarming rate throughout the country. The inevitable result will be that a disproportionate amount of African Americans will go to prison,"[126] for behavior not any more abusive to animals than actions taken by puppy mill breeders.[127]

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[118] Flagg, *supra* note 96, at 985.
[119] *See infra* notes 170–174.
[120] Hanna Gibson, *Detailed Discussion of Dog Fighting*, MICH. ST. UNIV. COLL. OF LAW (2005), https://www.animallaw.info/article/brief-summary-dog-fighting-laws.
[121] 153 CONG. REC. H3034 (daily ed. Mar. 26, 2007) (statement of Rep. Moran) (noting the National Sheriffs' Association reports that dogfighting and cock fighting is "closely associated to illegal gambling, trafficking of narcotics, public corruption, [and] dangerous gang activity.").
[122] Nagulapalli, *supra* note 10, at 241.
[123] *Id.* at 236.
[124] ROBINSON, *supra* note 18, at 45.
[125] Nagalupalli, *supra* note 10, at 236.
[126] *Id.* at 256–57.
[127] *See supra* Part I.B.

III. THE PURPOSE OF ANIMAL WELFARE LAWS SHOULD BE TO PREVENT HARM TO ANIMALS

This part of the paper will discuss how criminalizing dogfighting but not the abuse that takes place in puppy mills violates the harm principle. First it will explain what the harm principle is and how it relates to animal welfare laws.[128] Second, this section will demonstrate how the legislature largely accounted for the criminal activity associated with dogfighting when it made the sport a felony.[129] Third, it will explain how the legislature's motivations for giving harsher punishments to dog fighters than abusive puppy mill owners violates the harm principle,[130] and legislative efforts that should be taken to correct this violation.[131]

A. The Harm Principle can be applied to Animal-Cruelty Statutes

In his essay, *Why is it a Crime to Stomp on a Goldfish?*, Luis Chiesa explains that the purpose of animal cruelty statutes is to "protect animals from harm."[132] Chiesa demonstrates that any other reason "is in tension with basic criminal law principles."[133] Essentially, society made harming animals illegal out of a concern for animals rather than to protect a human interest.[134]

In making his argument, Chiesa uses the harm principle,[135] a theory of which John Stuart Mill was one of the first proponents.[136]

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[128] *See infra* Part III.A.
[129] *See infra* Part III.B.
[130] *See infra* Part III.C.
[131] *See infra* Part III.C.
[132] Chiesa, *supra* note 20, at 84. Chiesa uses the case People v. Garcia, 777 N.Y.S.2d 846 (Sup. Ct. 2004) in his essay. In the case, the Appellate Division of the Supreme Court of New York determined whether the act of stomping on a goldfish in front of the boy, Juan, who was responsible for the fish, was a felony. Chiesa, supra note 20, at 5. Ultimately, the court's decision suggested "that the purpose of anti-cruelty statutes is to deter people from engaging in acts that cause emotional harm to human beings and not protecting animals from unjustifiable inflictions of pain." *Id.* at 6. Based on this case, the victims of animal abuse are humans as opposed to the animals who are being abused. *Id.*
[133] *Id.* at 6.
[134] *Id.* at 9.
[135] *Id.* at 7.
[136] *Id.* at 24.

The harm principle is a theory that has been used to limit the government's authority when it relates to criminalizing behavior.[137] According to Mill, the government could not make a behavior or act illegal for the sole reason of promoting the wellbeing of the person engaging in the act.[138] Essentially, prohibiting conduct based on its potential for dangerousness violates the harm principle.[139] Doing so is a problem because it prohibits the conduct based on the "'possibility of harm'" rather than "'the harm itself.'"[140] To explain this idea, one of the examples Chiesa uses is possession of a weapon by saying that weapon possession increases a risk that the person carrying the weapon will use it to hurt someone, even though carrying weapons themselves is not harmful.[141] Despite the fact that some people say the harm principle is vague,[142] Chiesa say it is useful limit the government's power when it comes to criminalization.[143]

Chiesa explains specifically how the harm principle relates to animal cruelty laws.[144] Animal cruelty statutes do not violate the harm principle if the principle is interpreted as "one that allows for the justifiable imposition of punishment whenever the actor's conduct causes harm to *another sentient being* (i.e. humans and animals)."[145] Essentially, when a law punishes an actor for causing harm to something that can feel pain,[146] the law does not violate the harm

[137] *Id.*
[138] *Id.* at 25 (also noting that "the fact that most people consider the performance of a particular act to be wrong or unwise is not a sufficient reason to warrant criminalizing the conduct.").
[139] *Id.* at 26.
[140] *Id.* (citing Douglas Husak, *Crimes Outside the Core*, 39 TULSA L. REV. 755, 771 (2004) (noting it is a "'possibility that need not (and typically does not) materialize when the offense is committed.'")).
[141] Chiesa, *supra* note 20, at 26 (but noting "that the more concrete the risk sought to be prevented by the offense is, the more justifiable it is to criminalize the conduct."). Chiesa also mentions Professor Catharine MacKinnon's point that one time pornography seemed to violate the harm principle, but it "can be justified on morally neutral grounds because" it promotes sexism, subjugation of women, and inequality. *Id.* at 27–28.
[142] *Id.* at 27.
[143] *Id.* at 28.
[144] *Id.* at 30.
[145] *Id.*
[146] *Id.* at 47 (noting sentience is "capacity to experience pain.").

principle.[147] To demonstrate the meaning of this assertion, Chiesa explains five possible theories of the interests that anti-cruelty statutes could be protecting. The five are:

> (1) Protection of property, (2) protection against the infliction of emotional harm to those who have ties to the injured animal, (3) prevention of future harm to humans, (4) enforcement of a moral principle, and (5) protection of the animals themselves.[148]

Ultimately, Chiesa believes that all of these possible interests violate the harm principle except for prevention of harm to animals.[149] He rationalizes that protecting animals being the purpose of animal welfare laws is logical because mistreatment of animals causes them to actually suffer.[150] As previously mentioned, an aspect of the harm principle is that the government should not create laws that only prevent the possibility of harm.[151] If the purpose of animal cruelty laws is to prevent animals from suffering, they are not "victimless crimes."[152] As a result, the law makes actual harm to a sentient being illegal and not just the possibility of harm.[153] He even mentions that

[147] *Id.* at 30.
[148] *Id.* at 8.
[149] *Id.* at 32–33 (noting that conceiving anti-cruelty statutes as a means of protecting property interests "fails to account for some of their most distinctive characteristics," the most relevant to this paper being that dogfighting and cock fighting are crimes in all fifty states, which means that the laws protect the animals even if it negatively affects the interests of the owner); *id.* at 36 (noting that if the purpose of animal cruelty statutes is to prevent humans from suffering from emotional harm, that "cannot be easily reconciled with the broad scope of typical animal cruelty laws"); *id.* at 40–41 (noting it would violate the harm principle if the purpose of animal cruelty statutes was to prevent future harm to humans); *id.* at 45–46 (noting that the purpose of anti-cruelty statutes being to enforce a moral principle is "incompatible with the harm principle.").
[150] *Id.* at 84.
[151] *Id.* at 26.
[152] *Id.* at 47; *see also id.* at 48 (noting that humans are not the only beings that qualify as victims because "the defining characteristic of victimhood is sentience, not autonomy.").
[153] *Id.* at 26 (the harm principle says it is problematic to prohibit conduct based on the possibility of harm rather than actual harm).

this theory accounts for laws against dog and cock fighting because those sports cause the animals to suffer.[154]

Chiesa focuses primarily on state animal cruelty statutes, as evidenced in the introduction of his paper, when he notes that the punishment for abusing animals changes according to the jurisdiction or state.[155] While his paper focuses on animal cruelty statutes, the premise of his discussion is "the criminalization of cruelty to animals . . . ."[156] Specifically, he discusses the criminalization of harm to animals through the harm principle, which "serves to limit the government's power of criminalization by requiring that the state provide reasons for prohibiting conduct other than the fact that it is generally considered to be immoral."[157]

Although his paper focuses on the purpose of anti-cruelty statutes, which are primarily state laws,[158] the focus of this paper has been and will continue to be the federal Animal Welfare Act. This portion of this paper will apply Chiesa's discussion of behavior that is considered criminal under state anti-cruelty statutes to behavior that is considered criminal under the Animal Welfare Act. Joan E. Schaffner, author of *An Introduction to Animals and the Law*, distinguishes animal-cruelty statutes and animal welfare laws by explaining that anti-cruelty laws in the United States are criminal laws that "target only individual instances of intentional cruelty not institutionalized cruelty."[159] She states that "these laws protect animals from the intentional and gratuitous infliction of pain and suffering at the hands

[154] Chiesa, *supra* note 20, at 46; *but see* Chiesa, *supra* note 20, at 49 (introducing the counterpoint that it is not illegal to hurt an animal while fishing or hunting, yet such activities cause harm to animals). Chiesa notes in response that animal welfare laws do protect animals, but "they assign too much weight to countervailing interests that might justify an infraction of the prohibition." As a result, the purpose of the statute is not what causes the problem. *Id.* at 50. The problem involves " what would otherwise constitute a nominal infraction of the law." *Id.* In other words, Chiesa describes these activities as exemptions from punishment rather than violations.
[155] Chiesa, *supra* note 20, at 4. For example, in Garcia, the issue of determining the accurate scope of the anti-cruelty statute was in a state appellate court. *Id.* at 5.
[156] *Id.* at 4.
[157] *Id.* at 28.
[158] SCHAFFNER, *supra* note 82, at 23.
[159] *Id.* at 22.

of humans."[160] Animal welfare laws govern human use of animals for the purpose of regulating ". . . an animal's state of well-being."[161] Ultimately, it seems as though promoting an animal's well being and preventing it from pain and suffering are similar goals.[162] As a result, this paper will apply Chiesa's thesis concerning the purpose of criminalizing certain behavior with anti-cruelty statutes to criminalize certain behavior under the federal Animal Welfare Act. This discussion will focus on the criminalization of dog fighters, and how criminalizing dog fighters under the Animal Welfare Act but only assigning civil penalties to puppy mill owners violates the harm principle.

B. The Link between Dogfighting and Violent Crimes and Behavior

Dogfighting is a common activity in urban areas.[163] Those who engage in the practice often have violent criminal backgrounds.[164] The fights provide an environment for significant crimes like "gambling, drug dealing, weapons offenses and money laundering."[165] Because so many drug users are in one location, attending dogfights can be more profitable than a "series of isolated drug transactions."[166] Furthermore, those who gamble often bring weapons and firearms to the matches.[167]

In addition to the actual criminal activity that takes place during dogfights, Congress was concerned about the physical danger to children. Specifically, it stated that "there is an inherent danger for the children of animal fighters to be close to these animals . . . . Some dog fighters . . . allow trained fighting dogs to roam neighborhoods

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[160] *Id.*
[161] SCHAFFNER, *supra* note 82, at 71.
[162] This point is supported by the fact that Schaffner mentions that state statutes criminalize dogfighting. *See* i*d.* at 35. As established, dogfighting is also regulated under the Animal Welfare Act. 7 U.S.C. § 2156.
[163] Villavicencio, *supra* note 100.
[164] Gibson, *supra* note 120, at section IV.
[165] *Animal Fighting Facts*, ANIMAL LEGAL DEFENSE FUND (Feb. 2009), http://aldf.org/resources/laws-cases/animal-fighting-facts/.
[166] Gibson, *supra* note 120, at section IV.
[167] *Dogfighting Fact Sheet*, *supra* note 33.

and endanger the public."[168] There is also the risk that "children that become desensitized to violence become criminalized and perpetuate that cycle of violence."[169] In areas where dogfighting is prevalent, children are exposed to dogfighting on a routine basis[170] and learn an "enthusiasm for violence, and disrespect for the law."[171] Regular exposure to animal abuse is a "major contributing factor in their later manifestation of social deviance."[172]

C. Why Criminalizing Dogfighting and not Abusive Puppy Mill Owners Violates the Harm Principle

In order to understand how Congress accounted for the criminal activity associated with dogfighting when it made it a felony under the Animal Welfare Act, it is necessary to look at the congressional debates of the Animal Fighting Prohibition Enforcement Act of 2007. When passing this law, the legislature noted its concern for the welfare of animals. Specifically, in the congressional history for the Animal Fighting Prohibition Enforcement Act of 2007, one speaker noted:

> Dogs who are made to fight often sustain severe injuries such as deep wounds and broken bones. Subsequent to fights, many dogs die of blood loss, exhaustion, or shock. Fighting animals are usually subject to inhumane living conditions intended to make them more aggressive, sometimes denied adequate nutrition, and made to exercise until they are physically exhausted.[173]

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[168] 153 CONG. REC. E656-01 (daily ed. March 28, 2007) (statement of Rep. Gallegly).
[169] Gibson, *supra* note 120, section V.B.
[170] Gibson, *supra* note 120, section V.B.
[171] *Dogfighting Fact Sheet*, *supra* note 33; *see also* Sharon L. Peters, *A fight to save urban youth from dogfighting*, USA TODAY (Sept. 29, 2008, 9:12 PM), http://usatoday30.usatoday.com/news/nation/2008-09-29-dogfighting_N.htm (noting "The most active and numerous dogfighters, experts say, are 13 or 14 or 17 years old — inner-city youths who have trained their pit bulls to fight other dogs in the neighborhood.").
[172] Gibson, *supra* note 120, at section V.B.
[173] 153 CONG. REC. E655–02 (daily ed. March 28, 2007) (statement of Rep. Maloney).

These conditions are very similar to that which dogs in puppy mills suffer. Specifically, they live under inhumane living conditions, are not given enough nutrition, and many breeders let the puppy die if it gets sick with an infectious disease.[174]

In addition to mentioning the cruelty of the practice, the congressional record consistently mentions the violence and criminal activity associated with animal fighting. Some of the terms legislative history uses to describe animal fighting as "despicable cruelty,"[175] "cruel and gruesome abuse of animals,"[176] "gruesome and inhumane,"[177] and an "appalling treatment of animals."[178] However, immediately after stating "the current law is simply not strong enough,"[179] a speaker mentioned that "animal fighting often leads to additional criminal behavior," and "is associated with illegal gambling, narcotics trafficking, public corruption, gang activity, and violent behavior towards people."[180]

Another speaker explained that teaching dogs to fight and watching them die "is just not what God intended and not what we should encourage and condone."[181] But immediately after this assertion, he explained how such behavior negatively affects the human condition:

> …This type of conduct leads to other types of harmful conduct and violence against women, violence against seniors. People who enjoy this type of violence and watching it are more often than not going to be the most likely people to pick on others and who are unable to take care of themselves.[182]

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[174] ANIMAL RESCUE CORP., *supra* note 59.
[175] 153 CONG. REC. H3031–03 (daily ed. March 26, 2007) (statement of Rep. Blumenauer).
[176] 153 CONG. REC. H3031–03 (daily ed. March 26, 2007) (statement of Rep. Sanchez).
[177] *Id.*
[178] *Id.*
[179] *Id.*
[180] *Id.* (the speaker also mentions the National Sheriffs' Association is a proponent of the legislation and they "need the Federal Government to do its part to curb this dangerous activity.")
[181] 153 CONG. REC. H303–03 (daily ed. March 26, 2007) (statement of Rep. Cohen).
[182] *Id.*

In order to address the harm to the community, one speaker explained:

> In addition to the inexcusable harm inflicted on the animals, the fights also have negative effects on humans. Illegal gambling and drug trafficking are often closely tied to animal fighting operations. Also, animals bred to fight are abnormally aggressive, and pose a danger to the communities they live in it if they were to get loose.[183]

While the legislature recognizes that animal fighting "results in the brutal treatment of animals,"[184] the congressional record consistently mentions that animal fighting poses a danger or threat to humans and society[185] because of association with illegal gambling and drugs,[186] and violence against others,[187] especially women, seniors,[188] and children."[189] The length to which the legislature described the negative effects that animal fighting has on the human condition demonstrates that protecting humans from harm[190] was its primary purpose for increasing the punishment for animal fighting from 1 year to 5 years.[191]

As noted, Chiesa specifically states future harm to humans as a justification for animal welfare statutes violates the harm principle.[192] Specifically, some people believe mistreating animals should be criminalized because there is evidence that shows individuals who are cruel to animals are more likely to be violent towards other people in comparison with those who are not abusive towards animals.[193] As

[183] 153 CONG. REC. E655–02 (daily ed. Mar. 28, 2007) (statement of Rep. Maloney).
[184] 153 CONG. REC. H3031–03 (daily ed. Mar. 26, 2007) (statement of Rep. Shays).
[185] 153 CONG. REC. E655–02 (daily ed. Mar. 28, 2007) (statement of Rep. Maloney).
[186] *Id.*
[187] 153 CONG. REC. H3031–03 (daily ed. Mar. 26, 2007) (statement of Rep. Cohen).
[188] *Id.*
[189] *Id.*
[190] Although the congressional record also mentions the immoral aspect of it, this paper will just focus on the harm to humans as one of the reasons.
[191] 153 CONG. REC. H3031–03 (daily ed. Mar. 26, 2007) (statement of Rep. Shays); *see also* ROBINSON, *supra* note 18, at 45 (noting Congress changed the maximum prison sentence to five years).
[192] Chiesa, *supra* note 20, at 40–41.
[193] Chiesa, *supra* note 20, at 38.

discussed, this connection *often* holds true when it comes to dogfighting and the violent behavior and criminal activity associated with it.[194] However, the facts do not support the theory that every single dog fighter is guilty of other criminal activity. By enacting legislation as a means of preventing possible harm in the future, Congress is "proscrib[ing] animal mistreatment solely because of its correlation with interpersonal violence."[195]

The legislative history demonstrates that the primary purpose of the law was also to prevent "future injury to human beings."[196] In passing the Animal Fighting Prohibition Enforcement Act of 2007, the legislature used the harmful effects dogfighting has on society as a justification.[197] It can be inferred that this discussion about harm to humans in the congressional debates influenced the legislature into imposing a criminal punishment for dogfighting, whereas abusive puppy mill owners[198] who violate the Animal Welfare Act are only subject to a civil penalty, not criminal. [199] Criminalizing dogfighting to prevent crime but not criminalizing puppy mill breeders committing the same harm to animals[200] violates the harm principle.[201]

Congress should focus less on deterring criminal activity and punish all animal abusers with the same penalties in order to protect the animals from harm. However, there are barriers to such

[194] *Supra* Part II.B.
[195] Chiesa, *supra* note 20, at 41.
[196] *Id.*
[197] *See supra* notes 181—184.
[198] Note again that puppy mills in the context of this paper refers to puppy mills that do not sell directly to the public and are regulated by the USDA are not considered "activities harmful to animals exempted from punishment . . . ." Chiesa, *supra* note 20, at 50; *see also id.* at 51 (noting that certain exceptions to animal cruelty laws do not demonstrate that their purpose is to protect the wellbeing of humans rather than animals from "unjustifiable harm" because they are regulated by the Animal Welfare Act.) As a result, it is not necessary to discuss whether or not puppy mills are justified as legal for the purposes that Chiesa states other exceptions are, such as hunting and fishing. *Id.* at 49.
[199] *Animal Welfare Act Enforcement*, *supra* note 32.
[200] *Supra* Part I.B.
[201] Chiesa, *supra* note 20, at 40–41 (noting that the purpose of animal welfare laws being to prevent harm to humans violates the harm principle).

legislation.[202] Specifically, there are some purebred dog registries and kennel clubs that have lobbied against any changes in puppy mill laws.[203] Groups profiting from less regulation scare smaller breeders into believing the new puppy mill laws will affect them. As a result, this tactic has caused smaller breeders and kennel clubs to fight against bills that would not affect them, but only the "worst and biggest puppy mills."[204] Although Congress has made efforts to implement legislation concerning puppy mills,[205] the legislation would only increase the amount of regulation, not outlaw puppy mills.

CONCLUSION

Criminalizing puppy mill owners violating the Animal Welfare Act and dog fighters will help resolve the disproportionate affect animal welfare laws have on the African American community and will also be a legitimate reason for creating laws under the harm principle. By focusing solely on deterring crime, the legislature has neglected to fulfill the actual purpose of animal welfare laws, which is to protect animals.[206] Chiesa's thesis asserts that preventing harm to animals is the only justification for animal welfare laws that is in line with the harm principle.[207] But the legislature's focus on deterring crime in urban black areas by virtue of criminalizing dogfighting has prevented it from passing laws that equally prevent harm to animals.[208] Instead, a higher number of Black Americans who are causing as much violence to animals as other individuals are facing higher punishments.[209] And worst of all, animals everywhere continue to

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[202] *Puppy Mills: Frequently Asked Questions*, HUMANE SOCIETY OF THE U. S. (Jan. 16, 2015), http://www.humanesociety.org/issues/puppy_mills/qa/puppy_mill_FAQs.html.
[203] *Id.*
[204] *Id.*
[205] *See* CNN Political Unit, *Senators want to close online puppy loophole*, CNN (Feb. 28, 2013, 12:23 PM), http://politicalticker.blogs.cnn.com/2013/02/28/senators-want-to-close-online-puppy-loophole/ (noting that in 2013 Congress re-introduced the Puppy Uniform Protection Safety Act, a law that "would require breeders that sell more than 50 dogs a year to be licensed and to undergo inspections," after it failed in March 2011).
[206] *Supra* Part III.C.
[207] Chiesa, *supra* note 20, at 84.
[208] *Supra* Part I.C.
[209] *Supra* Part I.C.; *see also* Part II.B.

suffer from abuse. In order to create legislation in line with the harm principle by preventing animals from suffering, Congress should focus on protecting animals in all settings equally rather than targeting certain groups infamous for being linked with other forms of criminal activity.