

# Wild animals in travelling circuses: negotiating the road through science, law and politics towards a ban

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In March 2010, Minister for animal welfare Jim Fitzpatrick MP announced that, on the basis of preliminary results from a public consultation, he is “*minded to pursue a ban on wild animals in travelling circuses*” in England.<sup>1</sup> Similar commitments had been made previously (for example, the then Minister Ben Bradshaw MP promised a ban the use of certain non-domesticated species in travelling circuses in March 2006)<sup>2</sup>, but the publication of the Report of the Chairman of the Circus Working Group (the Radford Report)<sup>3</sup> in October 2007 led to an apparent rejection of plans to ban wild animals in circuses.

Why did earlier promises of a ban not materialise, and what led to the Minister’s latest statement?

## Welfare of animals in travelling circuses

A key line of reasoning presented by the Born Free Foundation (BFF) - and

its colleagues at the Royal Society for the Prevention of Cruelty to Animals (RSPCA), Animal Defenders International (ADI) and the Captive Animals Protection Society (CAPS) – is that travelling circuses, by virtue of their itinerant nature, cannot provide an environment that meets the needs of wild animals, and further that certain activities (transport, training, performance etc.) are likely to be associated with unavoidable and unacceptable compromises to the animals’ welfare. It was suggested that the continued use of wild animals in circuses would run counter to one or more of the provisions under s9(2) of the Animal Welfare Act 2006 (“The Act”). With that in mind, nothing short of a ban would sufficiently protect and *promote* animal welfare (see s12(1) of the Act).

## Evidence and the Circus Working Group process

Calley has outlined the process of the Circus Working Group (CWG),

and specifically drew attention to the limitations imposed by the exclusion of video evidence from the CWG.<sup>4</sup> It is worth highlighting other problems with the approach adopted in the design of the assessment of animal welfare in travelling circuses, in order to inform debate on this and other animal welfare issues under the authority of Defra and equivalent bodies.

Very few empirical studies of animal welfare in travelling circuses have been carried out. Defra’s insistence that peer-reviewed science form the basis of evidence submitted to the CWG placed an extraordinary restriction on the deliberations of the Academic Panel, given the extremely limited number of published studies relating to the welfare of animals in circuses. This was further compounded by the Academic Panel’s rejection of all comparative data submitted on animals held in other captive situations - “*The opinion of the Academic Panel is that the environment in circuses is too different from those of farms or zoos*”

<sup>1</sup> Letter from Jim Fitzpatrick. [www.defra.gov.uk/corporate/consult/circus-wild-animals/jfitzpatrick-circus-letter.pdf](http://www.defra.gov.uk/corporate/consult/circus-wild-animals/jfitzpatrick-circus-letter.pdf). Accessed 11/05/2010

<sup>2</sup> 8 March 2006, col 60WS

<sup>3</sup> Radford M (2007). Wild Animals in Travelling Circuses – The Report of the Chairman of the Circus Working Group. [www.defra.gov.uk/foodfarm/farmanimal/welfare/documents/circus-report.pdf](http://www.defra.gov.uk/foodfarm/farmanimal/welfare/documents/circus-report.pdf). Accessed 27/04/10

<sup>4</sup> Calley D (2008). Non-domesticated animals in travelling circuses: the report of the Chairman of the Circus Working Group. *Journal of Animal Welfare Law* July 2008: 13-14

for helpful comparisons of research findings to be made”.<sup>5</sup> In the absence of direct research on circus animals, the exclusion of read-across from animal welfare research garnered from other animal-keeping systems seems obtuse. The focus on differences in environment, rather than similarities between animals of the same species seemingly overlooks fundamental animal biology. The basic needs and underlying behaviour and physiology of tigers in a circus, for example, do not differ significantly from tigers in a zoo. Indeed, s9(2) of the Act acknowledges species-typical needs (e.g. the “need to be able to exhibit normal behaviour patterns”).

As a result of these and other concerns, following publication of the Radford Report, at least one member of the Academic Panel of the CWG wrote to the Secretary of State for Environment outlining their concerns about the process.<sup>6</sup> BFF and RSPCA raised concerns over the terms of reference of the academic review process, the depth and rigour of the analysis and the conclusions of the Academic Panel.<sup>7</sup>

However, the subsequent publication of a review of the suitability of wild animals to life in travelling circuses added a whole new dimension to the preceding assessment of the Academic Panel and subsequent conclusions of the Radford Report.<sup>8</sup> This comprehensive review of the behaviour, health and living / travelling conditions concluded that none of the species most commonly exhibited by circuses (worldwide) were suited to a circus life.

## Feasibility Study

Following the conclusion of the CWG and the publication of the Radford Report, Defra undertook a “feasibility study” to investigate the possibility of regulating the use of wild animals in travelling circuses. The exact details and methodology of this study were not revealed to the campaigning groups at the time, and it was only in early 2010 that some of the findings were made public. Requests made by CAPS under the Freedom of Information Act 2000 for the full inspection reports have been denied, citing exemption under s41 of the Act.

Despite the denial of read-across from animal welfare in zoos to circuses by the Academic Panel of the CWG, two Government-appointed Zoo Inspectors were tasked with carrying out site inspections of travelling circuses as part of the feasibility study. The Inspectors acknowledge the apparent contradiction between using regulatory standards for zoos when inspecting circuses.<sup>9</sup> However, they make frequent references to Performing Animal Welfare Standards International (PAWSI) standards in their report on circuses, despite PAWSI having its roots in the commercial performing animal industry and lacking scientifically-validated standards. Without sight of the full findings, it is difficult to comment further on their inspections.

In August 2009, ADI released undercover footage from the Great British Circus showing elephants being hit. While no case was brought against the circus under the AWA, this exposé reignited concern for the welfare of animals in circuses among members of

the public and Parliamentarians. It is against this backdrop that a public consultation on how best to safeguard the welfare of wild animals in travelling circuses in England was conducted.

The preliminary results of the public consultation indicate that 94.5% of respondents believed that a ban on the use of wild animals in travelling circuses was the best option to achieve consistently better welfare standards for these animals; while 95.5% believed that there are no species of wild animal, for which it is acceptable to use in travelling circuses.<sup>10</sup>

Even nineteenth century debates on animal protection legislation included acknowledgement of public opinion as a primary enabler for legislation relating to animal welfare.<sup>11</sup> Despite this, the need to reflect public opinion and to protect the welfare of wild animals in travelling circuses was very nearly frustrated by limitations in the design and execution of the Working Group and the feasibility study, and despite the encouraging indications from the Minister, a ban still faces obstacles. As I write, it seems that this is now an issue to be decided by politics: the main political parties differ in their positions on this issue, and action to ban wild animals in circuses will depend on the make-up of the Government after the General Election of May 2010. Whatever the outcome for wild animals in travelling circuses, lessons should be learned as to how science and public opinion can, and cannot, inform discussions relating animal welfare law.

## Acknowledgements

*BFF thanks David Thomas for his advice on this issue.*

<sup>5</sup> s5.1.5

<sup>6</sup> Letter to Hilary Benn, 05/03/2008

<sup>7</sup> RSPCA & Born Free Foundation (2008). Comments on: ‘Wild Animals in Travelling Circuses – The Report of the Chairman of the Circus Working Group, October 2007’

<sup>8</sup> Iossa G, Soulsbury C & Harris S (2009). Are wild animals suited to a travelling circus life? *Animal Welfare* 18: 129-140

<sup>9</sup> Stevenson MF & Fielding M. Circus Inspection Project. [www.defra.gov.uk/foodfarm/farmanimal/welfare/act/documents/circus-feasibility-study.pdf](http://www.defra.gov.uk/foodfarm/farmanimal/welfare/act/documents/circus-feasibility-study.pdf). Accessed 27/04/10

<sup>10</sup> Defra. Initial summary of responses to the Defra public consultation exercise on the use of Wild Animals in Circuses. [www.defra.gov.uk/corporate/consult/circus-wild-animals/responses.pdf](http://www.defra.gov.uk/corporate/consult/circus-wild-animals/responses.pdf). Accessed 11/05/2010

<sup>11</sup> Martin R (1824). Bear baiting – House of Commons Debate, 11 February 1824 vol 10. Richard Martin MP, 1824: “he wished to prohibit those cruelties which public opinion would follow him in saying ought to be prohibited”