

ANIMAL JUSTICE UK

SPECIAL EDITION: FARMED ANIMALS

KILLING ANIMALS

Hannah Battersby considers whether animal death is an animal welfare issue

VEGANISM

Sharan Chohan analyses the case which recognised 'ethical veganism' in law

AJUK INVESTIGATES

Emma Wells explores the growing live animal export trade

INTERVIEW: ADVOCATES FOR ANIMALS TEAM



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FARMED ANIMALS SPECIAL

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WELCOME

Welcome to our second Special Edition of Animal Justice UK, which is all about farmed animals.

We have received a fantastic number of submissions to this edition, which is testament to the high level of interest in the protection of farmed animals. Thank you to all of those who have contributed.

A number of themes emerge in this edition. The killing of animals is an unsurprising one and this forms the focus of pieces by Hannah Battersby, Hira Jaleel and Laretta Eckhardt. The burgeoning of veganism is another important topic, and Sharan Chohan analyses the recent 2020 decision which saw 'ethical veganism' recognised as a protected characteristic. Meanwhile Jasmine Karpowicz examines recent attempts by traditional food industries to challenge the use of 'meat' and 'dairy' terms by plant-based businesses.

I am grateful to Advocates for Animals for participating in this edition's interview; I know many of you will take inspiration from their journey to establish the UK's first full-time animal law practice.

I hope you enjoy reading this Special. If you would like to contribute to a forthcoming edition of Animal Justice UK, please do not hesitate to get in touch.

Natalie Harney
Editor

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IS KILLING ANIMALS A MATTER OF ANIMAL WELFARE?

BY HANNAH BATTERSBY

The UK agricultural industry slaughters tens of millions of land animals annually, typically at young ages. For example, beef cows are usually slaughtered at 1-2 years of age, which is a very premature death compared to the potential lifespan of their species (20+ years). Slaughter is conducted by expedient mechanisms designed to avoid suffering by slaughtering animals immediately after stunning. These quick, painless deaths are assumed not to affect the welfare of the animals, according to the orthodox animal welfare paradigm.

This is because the conventional notion of animal welfare, which underpins UK animal

protection legislation, is concerned primarily with 'what happens before death, including how animals are treated... than the method by which they are killed' (Broom, 2011). Being killed itself is generally not perceived to affect welfare, because welfare issues are assumed to arise only when animals experience suffering.

Suffering is conceived of in terms of negative mental states, e.g. those arising from physical pain during mishandling, or psychological distress resulting from cramped conditions. Welfare policies are skewed towards the reduction and minimisation of suffering, rather than the promotion of positive wellbeing. I will



call this conceptualisation of animal welfare the 'narrow hedonistic approach'.

This animal welfare approach justifies many killing practices that cause the premature deaths of animals because these practices are claimed to not cause suffering. They are painless and humane, so the killing - allegedly - does not negatively impact animal welfare. This is because, on this understanding of animal welfare, the premature killing of livestock animals can't be conceived of as a welfare matter, for only subjective experiences during life and their features (i.e. consciously felt experiences and their psychological properties) are taken to bear on animal welfare; unconscious death is not 'experienced'.

"The animal welfare approach justifies many killing practices that cause the premature deaths of animals because these practices are claimed to not cause suffering."

It is my argument that other, objective components (here, the length of a life) also influence welfare. A consequence is that killing becomes problematic in welfare terms because it does animals an objective harm in depriving them of appropriate lifespans. In other words, the quantitative amount of life afforded to an animal matters for their welfare, not just the qualitative texture of that life. It seems plausible that an animal could live a life that is absent of suffering, yet still poor in welfare terms if that life is extremely short.

In contending that an extremely short lifespan negatively affects animal welfare, I am appealing to a 'perfectionist' understanding of welfare. The perfectionist approach considers whether or not an animal is able to attain a

variety of species-determined 'ideals'. In appealing to 'ideals', the perfectionist refers to a variety of behaviours, activities, and expressions of intrinsic features an animal is capable of. These are determined by their species characteristics and are valued for more reasons than solely how they make the animal feel. The perfectionist sees value in what animals are capable of doing and being.

For the perfectionist, welfare relates to the extent to which animals are managing to enact and realise these pertinent functions and features, asking not only how animals are feeling, but also evaluating the extent to which meaningful functions and characteristics for their kind are actually realisable. If they are not realisable, e.g. when their potential to achieve a particular species ideal (in this case, life span) is blocked, then the animal is being subjected to a form of



objective harm. This is understood as an objective harm to their nature, resulting from the deprivation of their chance to live an existence befitting their kind. This type of harm may not correspond with subjective suffering but, nonetheless, it can be understood as detrimental to welfare.

I suggest, then, that lifespan is one of the important species 'ideals' of an animal; one aspect of their intrinsic nature that has certain characteristic norms (such as length), the attainment of which matters for welfare. To deny an animal an appropriate lifespan by cutting short its life at a very premature point (in comparison to the length of life possible for and appropriate to their species) is to do it an objective harm. So, the beef cow killed at 2 years old is harmed objectively by being cut off from an important potential for their species, namely, an appropriate lifespan.

I claim that the absence of corresponding subjective suffering (by virtue of livestock animals being unconscious, and so not experiencing pain or distress when they are killed) doesn't detract from the fact that a shortened lifespan has a detrimental effect on welfare. By being killed at a very young age, livestock animals are prevented from the realisation of an important species ideal. Indeed, it also stops them from fulfilling many other species-ideals, for example, expression of behaviours that relate to social affiliation (in the case of beef cows, cultivation of familial bonds, a meaningful pursuit for their species which is interrupted by premature killing). What could be worse for one's welfare than that?

It seems, then, that subjective suffering is not the only element of an animal's life that can affect its welfare. Indeed, the idea that more factors than subjective suffering might matter for welfare has been expressed by

participants in surveys about animal welfare. For example, respondents have expressed the idea that it is important for animals to live lives suitable to them, in particular placing emphasis on 'natural' living.

In this article, I have claimed that killing livestock animals is contrary to their welfare because it cuts them off from appropriate lifespans. Given the extremely short lives afforded to livestock animals (e.g. the average 2 year lives of beef cattle), there are significant legal ramifications. I would implore animal welfare legislators to expand the scope of the 'animal welfare' concept as it is applied to livestock animals (notably, the Farm Animal Welfare Committee – as it was then called – has itself called for a broadening of the 'animal welfare' concept). In particular, the animal welfare framework ought to account for the welfare implications of killing animals (even if painlessly), for if the deprivation of an appropriate lifespan is bad for animals then our society is responsible for another enormous collective injustice to livestock animals.

Hannah is a first year doctoral student in the philosophy department at The University of Manchester. Her research concerns interspecies justice, specifically, the scope of the capabilities approach to extend justice to the environment itself while maintaining a commitment to the entitlements of individual beings such as humans and animals. Animal and environmental ethics were her focus throughout her prior MA studies, where she wrote on topics such as whether humanity's treatment of animals constitutes moral evil, how animal and environmental advocates can collaborate, and (for her dissertation project), how the humane killing of animals within agriculture constitutes harm to them in objective terms.



WHAT'S IN A NAME? THE BATTLE FOR 'MEAT' AND 'DAIRY'

BY JASMINE KARPOWICZ

The meat and dairy substitute industry is thriving, and demand for vegan products has increased in recent years. Supermarkets are competing to introduce new vegan products in order to meet growing consumer demand, whilst fast-food chains are launching meat free alternatives in order to attract the growing number of vegan, vegetarian and flexitarian customers. Alongside this, companies are developing lab-grown meat and dairy products in the hope that such new products can be on the market in the future.

This increase in plant-based alternatives has led to clashes between those who produce food using animals and those who don't. This

has led to disagreements over the labelling of meat and dairy alternatives in some countries. This has been caused by powerful agricultural industries and some governments increasingly using legal tools to try to block the use of 'meat' or 'dairy' terms on plant-based food products.

In Australia in 2019, the then Minister for Agriculture, Bridget McKenzie, criticised the labelling of Sunfed's 'Chicken Free Chicken', a product which is made of peas and labelled as vegan on the front side of the product. The same product led to Sunfed being taken before New Zealand's Commerce Commission in 2017 after a complaint by the



Poultry Industry Association of New Zealand (PIANZ). It was decided by the Commission that the product was not misleading to customers and that Sunfed was not breaching any food-labelling laws.

In 2019, the US state of Arkansas introduced **Act 501**, its so-called 'truth in labelling law', which, amongst other things, prohibited "Representing [an] agricultural product as meat or a meat product when the agricultural product is not derived from harvested livestock, poultry, or cervids." The constitutionality of the law was challenged by plant-based food company, Tofurky, and, in December 2019, Arkansas' Federal Judge Kristine Baker blocked the state from enforcing the law. In the Preliminary Injunction Order, Baker concluded that the use of words traditionally associated with 'animal-based' meat alongside words which inform consumers as to the plant-based nature of the product is not misleading. The judge also considered that there are already state and federal laws protecting consumers from misleading labelling.

"... Federal Judge Baker concluded that the use of words traditionally associated with 'animal-based meat alongside words which inform consumers as to the plant-based nature of the product is not misleading."

More states across the US have made, or have been making, attempts to restrict the use of 'meat' and 'dairy' terms on plant-based products. Last year in the state of Wisconsin, three Senate bills were introduced to restrict the type of terms that could be used on the labels of plant-based product labels. Wisconsin's economy is heavily dependent on its agriculture industry. State Senator,

Howard Marklein, who introduced the bills claimed that a survey by dairy-farming groups in the state showed that 48% of participants thought plant-based cheese was animal-based cheese.

Steph Tai, a Law School Professor at Wisconsin University, argues the labelling of animal products and their plant-based alternatives is not causing confusion to customers, as there are ingredient labels on all these products. Tai suggests it is market competition that is prompting meat and dairy industries and lawmakers to try to eliminate the growing plant-based industry, as plant-based products could potentially harm traditional animal farming industries and reduce their profits.

For all of its objections to the use of what it deems to be 'misleading' terms by the plant-based food industry, the animal-based meat and dairy industry must acknowledge that it also often stretches the truth about its products and how they are produced. Imagery used on product packaging often shows idyllic farming scenes of animals grazing outdoors, even on products from animals who have been intensively reared.

Vague terms such as 'natural', 'farm fresh' and 'family farmed', which have no legal definition, adorn products and invoke ideas about animal welfare standards and conditions that may not reflect the reality of how those animals have been reared at all. Arguably, these marketing tactics are much more damaging than those used by the plant-based food industry.

Jasmine is a law graduate from the University of Essex and the University of Warsaw. She currently works in the higher education sector. She is passionate about animal protection and an advocate for animal rights.



RITUAL SLAUGHTER BANS – ARE THEY REALLY HELPING THE ANIMALS?

BY HIRA JALEEL

In 2019, two regions of Belgium joined Sweden, Norway, Denmark, and Iceland in banning ritual slaughter, a religious method of slaughter practiced by adherents of Jewish and Muslim faiths. The ban took effect in the Flanders and Wallonia regions of Belgium, reigniting the debate surrounding the tensions between religious freedom and animal welfare. The Council of Europe's **Convention for the Protection of Animals for Slaughter** and the **European Union (EU) Council Regulation 1099/2009** both require that animals should be stunned prior to slaughter. However, both laws also allow Member States to make exemptions for ritual slaughter, which some countries, such as France and Germany

have decided to implement.

The Flemish ritual slaughter ban has been challenged in Belgium's Constitutional Court, which has in turn directed a prejudicial question to the European Court of Justice to help it decide the constitutionality of the new law. Considering that the Flemish law was proposed by a Belgian Minister for Animal Welfare, who is allegedly a right-wing nationalist, some have accused the law of targeting religious minorities under the auspices of concern for animal welfare. While much has been said and written about the conflict between animal welfare and freedom of religion, a tension that is highlighted by



ritual slaughter bans, the discussion surrounding what these laws mean for the animals is often ignored in favour of conversations about the perceived xenophobia behind ritual slaughter bans.

Ritual slaughter, in the context of these laws, is generally understood to mean two specific forms of slaughter, namely shechita, which is practiced by those of the Jewish faith (resulting in kosher meat), and halal, which Muslims practice. Whilst there are differences in the religious traditions giving rise to these slaughter practices, the common ground is that both methods of slaughter require a clean incision across the neck, which causes the animal to undergo rapid blood loss and subsequent unconsciousness. Both religions also require that only healthy animals are slaughtered, with the Jewish tradition being somewhat more strict in this regard than its Islamic counterpart. Therefore, for meat to be kosher, there must be absolutely no stunning of the animal prior to slaughter. Muslims are divided on the issue of pre-slaughter stunning, with some Muslim experts sanctioning the practice. Therefore, the essence of ritual slaughter bans is mainly to require that the animal be stunned prior to slaughter, instead of slitting the throat of a fully conscious animal.

Adherents of the two faiths, as well as proponents of ritual slaughter, argue that ritual slaughter is humane and, in some cases, more so than non-ritual slaughter. Arguments in favour of ritual slaughter amount to the religious requirement that animals be healthy and uninjured prior to slaughter, and that the cut to the throat be as quick, precise, and clean as possible, so as to inflict minimal pain on the animal. Proponents contend that stunning of the animal prior to slaughter is actually more inhumane, since it simply renders the animal unable to visibly express

signs of pain, and in many cases the animal regains consciousness before the actual cut is made.

On the other hand, many animal advocates and critics of ritual slaughter argue that ritual slaughter methods are decidedly more inhumane than pre-stunned slaughter. The argument is that ritual slaughter is outdated, since those methods of slaughter were introduced at a time when modern stunning equipment was unavailable. In modern slaughterhouses, animals are often shackled and hoisted before being slaughtered, an experience which can be extremely painful and even lead to serious injuries. Even in cases where shackling and hoisting isn't practiced, the time between cutting the animal's throat and loss of consciousness can be up to 60 seconds, which for many is an



unacceptable amount of time for the animal to remain conscious.

Despite the attempts of both sides to focus on the animal welfare arguments, it is questionable whether animals benefit at all from ritual slaughter bans. Almost all kinds of "humane slaughter laws", whether they be in Europe, in the U.S., or other regions of the world, have become notorious for their poor enforcement. Instances of animals requiring multiple shots by captive-bolt guns in cases of pre-stunned slaughter, or multiple cuts of the knife in cases of kosher or halal slaughter, render the issue of "humane-ness" largely moot. Dr. Temple Grandin, Professor of Animal Science at Colorado State University, takes issue with the humane slaughter debate altogether. According to Professor Grandin, the main animal welfare issues at slaughter arise from how animals are restrained, both in cases of pre-stunned and ritual slaughter. Many slaughterhouses in the U.S. and Europe use traumatic ways of restraining animals or create stressful environments for the animals prior to restraint, as a result of which animals struggle and workers resort to abuse to restrain them. Multiple attempts at stunning or slitting the throat are common, which is often directly linked to a lack of proper restraint systems, and leads to increased stress and pain for the animal. In an ideal world where humane slaughter laws were followed and enforced perfectly, perhaps it would be of some merit to deeply debate the humaneness of ritual slaughter. But currently, it appears that animals suffer exceedingly in the slaughter process, regardless of whether it involves pre-stunning or purely ritual slaughter.

Furthermore, one could argue that laws dealing with the exact moment of slaughter possibly disregard the welfare of the animal leading up to slaughter. Scholars have argued

that slaughter laws focus attention disproportionately on the moment of death, instead of trying to minimise the suffering of farmed animals throughout their lives. Modern factory farming has resulted in some despicable conditions for animals, who often spend their entire lives confined to extremely small spaces with no way of expressing their natural instincts and behaviours. Both religious and secular movements oppose infliction of suffering on the animal meant for slaughter, not just at the moment of slaughter but throughout the time leading up to it. Some Muslim scholars have in fact argued that modern factory farming is wholly against Islamic tradition due to animal welfare concerns. Perhaps then, it is worth debating the welfare of animals from a more holistic point of view, instead of narrowing the focus to the few hours, minutes or seconds that lead to the animal's death.

If the goal of humane slaughter laws really is animal welfare, perhaps a focus on heightened enforcement of existing laws and regulations is necessary more so than stricter laws, which are still loosely enforced. Whilst ritual bans appear to be a win for animal welfare, they most likely detract from the real legislative and regulatory measures that could genuinely improve the lives of farmed animals, instead of questionably improving their deaths.

Hailing from Pakistan, Hira Jaleel is currently pursuing her LL.M in Animal Law from Lewis & Clark Law School. Hira is a recipient of a Fulbright scholarship as well as Lewis & Clark's Animal Law LL.M Leadership Award. She received her B.A-LL.B (Hons.) from the Lahore University of Management Sciences and is licensed to practice as an attorney in Pakistan. Hira is working on litigating for farmed animals as part of the Animal Law Litigation Clinic at Lewis & Clark.



SWITZERLAND'S RITUAL SLAUGHTER BAN

BY LAURETTA ECKHARDT

Switzerland was the first European country to recognise the dignity of non-human animals in its Constitution, and its legal system is often cited as a reference model for animal welfare. In addition, the country's very first federal popular initiative concerned a ban on ritual slaughter.

During the end of the 19th century, meat consumption increased in the industrialised countries and the emancipation movement of the Jews in Switzerland began to gain momentum. It was these developments that led people to question the slaughtering of animals without prior stunning for the first time in Switzerland.

Ritual slaughter consists of slitting the throat of an animal by means of a direct and uninterrupted cut through the trachea and oesophagus without prior stunning. The ensuing bleeding is done in order to respect the ban on blood consumption adhered to by different groups for religious and cultural reasons. This process, which is practised nowadays particularly by people of the Jewish and Muslim faiths, is relevant from an animal protection point of view because it results in great pain and anxiety for affected animals.

In the second half of the 19th century, it was recognised that slaughter without stunning



was no longer the least invasive method of killing. In 1892, as a result of societal changes, such as greater recognition of animal suffering and growing anti-Semitism, and after initial efforts at the cantonal level, several Swiss animal protection organisations launched a federal popular initiative with the following text: "The slaughter of animals without prior stunning before the withdrawal of blood is prohibited without exception for every type of slaughter and every species of animal."

Although all political parties spoke out against the initiative, and the two chambers of the Swiss Federal Assembly, the National Council and the Council of States, all called for it to be rejected without a counter-proposal, the initiative was accepted by 60.1% of voters. Switzerland thus became the first country in the world to prescribe compulsory stunning of slaughter animals and, apart from a temporary lifting of the ban of ritual slaughter at the end of the First World War, this requirement has remained in force until today.

"While most European countries provide for exceptions in favour of certain religious communities, in Switzerland an almost absolute ban on slaughter without stunning is still in effect today."

The obligation to stun, originally provided for in the **Federal Constitution of 1874**, was replaced in 1973 by a general article about animal welfare (Article 25bis Constitution of 1874), and then transferred in 1981 to the newly created **Animal Welfare Act of 1978** (Article 20). Today, the ban on slaughter without prior stunning is contained in Article 21 of the **Animal Welfare Act of 2005** (RS 455) in conjunction with Article 178 of the **Ordinance supplementing the Animal Welfare Act** (RS 455.1).

While most European countries provide for exceptions to compulsory stunning in their slaughter regulations in favour of certain religious communities, in Switzerland an almost absolute ban on slaughter without stunning is still in effect today. The exception is for poultry, for whom stunning may be waived in the case of ritual slaughter (Article 179b, paragraph 4 of the Ordinance).

It is therefore interesting to note that Switzerland has not made use of the reservation provided for in article 17, paragraph 1, of the **European Convention for the Protection of Animals for Slaughter**, which entered into effect for Switzerland in 1994 and stipulates that the contracting parties may authorise derogations from the provisions on prior stunning in cases of slaughter according to religious rites.



Although Switzerland has not authorized ritual slaughter in its territory, it has nevertheless created a loophole for the Jewish and Muslim communities by authorizing the import of kosher and halal meat (Article 14, paragraph 1, **Animal Welfare Act of 2005**). This calls into question the real reason for the ban on ritual slaughter. Why prohibit a practice in Swiss territory but allow it to be circumvented through imports?

"Why prohibit a practice in Swiss territory but allow it to be circumvented through imports?"

The question of the legitimacy of ritual slaughter has been raised in many countries for years. The freedom of religion of people of the Jewish and Muslim faiths is confronted with the issue of animal welfare, and the various legislation that exists is constantly seeking compromises. However, the question emerges of whether the real problem is related to the way of killing an animal for our consumption, or whether it is justified to take the life of a sentient being for human pleasure at all. Indeed, modern studies have shown that non-human animals have the capacity to feel pain and this should call into question the legitimacy of our current system of animal exploitation.

Lauretta studied law in Switzerland and Iceland (exchange semester), and is currently in her second year of PhD study at the University of Neuchâtel (Switzerland), researching about the legal status of non-human animals in Swiss law. She is also a vegan and an animal rights activist.





ENFORCEMENT: OBSERVATIONS FROM A LOCAL AUTHORITY ANIMAL HEALTH OFFICER

BY ANONYMOUS

Many people do not know that my role exists, or are even aware that their Local Authority (council) has a statutory responsibility to provide certain animal health functions. How council officers do this varies from county to county. Their title might be Trading Standards Officer, Public Protection Officer or even Environmental Health Officer.

Whatever their title, an Animal Health Inspector (AHI) is authorised under a variety of legislation and has access to diverse legal powers including (but not limited to): powers of entry into non-residential buildings or land; power to seize animals or records; and, powers to serve legal notices requiring actions

or prohibitions. An AHI may be authorised to enforce at least 200 separate pieces of legislation.

Interestingly, RSPCA inspectors are not authorised under any legislation and have no more powers than the average citizen. They undertake private investigations and prosecutions, maintaining a high successful prosecution rate with no legal powers. I have great respect for them.

Other agencies are sometimes vital to the success of our work, such as police and farming charities. We work closely with Veterinary Investigators from APHA (Animal



and Plant Health Agency), which sits within the Department for Environment, Food & Rural Affairs (DEFRA). APHA provides veterinary officers during outbreaks of disease and these officers also support Local Authorities with veterinary advice and support throughout their investigations.

As an AHL my own 'typical' day may include any of the following:

- Responding to a disease outbreak situation: supporting DEFRA to help control the spread and damage of disease;
- Monitoring the welfare of animals during transport: primarily the commercial transport of animals, mainly livestock;
- Overseeing the welfare of animals at markets: ensuring that livestock at auctions or collection centres are 'fit' to be sold and have their needs met whilst exposed for sale;
- Routine farm inspections: ensuring the legal requirements for animal welfare, identification, record-keeping and feed hygiene are met;
- Seizing and quarantining illegal imports (usually cats / dogs but also exotics)

brought into the country illegally, and therefore a disease risk to humans and other animals;

- Ensuring carcasses of livestock are collected and disposed of without 'undue delay' via an approved route i.e. incinerator or hunt kennels;
- Responding to welfare complaints: our most common call and can be anything from lame sheep, to cows 'up to their knees' in mud; and,
- Formal interventions, including prosecutions.

There are no specific qualifications to work as an AHL. Trading Standards Officers will be expected to complete a DCATs qualification or a degree in law or consumer protection. The requirements for an animal health related position can vary from council to council.

Farming or agricultural knowledge is useful, as is an understanding of the legislation. However, these can be learned. What is essential is strong 'people' or communication skills. You need to be good with people in various, and often difficult, situations and this is not so easy to learn. You must be able to



explain legislation clearly, and you need to be thick-skinned when standing your ground firmly and calmly.

Also, a vital skill is problem solving, whether it's how to catch and examine an animal without any handling facilities or how to submit a cow for post mortem when the laboratory is full.

It is an extraordinary role and one I love. From the surreal moments, such as being pulled over by the police at a routine traffic stop and the officer finding in my car boot the livestock body parts I was taking to secure storage as evidence. To the physical challenges, including navigating a farm using gates tied together with twine because there is muck too deep to walk through safely. There are ultimately depressing moments, such as finding 30 dead sheep scattered around acres of farm land. There was no deliberate intention of cruelty; the farmer was physically (and mentally) struggling and desperate for help. There's also uplifting times, such as reassuring the farmer who broke down thinking they would be going to prison as they had become muddled with their records (all solved with advice and support).

Major welfare issues are thankfully rare; in my experience, all farmers want the best for their animals. With animal welfare increasing in importance socially and politically, pressure from social media and awareness of our environmental impact, we need to support farmers if we are to achieve and maintain high standards of animal welfare.

For me, I wouldn't want to do anything else. I will take the highs (bringing about positive change by helping both animals and farmers) and the lows (the animals you just couldn't save and the times I've had no choice but to prosecute).



AJUK INVESTIGATES

LIVE EXPORTS

BY EMMA WELLS

Most people are aware that animals are transported from their farm to the abattoir for slaughter. We have all seen the tragic sight of trucks full of live animals on the motorway. However, most would be horrified to know that some animals travel thousands of miles by both road and sea for slaughter, with some undertaking journeys as long as six weeks in terrible and inhumane conditions. People would be even more shocked to know the scale of this trade.

The global trade in live farm animals has more than quadrupled in size over the past 50 years, with almost two billion farm animals being exported from their home country each year. This equates to at least 5 million animals being in transit by road and by sea each day.

Anyone who has a dog or cat who is not used to travelling will know the distress that even the shortest of car journeys can cause. Needless to say, the transport of live animals raises a wealth of animal welfare issues, concerning both the journey itself and conditions in the country of destination. Numerous investigations have revealed that many animals are sent to countries where standards of animal care and slaughter are much lower than in the UK. Public health issues are a further and extremely topical problem associated with live exports, with live animals being a significant source of infection.

The Animals

The main animals subjected to long journeys abroad are pigs, sheep, cows, and chickens. While some animals are transported for breeding, the vast majority are sent for fattening or slaughter. In the case of dairy calves who can legally be sent on journeys at as young as 10 days old, they are sent for fattening prior to slaughter in countries where veal is popular amongst consumers.

Australia is one of the world's largest exporters of live animals, but the UK also exports a staggering number. Between 2014 and 2018, the UK exported live animals worth £2.4 billion, 66% of whom went to the EU. Britain's main live animal export is sheep, with 483,859 having been exported to the EU in 2016. The UK also exported 42,515 cattle to the EU in 2016. Perhaps the most startling figure is the 25 million live chicks exported from the UK for breeding purposes in 2018.

Chickens fair the worst in terms of the sheer numbers exported. In 2017, Germany and the Netherlands alone exported 700 million chickens. Four million of the Netherlands' chickens were exported as far as Thailand, and one million to Uganda.

Sheep and chickens aren't the only animals subjected to live exports. Vast numbers of pigs and cattle (mainly young calves, a by-product of the dairy industry) are exported from and around Europe each year. The majority of exported pigs come from Denmark and the Netherlands, whilst France is one of the main exporters of cattle.

A key market for live exports is the Middle East, which imports high numbers of live animals. The live sheep export market largely involves animals heading to this part of the world. In 2017, 5.8 million sheep were imported to this area.

Why are live animals transported such long distances?

There is the question why, despite advances in refrigeration technology allowing fresh and frozen meat to be safely transported and stored, the number of live animals sent on such long journeys to face slaughter continues to rise. The reasons are multifaceted.

The first and, unsurprisingly, the biggest reason is money. The global trade in live animals was worth an estimated \$21 billion in 2017. It is still often cheaper to transport live animals than to use refrigerated transport.

A reason for the increased demand is the world's growing population. There is also rising consumer demand for freshly slaughtered ("warm") meat. Furthermore, some parts of the world (such as in the Middle East and Asia) are increasingly adopting diets rich in meat. This is certainly a major factor behind the boom in trade to the Middle East, where the popularity of dairy is also growing. Water shortages in the region, which curtail domestic production, are another reason behind the vast number of exports to this part of the world.

What are the issues?

Numerous campaign groups from around the world and several major incidents have made headline news and have brought the issue of live animal exports into the spotlight.

One of those incidents includes the sinking of the Queen Hind ship in November 2019. The Romanian ship, destined for Saudi Arabia, was carrying 14,600 sheep when it sunk in the Black Sea, killing the vast majority of its live cargo. Sadly, this is unlikely to be the last incident of its kind, as Romania entered into a trade agreement in 2017 with Saudi Arabia to export live animals to the kingdom. Last summer, in defiance of an EU request, Romania also sent a large shipment of sheep to Kuwait, despite concerns over excess temperatures.

Excess heat is a significant issue on these voyages, alongside overcrowding, poor handling and unsanitary conditions. In April 2018, Animals Australia released video

footage compiled by a whistle-blower onboard the Awassi Express, a sheep-carrying vessel travelling from Australia to the Middle East. The footage showed sheep literally cooking alive from the excess heat, getting crushed against one another, walking over the dead bodies of other sheep, and covered in excrement. The broadcasting of the footage on Australian television led to international outrage and renewed calls for a ban on live exports.

Sea travel is not the only form of transport which poses serious risks to animals' welfare. Serious road traffic accidents involving vehicles carrying livestock occur on Europe's roads each year, one of which made the headlines in March 2018 and claimed the lives of 108 calves. The lorry was carrying over 300 dairy calves from Ireland to the Netherlands

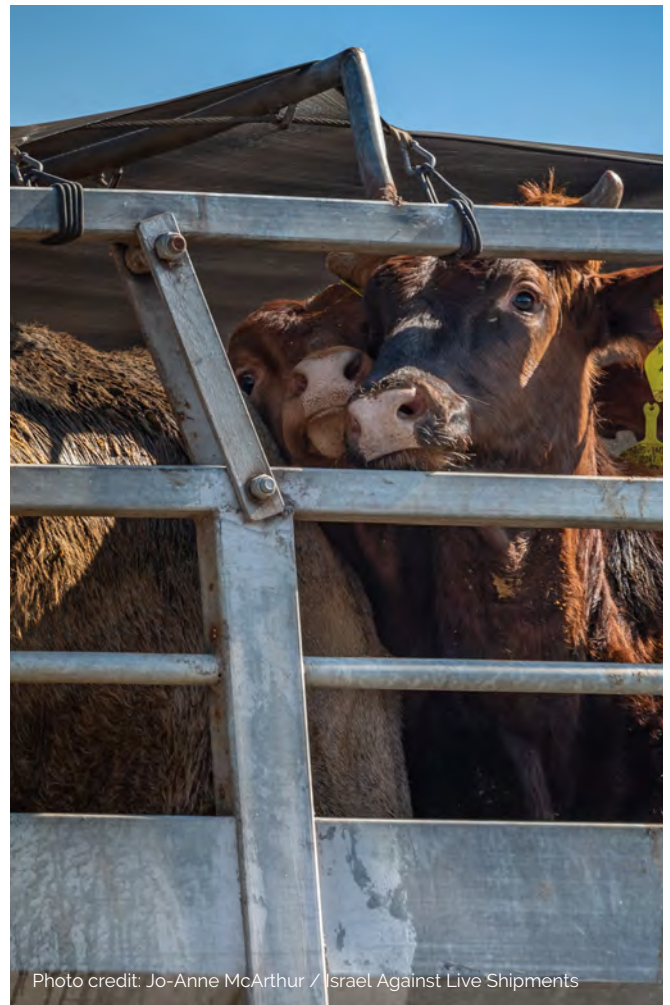


Photo credit: Jo-Anne McArthur / Israel Against Live Shipments

to be fattened for veal, when it collided with another vehicle and overturned, killing over a third of the calves on board.

Not only are the journeys long and arduous, but the treatment of the animals and inhumane slaughter methods at their final destination can also be serious reasons why live exports should be banned. Photographs and undercover footage of animals being offloaded from ships and of the inside of slaughterhouses have revealed horrifying practices in some countries.

Live exports also constitute a public health risk, as transporting animals around the globe is a cause of disease transmission. The 2009 outbreak of swine flu was found to have come from the mixing of influenza strains from pigs in different geographical locations. The authors of a study in the journal *BioMed* warned in 2015 that the "animal trade is an effective way of introducing, maintaining and spreading animal diseases". As we have seen with coronavirus, swine flu, bird flu and mad cow disease, animal diseases sometimes manage to jump to humans and when they do, the results are often profound.

All of these issues have led to prominent animal welfare charities, such as the RSPCA and Compassion in World Farming, campaigning to end the practice. But, for the time being, live exports remain legal.

The law

The transport and export of live animals within the EU is regulated by **Council Regulation (EC) 1/2005 on the protection of animals during transport**, which was implemented in the UK in 2007. The Regulation governs maximum journey times, rest stops, minimum ages at which animals can travel, and vehicle licences and requirements. Many feel that



these rules do not go far enough to protect animals. The EU Commission itself reviewed the rules in 2011 and acknowledged that severe animal welfare problems still persist, mainly due to a lack of effective enforcement of the regulations. In 2018, in a wide ranging review of animal welfare in the EU, the European Court of Auditors reported that there are particular problems with compliance across long journeys and with the unlawful transportation of unfit animals.

In the UK, animal welfare is a devolved issue, and so enforcement arrangements can differ across the four UK nations. The Animal and Plant Health Agency (APHA) undertake inspections at ports and loading sites, but Local Authorities – usually through their Trading Standards departments – are the main enforcers of welfare in transport legislation. In 2018, Local Authorities in England and Wales secured nine convictions for welfare during transport offences (including equidae).

How can we stop it?

Many campaigners are seeing Brexit as an opportunity for the UK to implement a total ban on live animal exports. This is because

under EU single market rules, no Member State can ban live animal exports. This was confirmed by the UK High Court in 2014 in the case of **Barco De Vapor BV & Ors (t/a Joint Carrier) v Thanet District Council** [2014] EWHC 490 (Ch). Following a disaster at Ramsgate Port in which 43 sheep tragically lost their lives, Thanet District Council placed a temporary ban on live animal exports. The Court ruled that this was unlawful because it "breached a fundamental element of the rules governing free trade in the EU", namely Article 35 of the **Treaty on the Functioning of the European Union**.

Whether the UK's exit from the EU will now permit the practice to be ended remains to be seen. There are concerns that a total ban may not be permitted under World Trade Organisation (WTO) Rules. However, groups such as the RSPCA and CIWF have highlighted that the WTO seems to be increasingly receptive to accepting trade restrictions that reflect societal values, such as moral concern for animal welfare. Exports between the Northern Ireland and Republic of Ireland border will likely be the biggest hurdle the UK has to overcome in its efforts to lawfully limit the trade in live animals. The trade is likely to continue elsewhere, however.



In 2018, DEFRA invited evidence on improving animal welfare in transport, particularly on controlling live animal exports for slaughter after the UK's exit from the EU. The Conservative Party's December 2019 manifesto said that Brexit would allow it to ban live exports. However, it did not actually pledge to do so. Instead, it committed to ending 'excessively long journeys for slaughter and fattening'. No indication of what the party considers to be 'excessively long' was given.

Outside of the EU, campaigners are also putting increasing pressure on the Australian government to end live exports. The Australian government did place a ban on the export of sheep to the Middle East from the beginning of June 2019, but this was only temporary and it was lifted at the end of September, once temperatures had decreased. The ban was prompted by the release of the undercover footage in April 2018.

Other improvements made in response to this footage include government-appointed observers travelling on the voyages, an increase in the minimum amount of space required for each sheep, and a decrease in the notifiable mortality threshold from 2% to 1% of sheep during a voyage. However, despite these improved welfare measures, the government shows no signs of any intention to end the practice. The main reason for this is the economic benefit derived from it. As Andrew Fisher, Professor of Cattle & Sheep Production Medicine at the University of Melbourne, has highlighted, concern about live exports in Australia is all well and good, but it's not the Australian public who are fuelling the demand. Perhaps efforts to end the trade would be more successful if greater efforts were made to change hearts and minds in places like the Middle East, where

the demand for live animals exists.

The money brought in by the trade is the principal reason why national and international campaigners' attempts to end the practice have been unsuccessful. As the campaigners are not the consumers, they don't have the buying power to change the practice. This needs to come from consumers at the destination. Perhaps the publicised link between wet meat markets and the outbreak of coronavirus will curtail consumer demand and help change how we treat farmed animals. It will also be interesting to see policy makers' responses to the pandemic. Financial interests often supersede animal welfare concerns, but when the severe risk to public health has been so publicly confirmed, our treatment of animals raised for food may be something that policy-makers can no longer ignore.

Ultimately, lawmakers need to reassess what is permitted and why it is permitted. Can something be justified just because it is profitable or someone's livelihood? Many other trades are profitable but prohibited because they are morally wrong or exploitative.

Industries develop and change all the time in reaction to new knowledge and consumer trends. Take the energy industry, for example. The damage that the burning of fossil fuels does to the planet is now known and, consequently, governments and international organisations are seeking to restrict the use of these fuels and to instead promote the use of greener more sustainable options. One can only hope that similar reform will sweep through the farmed animal industry very soon.

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BEHIND THE LENS: HOW UNDERCOVER FOOTAGE IS RESHAPING OUR LEGAL SYSTEM AND OUR PERCEPTION OF FARMING

BY TIFFANY MITCHELL

Paul McCartney's famous saying, 'if slaughter houses had glass walls...' is becoming a reality. Albeit not literally, but via the lens of undercover investigators. Paul McCartney also said, 'animals raised on modern factory farms and killed in slaughterhouses endure almost unimaginable suffering.' Historically, there has been little transparency in modern day farming. However, there has been a recent global rise in the gathering of undercover footage which is accessible online. The irony and uncomfortable reality is that a lot of the harrowing footage that has resulted in public outcry is of farming practices that are legal and reflect normal industry standards. The legislation and guidelines governing the

welfare of farmed animals is freely available for the general public to access. Thus, one would assume the shock factor of seeing these industry standard procedures in practice would not be so severe, but the reality is that most of us are disconnected from the process of animal farming. Apart from the happy animals on billboards or egg boxes, consumers often only see the end product in the grocery aisles.

This article will shed light on common industry practices, it will evidence the legislation or guidelines encompassing said procedures and, finally, it will end with a brief discussion on how undercover footage is



challenging our morals and reshaping the legal landscape around the world. This article will cover slap marking pigs, disposing of hatchery waste, culling weak piglets, and the use of farrowing crates.

Slap marking

There are several practices used to identify pigs, one of which is slap marking. This is a procedure that involves the use of a metal plate that contains pins in the shape of a farm's identification number affixed to a rod. The pins are dipped into ink and the number is slapped against the pig's skin. This type of identification survives the majority of the processing procedures, unlike an ear tag. This procedure is outlined under DEFRA's Guidance 'Caring for Pigs', under section 2.4 which states, "you can use slap marking when you need to identify pigs immediately before transport." It is also outlined in The Welfare Code of Recommendations for Pigs, in section 1, under Stockmanship.

Disposing of Hatchery Chick Waste

Male chicks are considered a waste product in the egg industry and sometimes in broiler hatcheries. There are several common practices used to dispose of these surplus or unviable chicks, including instantaneous mechanical destruction known as IMD, exposure to gas mixtures, or neck dislocation. Details of these procedures can be found in the Humane Slaughter Association's publications, specifically the guidelines titled 'Instantaneous Mechanical Destruction'. This article will only discuss IMD, otherwise known as grinding or maceration. From the guidelines previously mentioned it states, "the knife-type design has rapidly rotating blades, which effectively shred the chicks... must successfully fragment the chicks..." The operator of the IMD may have to physically

place the chick into the apparatus: 'chicks should be fed into the IMD machine by a trained operator, who manually places chicks into the apparatus, or on a conveyor, in single layers.' The opening of the IMD must guide the chicks directly into the blades of the apparatus. Another type of IMD machine is called a 'roller-type design', whereby there are solid projections that roll into each other, which will result in the chick being crushed between them. In addition to the aforementioned guidelines, these regulations can be located in [The Welfare of Animals at the Time of Killing \(England\) Regulations 2015](#), under Paragraph 44.

Exposés of the practice of disposing of surplus chicks tend to receive a significant amount of backlash from the public. Presumably this is because if this kind of treatment were inflicted on animals in any other context, society would castigate the individuals involved and demand punishment. However, legislation has justified this harm as a form of necessary suffering.

Culling of Weak Piglets

Video footage has shown piglets being hit over the head with objects or swung by their legs. This has, again, resulted in backlash against 'modern' farming. However, these are accepted practices which the industry has been using for many years. Guidelines produced by the Humane Slaughter Association state:

"... neonate lambs, kids and piglets can be humanely killed by delivering a heavy blow to the head... there are two variations of this method: 1. Hold the animal by the back legs and deliver a firm blow to the back of the head with a blunt instrument, e.g. an iron bar or hammer. 2. Hold the animal by the back legs and swing it through an arc to hit the

back of its head with considerable force against a solid object, e.g. a brick wall or metal stanchion."

The guidelines continue that if there is doubt that the animal is not dead, the blow should be repeated. When this type of slaughter is required, there is no requirement for the stockperson to have a slaughtering license, as per section 42 of the 'Code of Recommendations for the Welfare of Livestock: Pigs'.

Farrowing Crates

Pregnant sows are housed in farrowing crates during the final week of pregnancy and during weaning. Arguably, these crates do not allow pigs to express their natural behaviours. Guidelines from DEFRA's guidance publication, 'Caring for Pigs', states, "you must not wean piglets from the sow until the pig is over 28 days old." The sow will be inseminated again within a few weeks of weaning. The sow has a three-year breeding lifespan, in which she will produce up to six litters, before she is sold for meat. Whereas a wild sow could nurse her young for as long as 17 weeks. The regulations on farrowing crates can be located in the **Welfare of Farmed Animals (England) Regulations 2007**. Para 2(6) states, '6(1) The dimensions of any stall or pen used for holding individual pigs must be such that the internal area is not less than the square of the length of the pig, and no internal side is less than 75% of the length of the pig.' However, Para 6(2) states, 'sub-paragraph 6(1) does not apply to a female pig for the period beginning with seven days before the predicted day of her farrowing and ending when the weaning of her piglets is complete.' The result is that a sow can be confined in an area barely large enough to allow her to lay down or stand up for around five consecutive weeks. Many videos have

emerged showing sows chewing on bars, a sign of frustration and boredom. Additionally, there is a tendency for piglets to bite the sow as they fight for access to a teat as litter sizes can often exceed twelve individuals. The sow cannot mitigate this inside the farrowing crate, nor can she respond to her injured or ill offspring. To avoid harsh biting, piglets can have their teeth ground down or cut.

The above practices present welfare concerns for both the piglets and the sow. Crates do not allow expression of natural behaviours such as rooting. Pigs may root for various reasons, such as to cool off, in search of food or in search of comfort. Pigs enjoy interacting with one another and there is an especially strong relationship between a sow and her offspring.



Research shows that pigs have an understanding of time lapse and can prioritise important memories. This begs the question of whether they are aware of the time they spend inside these crates and to what extent. As previously mentioned, they do show signs of boredom and frustration. Arguably, pet owners may feel guilt after crating their pets for several hours; should we apply the same morals to, arguably, equally emotionally intelligent and complex farmed animals? Like marine mammals, pigs have the ability to utilise gestural and auditory stimuli to learn. For example, in one study, two pigs were able to learn 'fetch the frisbee', 'sit', and 'jump'. These facts make it difficult to imagine what life inside a farrowing crate is like for these highly intelligent and complex animals.

Legal Landscape

Undercover videos are putting pressure on the animal farming industry and governments to do better. Conversely, they are also causing the industry to react by implementing legislation to silence said exposés via so-called 'Ag-Gag' laws. These laws have been implemented and tested in some states in the United States. When met with legal challenge from animal protection groups, federal courts in Utah and Idaho have struck down these laws as unconstitutional. Courts found that Ag-Gag laws in Iowa are unconstitutional violations of free speech. Undeterred, however, Iowa passed a new law (SF 2413) creating the offence of food operation trespass in June. As these kinds of exposés become more common, we can expect other countries to attempt to implement similar laws to deter activists and protect industry.

This kind of footage certainly poses important questions and concerns to society. Should protecting business interests take priority over animal welfare? Is it morally acceptable

that in some countries a concerned citizen can legitimately break a car window to retrieve a dog at risk of heat stroke and yet in others, an act of compassion in the same vein, such as administering water to a pig on a slaughter truck, might risk being charged as a criminal offence? Animal rights activist, Anita Krajnc, was charged in September 2015 for criminal mischief in Ontario, Canada. She administered water to a pig via the slots in a slaughter truck whilst the pig was awaiting 'processing' at an abattoir. Fortunately, she has since been acquitted on all charges but the fact she was charged illustrates a need for an international agreement about such matters and clarity about the law in all countries. The case is also of interest because the acquittal was based on the fact that the judge concluded that, in giving water to the pigs, Ms Krajnc had not interfered with the property rights of their owner. The case was not decided on the basis of the need to protect the animals.

Exactly when does, or should, 'necessary' suffering become unnecessary and is this an appropriate concept any longer? Legislation often allows standard practices to continue if the risk to business interests is too great. We see this frequently in animal testing and in animal farming practices. With the emergence of undercover footage and an increasing awareness of the plight of non-human animals, it will be interesting to see if the legal landscape adapts.

Tiffany Mitchell is a Leicester University Law LLB graduate and holds a B.A in Law and Society with a certificate in Criminology from Memorial University of Newfoundland, Canada. She currently works for the UK Centre for Animal Law, A-law as a Legal Support Officer. She has written this article in a personal capacity and the views expressed are her own.



WHY WE NEED TO END MULESING

BY JENNY CANHAM

Mulesing is one of the most concerning mutilation practices that can be done to sheep. FOUR PAWS UK has made ending the practice a priority as part of its work to protect all animals used in the textile industry through the 'Wear it Kind' campaign.

The majority of people in the UK are unaware of the practice of mulesing, as it mostly takes place in Australia where between 75-90% of the world's fine apparel wool comes from. Despite some hesitation from farming communities to adopt mulesing, the practice has now become widespread throughout Australia's wool farming industry and steadily continues today. It is estimated that over ten million lambs are mulesed each year.

The word 'mulesing' refers to a mutilation technique that is performed on Merino-wool producing lambs, usually without providing adequate pain relief. It was developed as a cheap way of managing flystrike in sheep throughout Australia. Flystrike is an infection caused when blowflies lay their eggs on sheep, often on areas with skin wrinkles. Blowflies are particularly attracted to the breech (buttocks) area of sheep, as this wool tends to be stained with urine and faeces. When hatched, blowfly maggots bury themselves into the skin and flesh of the sheep causing an infestation and wounds. If these wounds are left undetected and untreated, the sheep can experience intense pain and, in some cases, death.



The mulesing process involves a lamb, generally between two to twelve weeks old, being restrained on their back in a metal cradle, while strips of skin around the buttocks are cut away using sharp shears. Once the wound heals, the scar tissue left behind leaves the area free of wrinkles and wool, and this highly susceptible area of the sheep is considered 'flystrike resistant'.

This process causes intense pain and suffering for lambs and is an ineffective method of avoiding flystrike, as sheep can still be struck on other parts of their bodies. There are pain-free alternatives to mulesing, such as breeding sheep who are naturally wrinkle-free, which means they are far less likely to get flystrike. This, alongside good animal husbandry, renders painful museling unnecessary. Grazing rotation techniques can also make a significant difference and have enabled some farmers to eliminate the practice.

Mulesing and the law

Mulesing is illegal in certain countries, and New Zealand is the most recent country to ban the practice. However, it is still legal in Australia to perform mulesing on lambs under six months old, with or without the use of pain relief.

The New Zealand Government banned the practice of mulesing when it enacted the **Animal Welfare (Care and Procedures) Regulations 2018**. Under New Zealand law, the surgical removal of a sheep's breech, tail skin folds, or tail skin wrinkles is a criminal offence and carries a \$5,000 maximum penalty if committed by an individual, and a \$25,000 maximum penalty if committed by a corporate body.

The Australian wool industry previously

agreed to cease mulesing sheep back in 2010. However, this is a promise that they later went back on, and no new deadline for ending the practice has yet been set. Prohibiting mulesing or initiating compulsory pain relief cannot be initiated at a federal level in Australia, as most welfare law is the responsibility of the states and territories. Therefore, states need to make their own commitments to end this cruel practice in order to make a nationwide ban possible.

"Prohibiting mulesing or initiating compulsory pain relief cannot be initiated at a federal level in Australia, as most welfare law is the responsibility of the states and territories."

Making this switch will undoubtedly be a long process. Approximately 3,000 Australian wool producers have already stopped mulesing, but they only account for around 10% of national production. However, although the road towards a ban on mulesing in Australia seems to be a long one, it is certainly not hopeless.

Looking to the future

With vegan fashion and animal-free materials on the rise, we expect to see a reduced demand for wool products over the coming years. However, with over 70 million sheep currently being farmed in Australia, it may take some time before we see significant changes there.

There are many animal welfare concerns in the wool industry, but by starting with mulesing, which is a practice that brands are beginning to turn their backs on, this can open up the conversation with those working in the industry and we can help encourage them to

begin thinking about the way in which animals are treated. By changing methods and opting for pain-free alternatives, sheep farmers can help end a practice that is cruel, ineffective and simply unnecessary. This would be a landmark achievement that could pave the way for more changes that would improve the lives of millions of animals.

Calling for More Compassion in Fashion

As part of the Wear it Kind campaign, FOUR PAWS UK is calling for more compassion in fashion, and is demanding that the cruelest farming practices are abolished. Mulesing is not practiced in the UK, but because Australia produces such a huge percentage of the world's apparel wool, we are still importing this cruel product. Therefore, the UK has a responsibility to take action through our influence on supply and demand. Brands and consumers around the world need to come together to firmly call

on the wool industry to take responsibility for animal welfare, and make a concerted effort to transition away from mulesing.

Several UK brands have already banned the use of mulesed wool in its products, including John Lewis, H&M, New Look, Next, Abercrombie & Fitch and Timberland, but there are still hundreds more companies that continue to sell it. There is much work to be done to protect the millions of animals used in the textile industry, whose suffering often goes unnoticed. Working to ban cruel and unnecessary mutilation practices like mulesing would be an important step forward for farmed animals. Brands and consumers must show that they will not support such shocking examples of animal cruelty in the name of fashion.

Jenny is a Campaigns Officer at FOUR PAWS UK. You can find out more about mulesing by visiting wearitkind.org.





THE CASE THAT RECOGNISED 'ETHICAL VEGANISM' IN LAW

BY SHARAN CHOCHAN

Ethical veganism has now been recognised within UK law as a 'protected characteristic', but what exactly does this mean? According to The Vegan Society, veganism is a "way of living which seeks to exclude, as far as possible and practicable, all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose". There are currently an estimated 600,000 vegans living in the UK today, compared with approximately 150,000 in 2006. Veganism is one of the fastest growing lifestyle movements in Britain and effects a significant portion of the population. This article will first explore the facts of a recent landmark case, which attained significant media coverage as it

initiated an Employment Tribunal to consider whether ethical veganism is a 'protected characteristic'. It will then go on to describe how this outcome could affect ethical vegans and non-vegans alike.

Mr Jordi Casamitjana, who was formerly employed by the League Against Cruel Sports, was dismissed after disclosing to his colleagues that the charity had invested its pension funds in companies involved in animal testing. Mr Casamitjana claims that he was dismissed as a result of being discriminated against for being vegan. The charity argue that Mr Casamitjana was not discriminated against and that they dismissed



him because he committed an act of gross misconduct by contravening management instructions not to provide financial advice to his colleagues. Mr Casamitjana brought a claim of unlawful discrimination to the Employment Tribunal.

In order to consider this case, Judge Robin Postle had to first explore whether veganism could be a 'protected characteristic' under the **Equality Act 2010**. The 2010 Act makes it illegal for somebody to be discriminated against if they possess a 'protected characteristic'. 'Religion or belief' is one of the nine 'protected characteristics' covered by the 2010 Act, with other examples being race, sex, age and disability. For a characteristic to be protected, it must pass a series of tests, such as the need for it to be worthy of respect in a democratic society, to be compatible with human dignity, and to not conflict with the fundamental rights of others.

Mr Casamitjana explained to the Tribunal that veganism for him is not simply an opinion or about eating a plant-based diet, but is a philosophical belief that governs every aspect of his life, from the food he eats, to the products he purchases, to the clothes he wears, to the entertainment he pays for, and more. The Tribunal found that the way Mr Casamitjana incorporates veganism into his life does in fact constitute a strong philosophical belief, and that this belief is shared by a significant number of people across the UK. As such, he was an 'ethical vegan', a characteristic worthy of legal protection. On 3rd January 2020, 'ethical veganism' became recognised by the Tribunal as a 'protected characteristic'.

An ethical vegan could face discrimination in a variety of ways, such as direct discrimination, which is where an ethical vegan is treated less favourably than non-

ethical vegans. They could experience indirect discrimination, where rules or policies that apply to everyone are put in place within an organisation but would put an ethical vegan at an unfair disadvantage. An ethical vegan could also be subjected to harassment, which could include unwanted behaviour or an offensive environment, or victimisation, which could occur if they complain about discrimination or harassment and are subsequently treated unfairly.

"The Tribunal found that the way Mr Casamitjana incorporates veganism into his life does in fact constitute a strong philosophical belief..."

In the work setting, ethical vegans are protected by law from dismissals, employment terms and conditions, pay and benefits, promotions, transfer opportunities, training, recruitment and redundancy. The burden will be on the ethical vegan to prove that they were discriminated against for being an ethical vegan. If discrimination has taken place, the Employment Tribunal can order the employer to pay compensation, with interest, to the ethical vegan. The amount could include damages for the hurt feelings of the ethical vegan and any losses incurred. The law has not set a maximum limit on what these costs could be and therefore compensation could be substantial. The Tribunal could also suggest recommendations for the employer to take action to correct the issue or limit the damage carried out. It does not matter how long the ethical vegan has worked with the organisation for them to bring a claim for unfair dismissal due to discrimination, as the law indicates that it is always an unfair dismissal if a person is dismissed because of discrimination.

The law also protects ethical vegans in education, as a consumer, when using public services, when buying or renting property, and as a member or guest of a private club or association. Organisations should therefore be advised to make a conscious effort to make provisions for ethical vegans by offering vegan options within canteens, consider providing leather-free furniture, and insisting upon the use of cruelty-free, vegan soap and cleaning products. Senior members of staff should be trained effectively on how to identify and deal with discrimination, and policies should be reviewed regularly to ensure that they are not indirectly discriminating against ethical vegans in any manner.

Mr Casamitjana won the first part of his claim to establish ethical veganism as a 'protected characteristic'. Settlement was reached between him and his former employer and it was acknowledged that he was not wrong for sharing his concerns with his colleagues. It is clear that recognising ethical veganism as a 'protected characteristic' will have positive implications for the large number of ethical vegans living across the UK. This case could also pave the way for people holding other strong philosophical beliefs to bring discrimination claims to Tribunal.

Sharan Chohan is a practising Solicitor in England and Wales. She holds a degree in Criminology and Criminal Justice BSc (Hons) and has completed a course on Animal Rights Law provided by the Cambridge Centre of Animal Rights Law. Sharan has an enthusiastic interest in animal protection law and became a member of A-law so that she can utilise her legal skills in progressing the animal rights movement. Her proudest moments were conquering Mount Kilimanjaro in 2018 and adopting her rescue dog, Cashew.





AN INTERVIEW WITH ADVOCATES FOR ANIMALS

BY NATALIE HARNEY

Advocates for Animals is the UK's first law firm dedicated to animal protection law. It was founded in 2019 by Edie Bowles and David Thomas, who are both Solicitors at the firm. Their team is completed by Solicitor, Alice Collinson, and Operations Support Officer, Vanessa Johansson.

What prompted you to set up Advocates for Animals (AfA)?

AfA is born of a conviction that creative use of the law can really help animal protection organisations achieve their campaign aims. This is at every stage of campaigning, from finding out information (through undercover investigations and freedom of information

laws), getting hard-hitting messages across in the media without being sued, drafting legislation, using the courts to get the best interpretation of laws, and helping to ensure that gains are not lost. There are very powerful vested interests against animal protection organisations, so they need to be well-equipped to fight their corner.

Compared to their counterparts in the environmental and human rights movements, animal protection NGOs have generally not used the law to further campaigns. Furthermore, prior to Advocates for Animals, animal law was predominantly a volunteer-led practice area. Volunteers are of course welcome, but it is only by professionalising



L-R, Vanessa Johansson, David Thomas, Alice Collinson, and Edie Bowles

animal law that we can give the animals the protection they deserve.

Lawyers cannot work in isolation, of course. Any successful campaign needs a range of skills, including science (to show how animals suffer), the development of ethical arguments, the use of media (both traditional and social), lobbying, and so forth. Ultimately, however, only a properly-drafted, rigorously-enforced law can protect animals from cruelty and shape enlightened societal attitudes.

David and Edie decided to take a leap of faith to get AfA off the ground when working together at Cruelty Free International in 2017, and officially launched the firm in 2019.

What do you hope AfA will achieve for animals in the UK?

Along with professionalising animal protection law and showing that it is a serious area of law, we hope to achieve a great deal for animals in the UK. We are already doing so.

It is not unusual for people to cite the UK as a utopia for animal welfare. Whilst it is true that we have more animal laws than many countries, protection is piecemeal and inadequate. The philosophy underpinning animal legislation is that animals should be protected from cruelty only to the extent that that does not interfere with some human interest (such as cheap meat, medicines, product safety, recreation, clothes and the desire to own exotic pets). And, of course, it is human beings who decide when the interests of animals should be overridden.

In addition, like in other countries, there is a huge problem with enforcement of the laws which do exist. As a law firm dedicated to ensuring that those who break the law, and

those who have a duty to regulate and enforce the law, are held to account, we aim to help change this. After all, a law is not worth the paper it is written on if it is not enforced. By securing enforcement of the law and favourable interpretation by the courts, we hope to improve the treatment of animals and the lives they lead.

Was it challenging to establish a practice specialising in this niche area?

Absolutely. Running a law firm is an ever more complicated business. Before we could launch, we needed to ensure that the business model was sustainable. This was done by highlighting the value of our service and making us accessible to clients.

However, once that was achieved we really have had a positive start. It is not only animal law that is becoming professionalised; the movement in general is. This has led to a greater understanding of why using sophisticated tools like the law is so important. There is awareness that our opponents are very well-armed, and we need to match that. The law can be incredibly complicated.

What kinds of cases have you been instructed in so far?

We have to be mindful of client confidentiality but, since launching, we have been instructed on a wide range of issues. Everything from undercover investigations, using freedom of information laws, advice on libel and copyright, obtaining information, and various forms of litigation. Most of our work goes on behind the scenes: litigation really is always a last resort.

What are your proudest achievements to date?

There are so many, including:

- Advising leading animal protection groups and advocates on a range of issues so that they are well-equipped to challenge those in authority;
- Helping to further various campaigns, both here and abroad;
- Advising on multiple successful undercover investigations;
- Saving 80+ pigs from slaughter;
- Protecting sanctuary animals;
- Speaking in the UK Parliament, East African Legislative Assembly and French Senate on animal protection issues;
- Attending and speaking at conferences all over the world;
- Growing our amazing team to four.

Much of our work is international and includes European Union law (most of which will continue to apply in the UK long into the Brexit process).

What does a typical week at AfA involve?

At the moment it mostly involves seven days, for one. Running a new business means we are all doing the job of four people. Everything from setting up systems through to communication and events.

In terms of legal work, it is really unpredictable. We are beholden to client instructions, of course. One week you could find yourself giving general advice on the Animal Welfare Act 2006, and the next you could find yourself looking specifically at the trade in donkey skins in East Africa. This makes life so interesting and it is such a privilege to be involved in so many amazing campaigns.

What, in your experience, are the most effective legal tools that can be used to help further animal interests?

Animals are used and abused in most areas of society; therefore, to protect their interests, a multi-faceted approach is needed. This can include challenging false advertising claims, protecting the interests of activists and groups who campaign, through to obtaining information from public bodies, and directly challenging an unlawful practice. All of these techniques help level the playing field for animal campaigners and animal interests in a world currently governed by human interest.

What do you feel are the biggest animal protection challenges in the UK at the moment? Are any of these particularly unique to farmed animals?

Unfortunately, there are many. To narrow it down to farming practices, the intensification of farming and attempts to secure ever higher yields (whether that be meat, eggs, or dairy) is causing unimaginable suffering. However, there does seem to be growing discomfort with these practices, so we are confident that the tide will turn. You can see this from the huge explosion in veganism. Animal experiments are another huge area of concern, as it is the trade in wildlife, and the various recreational activities involving animals.

How did you all get into animal law?

Edie - I have always cared for animals. However, I had no idea that I would have a career focused on trying to protect them. At some point during my law studies I came across A-law. I immediately got involved and set up its student group. I managed the group for almost 10 years. For a while I assumed that my involvement in animal law would be through this volunteering. I initially worked in intellectual property/technology law, but was lucky enough to be able to crossover into animal law when a job came up at Cruelty

Free International. It was from here that David and I decided to set up Advocates for Animals. Incidentally the skills I picked up managing the Student Group at A-law have come in very useful managing a law firm.

David - I ran an RSPCA Dog's Home as a volunteer when I was 18 and, when I qualified as a lawyer, knew I wanted to use the law to benefit animals. First, I became a civil litigation partner in a West End firm of solicitors before moving into the voluntary sector as a human rights lawyer. Gaining experience in a wide-range of law really helps. For many years, I have been a consultant to Cruelty Free International and other animal protection organisations, and a trustee of Compassion in World Farming. I have been Chair of the RSPCA and am currently Vice-Chair.

Alice - I only discovered animal law as an option (and growing field) close to the end of my training contract. After some time practising in civil litigation, and volunteering with the UK Centre for Animal Law (when time allowed), I discovered an animal law masters in the States and decided to take a chance and specialise. This provided me with the opportunity to meet many others in this field internationally, and I subsequently gained experience as a consultant in wildlife law.

Vanessa - My mission in life is to seek justice for animals and reduce suffering as much as possible. When the opportunity arose to join Advocates for Animals, I was eager to help build a landmark organisation in the animal law field.

What advice would you give to aspiring animal lawyers?

Trust your own journey. While your peers will be going down a very structured path of applications, vacation schemes and training

contracts, your journey will not be as clear. Animal law is a new field and, as such, you really do need to blaze your own trail, which is absolutely possible.

It is worth considering what other area you could work in while you are waiting on an animal law job to come up. This might be a practice area that overlaps, such as public or criminal law, or a different role in an animal charity, such as policy advisor. This can pave the way to working as a lawyer. Volunteering is really important to get yourself known and show what you can do.

And finally, Action, Action, Action! This last point applies to anyone wishing to pursue any career; there are too many amazing people out there for you not to have to go above and beyond. This could mean attending relevant conferences, staying up to date on the law, and jumping at any work experience. But perseverance will pay dividends.



Visit advocates-for-animals.com to find out more about Advocates for Animals and the Team.



THE AGRICULTURE BILL: “PUBLIC PAYMENTS FOR PUBLIC GOODS”

BY LYDIA ROBINSON

On 16 January 2020, the long awaited and updated **Agriculture Bill** was published. This is a significant piece of legislation, which heralds a new approach to the allocation and distribution of farming subsidies in England. The Bill proposes a system that rewards farmers based on the use of their land for the provision of “public goods”, as opposed to the current system whereby the amount of subsidy is proportional to the size of the maintained agricultural holding.

The current UK subsidy system is based on the EU’s **Common Agricultural Policy** (CAP), which the UK has been a part of since 1973. Under this scheme, implemented in the UK

through Direct Payments, including the Basic Payment Scheme, the amount of subsidy a farmer receives is calculated according to the amount of agricultural land they maintain, with a minimum size requirement of 5 hectares. The premise of the existing scheme results in a significant disparity in the distribution of the funds, with smaller farms being ineligible for the subsidy and the largest 10% of UK agricultural holdings receiving half of the total amount of UK funding available in 2016, according to analysis published by DEFRA in September 2018.

Michael Gove has described this system as providing “subsidies for inefficiency”, as it



promotes the farming of unproductive land solely to maximize the acreage qualifying for the subsidy. This land could alternatively be utilised as a site for wildlife. DEFRA's analysis also highlighted concerns that the current scheme has created a systematic reliance on the funding which inhibits innovation and distorts rents and land prices.

The new policy framework introduced in the Bill will aim to ensure that farmers and landowners who provide the most "public goods" through management of their land or agricultural practices, receive the largest financial benefits.

A "public good" in the context of the draft legislation is a non-excludable (capable of being enjoyed by everyone) practice or service that provides a benefit to wider society, whilst yielding no direct financial reward to the provider. The production cost of a "public good" is unaffected by the number of individuals consuming the benefit.

There are 10 defined "public goods" in the updated Bill, including "protecting or improving the health or welfare of livestock", as well as "managing land or water in a way that protects or improves the environment". Other examples relate to improving the health of soil and plants, enhancing cultural or natural heritage and managing livestock in a way that mitigates or adapts to climate change.

By defining the protection and improvement of animal welfare as a "public good", the Government have recognised that this is an issue that impacts on the wellbeing of an increasing proportion of the public who are concerned about animal welfare.

By way of an example, some buyers feel good when they support a business

producing organic, free-range style eggs. By extension, that trade improves the wellbeing of members of society who support such production methods, despite not participating in the transaction directly. In contrast, the enriched caged egg market has a negative effect on some individuals, due to the concern that continued product demand may result in more eggs being produced in this way. This concept is understood by economists as "externalities", whereby third parties who are external to a situation can be negatively or positively affected by the nature of it. The provisions in the Bill therefore aim to compensate farmers and land managers who provide a "public good" by implementing measures designed to achieve improved animal care, which in turn delivers positive benefits to wider society.

"The provisions in the Bill aim to compensate farmers who provide a "public good" by implementing measures designed to achieve improved animal care, which in turn delivers positive benefits to wider society."

Some individuals may find this anthropocentric rationale troubling, and consider that animal welfare should be valued for its own intrinsic qualities rather than any monetary benefit (in terms of subsidies, increased productivity, quality of meat) it would bring to farmers. However, in a capitalist landscape, improving animal welfare for its own sake is unlikely to ever be a compelling argument. The realities of running a viable business means that welfare investment must be balanced against profit margins and company growth. Subsequently, there are concerns that farmers who might not be eligible for a "public good" subsidy could move to more intensive farming models

in an effort to increase profits, which would be more damaging to wildlife habitats and have a negative overall impact on farm animal health and wellbeing.

The explanatory guidance to the Bill provides various practices that could be taken to qualify for each "public good". Examples given of practices that protect or improve the health or welfare of livestock under the scheme include "measures to incentivise participation on health or disease control schemes, support the financing of testing for a particular disease or strengthen animal welfare outcomes, such as reducing the impact of health conditions and ensuring animals have access to materials that allow them to express their natural behaviours". However, the government has yet to specify how these practices will be quantified or assessed.

The new scheme and associated replacement subsidies will be phased in from 1 January 2021 until the end of the transition period in 2028, giving the government at least 12 months to provide further policy guidance on eligibility and assessment for the funding.

There are other provisions in the Bill which have the potential to positively impact animal welfare. These include the creation of a new service to improve data collection and management of information relating to the identification, movement and health of animals. This will help to monitor live exports or distance travelled prior to slaughter, which is increasingly being recognised as a stressful experience for animals. It will also aim to reduce the spread of livestock diseases by identifying routes travelled in order to mitigate the effects of an outbreak and assist with containment.

The new Bill provides an opportunity to

reverse the environmental damage inflicted through decades of adherence to a system of agricultural subsidies which have focussed on production and economies of scale. By legislating to "de-link" subsidies from the size of the holding, the government is not only incentivising practices that promote environmental protection and animal health and welfare measures, but also recognising that these issues are of national significance and a concern to a growing proportion of the UK's population.

Currently there is little information available to assess in any detail the impact of the proposed scheme on farmed animal welfare and health, and farmers and consumers alike eagerly await much needed clarity. It is notable, however, that the RSPCA, the World Wildlife Fund and the National Office of Animal Health have all publicly expressed support for the Bill.

Although details are sparse, the classification of animal welfare and health as a legislative "public good", and the provision of subsidies to improve welfare standards should help to create overlap between the objectives of animal advocates and stakeholders in the agricultural industry, which in turn could promote innovation and collaboration within this field on an unprecedented national scale.

Lydia is a trainee solicitor in the Agricultural Litigation team at Michelmores LLP. Lydia volunteered at a wildlife sanctuary prior to starting her training contract, and began writing for A-law as a way of merging her interest in animal welfare with her legal career.



HOW SMART ARE FARM ANIMALS AND WHY SHOULD WE CARE?

BY CHRISTIAN NAWROTH, LUIGI BACIADONNA, JUDITH BENZ-SCHWARZBURG

Farm animal welfare is a major concern for society and food production, and if we want to improve it, we need to understand why farm animals behave the way they do. This does not only require a better understanding of their behavioural repertoires, but also of their inner mental lives. Accordingly, approaches to assess farm animal welfare have developed from concepts such as the five freedoms [1] to more animal-centred approaches that, for example, also include the needs [2] and individual differences of farm animals. [3] All concepts emphasise the importance of having detailed knowledge of farm animals' cognitive capabilities (i.e. their ability to acquire, process, store and use information [4]) to

avoid exposing them to poor welfare conditions, such as those induced by stressful management practices. By increasing our understanding about the mental lives of farm animals, we can facilitate efforts to adjust husbandry systems and enrichment items to meet the needs and preferences of farm animals.

What do we know about the mental lives of farm animals?

Over the last decades, our interest in the cognitive capacities of non-human animals has increased dramatically. However, a lot of work has focused on primates, [5] and on



other 'showcase' species, such as corvids, [6] dolphins, [7] and dogs. [8] Compared to the formerly mentioned taxa, surprisingly little is known about those animals that we as humans keep in their billions in often intensive industrial settings, namely farm animals.

We now know, for example, that pigs can outsmart other pigs in a foraging task: dominant pigs quickly start to exploit their knowledge about the food locations of less dominant individuals. [9] To reduce this exploitation, the latter can develop sophisticated strategies to not give away hints on where food can be found until the dominant pig is out of sight. [10]

"...surprisingly little is known about those animals that we as humans keep in their billions in often intensive industrial settings, namely farm animals."

Farm animals also show sophisticated behaviour directed towards humans. When goats are confronted with a task that they cannot solve themselves, they quickly start alternating their gaze from the problem to an experimenter nearby and back again. [11] This is behaviour that has also been observed in dogs and toddlers, and one that some would define as a plea for help.

But we have also learned that housing and management conditions can impair the cognitive abilities of farm animals. When calves are single housed (a common practice in many Western countries), they have much more trouble to change their learning strategies compared to their group-housed counterparts. This, in turn, might decrease their behavioural flexibility in later life, too, and exposes them to higher levels of stress and frustration when changes in their housing

environment take place. The separation of calves from their mothers has not only immediate welfare problem, but it also seems to impair the social and cognitive development of calves later in life. [12]

However, what farm animals, such as cows, pigs, and goats, are capable of when it comes to their cognitive capacities is often yet unknown as this research field is still emerging. Many cognitive aspects have only been preliminarily targeted, including the capacities to discriminate quantities (numerical discrimination), to mentally represent objects that are out of sight (object permanence), and to cooperate and be empathetic with each other.

Over the last decades, additional emphasis has been given to the understanding of the emotional lives of farm animals because of increased public concerns about their welfare and husbandry procedures. [13] Scientists now show an increased interest in how emotions are expressed by farm animals, and how these emotions can be reliably measured. However, this comes with a pitfall: the impossibility to assess emotions directly in species that do not verbally communicate. [14]

Drawing from the literature on human psychology, animal welfare researchers have been eager to develop tests that do not rely on verbal communication and provide indirect evidence of emotions in farm animals. For example, a well-established paradigm, the so-called judgement bias paradigm, has been successfully deployed in a wide range of farm animals to investigate how their cognitive processing is affected by their emotional states. [15] In line with predictions from the human literature, farm animals raised in aversive conditions, poorly managed, and with

experience of negative interactions with humans make more pessimistic choices and act as if they are expecting negative outcomes from ambiguous situations. [16]

Current research now also wants to know whether these emotions can be 'contagious' in a group of animals, which in turn might have welfare implications. [17] But beyond the applied welfare logic, our increasing understanding about the complex mental lives of farm animals gives rise to more general ethical questions.

Why does this matter from an ethical perspective?

As highlighted above, it is widely recognised so far that many animals, including farm animals, can experience pain and are able to suffer. This fact, together with one of the most important normative principles in animal ethics, the principle of

non-maleficence, [18] leaves us with a useful basis for animal welfare ethics: we are asked not to cause extensive unnecessary harm to others without their consent which can, in the case of animals, mean that we have to provide for the basic physical and psychological needs of animals when they are under human care. [19] Welfare indeed seems to be highly "[dependent] on the mental, psychological and cognitive needs of the animals concerned". [20] The animals' needs, on the other hand, link with their socio-cognitive capacities. For example, learning and memory capacities are assumed to have an impact on the capacity of an animal to cope with housing conditions, [21] and with changing social conditions, such as the separation and re-grouping of 'stock'. [22]

Furthermore, scholars increasingly focus on the link between complex social interactions, like pro-social behaviour in



animals, and welfare. [23] This research not only contains significant welfare relevance, but it also shows that we are dealing with (animal) subjects who are much more psychologically complex than we have assumed so far. This ultimately forces us to ask whether good welfare is good enough for them. In humans at least, such complex psychologies are usually protected by strong inalienable rights, like a right to life, to freedom, and bodily integrity.

The discovery of such capacities in other species than farm animals has not only lead to constant amendments of animal welfare legislation, but also to profound animal rights claims supported by prominent biologists and philosophers [24] The US-based Nonhuman Rights Project, for example, works through the common law on behalf of animal clients, such as great apes and elephants, to secure legally recognised fundamental rights for them. What if pigs and cows are not so different from these species? Are we allowed to use them the way we do as long as their welfare is considerably good? Or shouldn't we use them at all in the ways that we do?

We conclude that general knowledge on how farm animals perceive and interact with their environment is of huge importance for a range of stakeholders, from animal welfare scientists, to citizens, to philosophers. We have already realised that links between cognition and welfare are important from an economic perspective in terms of their relation to production success. [25] In the future, our growing understanding about the abilities and needs of animals will increasingly challenge us beyond welfare and cause us to question the very systems we have established in order to use them for our purposes.

Christian is a Postdoctoral Researcher at the Leibniz-Institute for Farm Animal Biology in Dummerstorf, Germany. He is interested in how farm animals perceive and interact with their physical and social environment, and how this knowledge can ultimately be used to improve management conditions and human-animal interactions.

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INDIA'S PERSPECTIVE ON THE WELFARE OF FARM ANIMALS

BY DR. SOHINI MAHAPATRA

India, through its laws, adopts a welfarist approach towards animal law, rather than a purely rights-based approach. The primary legislation, the **Prevention of Cruelty to Animals Act 1960** (PCA Act), makes animal cruelty a punishable offence, although only with a relatively small fine. It does not impose restrictions on use of animals for 'necessary' purposes, thereby making the use of animals for food and other purposes an exception to cruelty. Lamentably, even though the statute is almost six decades old, its impact and implementation has been rather ineffective. The Act still awaits a much-needed amendment to increase penalties. However, thankfully, the judiciary has started to

acknowledge the importance, and need for, recognition of a higher status for animals.

This has led to the delivery of landmark judgments by the Apex Court, whereby the judiciary has enhanced the status of animals from merely ensuring their well-being to bestowing them with rights per se. In 2014, the Supreme Court of India in **Animal Welfare Board of India v A. Nagaraja (2014) 7 SCC 547** set a new benchmark by extending the right to dignity and fair treatment to all non-human animals. This is significant for two reasons. Firstly, it shows there is scope to interpret existing laws in a way that ensures optimal benefit can be extended to non-human



animals. Secondly, it suggests a move away from a welfare approach towards a more robust framework where animals are not perceived as mere objects at the mercy of humans and the laws created by them. The Court ascertained that animals have multiple rights, much like humans do, and placed the duty and obligation for ensuring these rights on humans.

In light of this decision, the Ministry of Law and Justice directed the Law Commission of India (LCI) to review the existing laws and international practices regulating the transport and housekeeping of poultry birds. In its 269th Report (2017), the LCI produced an extensive report entitled, '**Transportation and House-keeping of Egg-laying hens (layers) and Broiler Chickens**'.

At the outset, the Report highlights the relevant legal and non-legal policy provisions related to poultry animals in India. These include internationally recognized principles, such as: the Five Freedoms contained in the World Organization for Animal Health's Terrestrial Animal Health Code; the Directive Principles of State Policy, which allows the State to organize agriculture and animal husbandry in accordance with modern and scientific developments; and the various State laws. The Report examines existing laws as well as major judgments delivered by the Courts that are relevant to the welfare of animals. However, it is also pertinent to mention that protection, improvement of livestock, and the prevention of animal diseases falls under the State List of the Seventh Schedule of the Constitution. This means that each State has the power to frame and implement its own laws and rules with respect to the keeping and transportation of poultry. This leads to multiplicity of laws throughout the country, making consistency all the more difficult.

The Report considers the particulars of the keeping of layers and broilers in India. India broadly has two categories of poultry farming: large-scale production and backyard farming. Whilst the former is designed to meet industrial and commercial demands, the latter is practised in rural areas following traditional farming methods. Both categories have their own shortcomings. The problems in backyard farming include:

- Birds are exposed to predators and are more prone to diseases, leading to ineffective production;
- Birds, under this kind of farming, also have lower hatchability due to lack of a constant optimal environment;
- As a measure to reduce costs, low cost caging techniques are typically adopted, which are not only detrimental to the health of the birds, but also affect standards; and,
- Birds often experience reduced immunity, as they are isolated from other flocks and wildlife, due to being accommodated in hen houses.

"The statutes or rules pertaining to farmed animals are applicable only to commercial farms, thereby leaving a sizeable number of birds unprotected."

An additional problem is that backyard farming is not covered by any legislation. The statutes or rules pertaining to farmed animals are applicable only to commercial farms, thereby leaving a sizeable number of birds unprotected.

The problems with large-scale commercial poultry farming are also many, such as:

- Birds kept in battery conditions are cramped in small wired cages, restricting not only their natural movement but also

making it difficult for them to stand straight or spread their wings;

- The floor space available to birds is often only as big as the size of an A4 sheet of paper;
- Battery cages are often overcrowded, stacked in multiple tiers, with on average 5-10 birds cramped into one cage;
- These poor living conditions have a tremendous impact on the health of farmed birds, leading to bodily injuries and increased risk of diseases; and,
- Another significant problem stemming from the poor and unhygienic living conditions is the overuse of antibiotics.

Apart from the issues mentioned, the absence of express regulations on the housing and stocking density of poultry, coupled with poor implementation of existing rules, only adds on to the plight of farm animals. Therefore, keeping in mind

the problems discussed above, the LCI in its Report gave the following recommendations:

- Complete prohibition of the use of battery cages; there should be a paradigm shift to cage-free and cruelty-free farming;
- Effective implementation of the existing legal framework, making all of the stages involved in poultry farming - housekeeping, transit and slaughter - humane;
- Distinction should be drawn, through a process of certification, between produce obtained from cage-free farming and battery-cage farming;
- There should be a review of the penalties under the PCA Act; and,
- The **Prevention of Cruelty to Animals (Egg Laying Hens) Rules** and the **Prevention of Cruelty to Animals (Broiler Chicken) Rules**, which have been pending for a long-time, should be



produced at the earliest opportunity.

India is the third largest producer of eggs in the world, according to the Government of India's statistics. It is therefore all the more important to have laws, rules, and regulations in place, which not only stress the welfare of farm animals, but also devise strict enforcement mechanisms. The LCI Report is important because it emphasises animal welfare, especially for farm animals, highlighting crucial issues encountered in the poultry industry. To create more awareness about the importance of animal welfare, it is vital that bodies such as the LCI take up these issues and are more vocal about them.

"...focusing on cage-free poultry production, both in terms of eggs and broiler chickens, might be beneficial in changing industry standards."

Out of the recommendations listed in the Report, most of which depend on the execution of laws by the authorities, the consumer-oriented approach should also be furthered. Consumers around the world have played an important role in controlling, and bringing about change in, the market. Starting with ecofriendly goods, to products which have not been produced using child labour, to products that have not been tested on animals, consumer demand creates an impact on industry norms and standards. Thus, focusing on cage-free poultry production, both in terms of eggs and broiler chickens, might be beneficial in changing industry standards.

Additionally, the PCA Act itself needs a desperate overhaul in order to create greater deterrence. Furthermore, layer and broiler-specific Rules have not yet been passed. The

Prevention of Cruelty to Animals (Egg Laying Hens) Rules were published in early 2019, opening for comments and suggestion, but even a year later, there has been no progress. The Broiler Chicken Rules have not yet been published. It is now incumbent on legislators to improve the efficacy of laws protecting poultry.

Sohini is a Research Associate at the National Law University Odisha. She has written widely on Animal Law and recently published her monograph, 'Non-Human Animals and the Law'. Read A-law's review of the text [here](#).



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