



Creating a compassionate world

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Committee Secretary
 Senate Legal and Constitutional Affairs Committee
 PO Box 6100
 Parliament House
 Canberra ACT 2600

Sent by email: legcon.sen@aph.gov.au

Criminal Code Amendment (Agricultural Protection) Bill 2019 **Submission on behalf of Animal Liberation Queensland**

Thank you for the opportunity to provide a submission in relation to the Criminal Code Amendment (Agricultural Protection) Bill 2019¹. We wish to take this opportunity to raise several concerns regarding the proposed amendments, as outlined below.

Animal Liberation Queensland (ALQ) is an independent animal advocacy organisation founded in 1979. ALQ is a not-for-profit organisation in the state of Queensland and a registered charity. ALQ campaigns on a broad range of animal protection issues and represents the interests of all animals. ALQ is well known for our investigation that exposed the cruel and illegal practice of live baiting in the greyhound racing industry in Queensland, as seen on 4 Corners in February 2015. More information is available at www.alq.org.au.

Excessive laws aimed at hiding animal cruelty from public scrutiny

The proposed amendments would create disproportionate offences for the publication of materials in the public interest (it is not enough to rely on protections under the Public Interest Disclosure Act).

ALQ has been raising public awareness and investing animal protection issues for the last 40 years. There have been countless occasions where material that shows horrific scenes of animal cruelty has come into our possession, either anonymously received from workers or concerned

¹ https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Agriculturalprotection

members of the public, or through our own investigations. Almost always, if the animal cruelty has occurred in the animal agriculture sector, authorities do not prosecute the issue, and journalists are reluctant to publish the story. Independent charities therefore provide vital role for increasing transparency and encouraging public discourse around the treatment of animals.

The proposed laws do not target trespass, they target publication of footage. For example, publication of footage showing animal cruelty that was recorded legally from a public road with camera aimed over the fence, could still lead to jail time for the publication of the footage if authorities deemed such publication could be deemed to intend to incite others to trespass. Meanwhile the offender of such neglect or animal cruelty routinely does not face any punishment, despite public outrage.

Rather than attempting to discourage the publication of footage, ALQ recommends the government look at *why* people would be so concerned about the welfare of another individual that they would take great personal risk and potentially even trespass to expose or prevent such cruelty, or to publish such material so that the public is in a better position to make an informed decision about these industries.

ALQ conducts lawful activities and we do not seek to incite trespass. We hold concerns that simply publishing footage in the public interest, footage that may have been ignored by authorities, may be viewed by authorities as an incitement, and could therefore have a chilling effect on free speech and the right of the public to know where their food comes from.

Issues such as climate change and animal cruelty are of increasing concern to Australians. According to the Federal Government supported Futureeye report², based on a survey of 1,521 people, 95% of respondents viewed farm animal welfare with concern, and 91% want reform to address animal welfare issues.

There is currently a concerning lack of transparency around protection of animal welfare in animal agriculture, and an extremely low rate of prosecutions (see 'Current regulatory failure' below). Animal Liberation Qld shares the view of the majority of Australians that animal welfare laws need to be addressed and transparency should be a key part of addressing concerns. But instead of increasing transparency, these proposed laws seek to increase secrecy and block public discourse.

We encourage open debate around these serious issues of public interest and concern. The government, and all members of parliament, should play a key role in this debate and in addressing the public's concerns around animal welfare. This Bill is rather an attempt to silence members of the public who have grown frustrated by the government's perceived lack of action to address issues of public concern. This is a threat to public dissent and the role of whistle-blowers in ensuring our regulations and governance are adequate, fair and just in protecting the public interest.

² <http://www.agriculture.gov.au/SiteCollectionDocuments/animal/farm-animal-welfare.pdf>

Existing laws already cover trespass offences

Australia already has laws in place that deal with trespass in each state. Additionally, several other mechanisms exist for prosecuting anyone guilty of trespass, as well as breaches of biosecurity and other offences.

The proposed laws are *not* targeted at protecting farmers or preventing trespass, and in fact do not even cover someone guilty of trespass at all. Instead, the amendments are aimed squarely at preventing the publication of material which the industry would prefer to hide from public scrutiny.

Current regulatory failure

The current regulatory failure is an exacerbating factor in the lack of public confidence in the animal agriculture sector. Studies³ show that prosecution for farmed animal cruelty is extremely rare by authorities, even when a large number of cases deemed 'critical' or 'major' are reported. Furthermore, as the system is complaints based and surprise inspections or audits are extremely rare, if at all, so the animal cruelty being reported in the farming sector would be a very small fraction of what takes place.

Take the recent case of the pig semen collection facility at Wacol, Brisbane. ALQ received anonymous footage taken at this facility in January 2019. The footage shows animal cruelty and neglect, where a worker, who was a vet (so knew full well that the animal was suffering), left a boar to die slowly of the course of a week. Other boars in the same facility suffered cruelty and neglect as shown in the footage. ALQ handed over all footage to authorities, and this was investigated by Biosecurity Qld (part of the Department of Agriculture). Despite several issues being found, and at least one boar having to be killed during the initial inspection due to the severity of injuries or neglect, no prosecutions were made against the workers or owners at this facility. Sadly, this is the case for almost all animal cruelty cases committed against farmed animals in this country. It is no wonder the public has little confidence in the industry and government.

ALQ believes the current framework where most animal cruelty complaints are handled or overseen by the Department of Agriculture at the state level, the same department responsible for the growth and viability of the industry, represents a conflict of interest. This conflict of interest is similar to that which existed in the greyhound racing industry in most states, prior to ALQ (and Animals Australia)'s footage airing on 4 Corners, which led to government inquiries in most states.

Many of MacSporran's recommendations from the MacSporran Inquiry⁴ are just as applicable to the current agriculture industry as they were to the greyhound racing industry. In essence, the Inquiry recommended that the commercial and integrity roles be split between two separate bodies to minimise the conflict of interest that exists in a self-regulatory regime.

³ Standards and Standard-Setting for Companion and Farm Animal Protection in Queensland, Australia, Steven White, Griffith University, June 2016

⁴ Queensland Greyhound Racing Industry Commission of Inquiry, Final Report - Alan MacSporran QC, 1 June 2015

Summary

We recommend this Bill be rejected in its entirety.

It is important for any amendments to be balanced, well considered, and that proposed penalties are proportionate to the crime. The current proposal is out of step with existing penalties for more serious crimes. We encourage the Committee to consider all implications for transparency and public interest as well as the impact on potential whistleblowers who may seek to expose cruel (and often illegal acts).

The government should instead look at ways to increase industry transparency, encourage public discourse, and overhaul the current authorities which are responsible for animal cruelty investigations and prosecutions in regard to farmed animals in this country.

Thank you for considering these views. If you require further information, please do not hesitate to contact the undersigned.

Yours faithfully



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