



AUSTRALIAN FOOD SOVEREIGNTY ALLIANCE

Submission on the Criminal Code Amendment (Agricultural Protection) Bill 2019

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Prepared by

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Addressed to:

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Table of Contents

<u>ABOUT THE AUSTRALIAN FOOD SOVEREIGNTY ALLIANCE (AFSA)</u>	3
<u>SUMMARY OF AFSA'S RECOMMENDATIONS</u>	4
<u>RECOMMENDATION 1 – ADOPT THE PROPOSED CHANGES</u>	4
<u>RECOMMENDATION 2 – CARVE OUT FOR WHISTLE BLOWERS AND JOURNALISTS</u>	4
<u>RECOMMENDATION 3 – EXPLORE FURTHER WAYS TO PROTECT FREEDOM OF SPEECH AND ANIMAL WELFARE</u>	5
<u>ABOUT FOOD SOVEREIGNTY</u>	7

About the Australian Food Sovereignty Alliance (AFSA)

The Australian Food Sovereignty Alliance (AFSA) is a farmer-led civil society organisation made up of organisations and individuals working together towards a food system in which people can create, manage, and choose their food and agriculture systems. AFSA is an independent organisation not aligned with any political party. We have around 700 farmer, individual, and organisational members with approximately 40% of our members being farmers.

AFSA provides a balanced voice to represent farmers. We connect small- and medium-scale Australian farmers for farmer-to-farmer knowledge sharing, work with all levels of government for scale-appropriate and consistent regulations and standards for agriculture, and advocate for fair pricing for those selling to the domestic market.

We are part of a robust global network of civil society organisations involved in food sovereignty and food security policy development and advocacy. We are members of the International Planning Committee for Food Sovereignty (IPC), La Via Campesina – the global movement of peasant farmers, and Urgenci: the International Network for Community-Supported Agriculture, and work regularly with Slow Food International and many of its Australian chapters. We also support the Australasian representative on the Civil Society Mechanism (CSM), which relates to the UN Committee on World Food Security (CFS).

Our vision is to enable regenerative and agroecological farming businesses to thrive. Australians care now more than ever about the way their food is produced, including its social and environmental impacts. Food produced on small- and medium-scale regenerative farms is increasingly in demand, and government is bound to heed changing community expectations and facilitate and encourage the growth and viability of regenerative agriculture, thereby protecting the environment and human and animal health.

As a key stakeholder and representative body of small- and medium-scale producers Australia-wide, AFSA welcomes the opportunity to provide a submission on the Criminal Code Amendment (Agricultural Protection) Bill 2019.

Summary of AFSA's Recommendations

Recommendation 1	We recommend the adoption of the proposed changes to the existing Criminal Code because inciting trespass and destruction of property on agricultural land should be an offence
Recommendation 2	We note with approval the proposed carve out for whistle blowers and journalists
Recommendation 3	We believe the opportunity should be taken to explore ways to protect freedom of speech and animal welfare to reflect the change in social licence in this area

Recommendation 1 – Adopt the proposed changes

The Criminal Code Amendment (Agricultural Protection) Bill 2019 seeks to introduce two new offences relating to the use of a carriage service to incite trespass, property offences, or other offences on agricultural land.

While AFSA members share the concerns of all Australian farmers when it comes to illegal incursions by animal activists, we also promote transparency in farming practices and welcome vigorous debate on topics such as animal welfare. Our vision is to enable regenerative and agro-ecological farming businesses to thrive. Australians care now more than ever about the way their food is produced, including its social, environmental and animal welfare impacts.

We believe that scrutiny, including that offered by animal activists, is to be welcomed but only when it is done respectfully and lawfully. Where farmers such as our members have a goal of transparency in food production, they can feel particularly vulnerable to incursions by animal activists.¹ The risk to our businesses and families is increased by the fact that many of our member farmers conduct farm gate or farm shop sales, sell locally at farmers markets or through community groups, and thus present a real, human face to farming.²

The proposed changes would also go some way towards addressing the rise of social media activism and the threats that can be made over such platforms. It is not uncommon amongst our farmer members who have an active social media profile to be targeted by militant activists who really (and naively) just want the world to stop eating meat.

Recommendation 2 – Carve out for Whistle blowers and Journalists

AFSA is of the view that this is perhaps the strongest aspect to the proposed legislation. We agree that this defence is required so that freedom of speech and association is maintained. AFSA

¹ “Victorian livestock farmers speak out against abuse from ‘aggressive vegans’” ABC Rural News, 15 April 2018. Interview with Ben Falloon, owner of Taranaki Farm, who “believes he is the target of attacks because he is ‘low hanging fruit’ and is so transparent about his farming”.

² If requested our member farmers would be happy to share their encounters with animal activists which include online hate speech and malicious heckling at farmers markets. We have also tried to engage with noted animal activist groups to discuss common ground as we do care for our animals and agree that intensive agricultural practises are highly problematic.

appreciates that civil disobedience is often a key catalyst to change for the greater good. Where animal welfare is compromised at particular farms, abattoirs and intensive animal production sites then without whistleblowing from concerned members of the public or news reporting by credible journalists, such offences could go unpunished.

Regulatory moves to limit freedom of speech and disclosure are often described as “ag-gag” laws. The hyperbole around factory farming and ag-gag laws includes allegations of activists as “terrorists”, factory farms as places of “horror”, and vegan “secret agendas”. These terms serve to polarise opinion rather than try and find common ground, and ag-gag laws risk reaffirming the perception that farmers have something to hide. AFSA maintains that transparency is the only appropriate response for farmers to make, with such transparency being called to account whenever necessary by credible whistleblowers and journalists.

Recommendation 3 – Explore further ways to protect freedom of speech and animal welfare

AFSA submits that a review of existing animal welfare legislation would be timely and go some way in addressing the concerns of animal activists who have lost faith in a system that appears to sanction unethical and inhumane treatment of animals in the farming context.

AFSA commends the entreaty given by the Federal Government to the various States and Territories to examine their own positions on this issue and notes this is occurring.

For instance, under the auspices of its Biosecurity Act, NSW is implementing amendments with effect from 1 August 2019 that will see trespassers being able to be handed on the spot fines of \$1000. In addition, fines up to \$220,000 for individuals and \$400,000 for groups/corporations could be applicable along with prison sentences.

Queensland has also taken the biosecurity approach and legislated for on the spot fines of over \$600 for invading farms and meat works during protests.³

While it is heartening to see other legislatures taking action on this issue, AFSA believes that using biosecurity alone as a reason to increase penalties for trespass is misguided as there is not always the hard evidence that activists cause a biosecurity breaches. Moreover, biosecurity claims have in many cases been demonstrated to be spurious, based on “unfounded overgeneralisations”.⁴ Moreover, AFSA notes that while biosecurity risks are inherent in intensive stock production systems, small scale farmers are generally more resilient due to land management practices and sustainable stocking rates

For its part, Victoria has commissioned a public inquiry into the Impact of Animal Rights Activism on Victorian Agriculture, and to date 120 written submissions have been received.

³ Biosecurity and Other Legislation Amendment Regulation 2019 (Qld)

⁴ See, for example, the sudden removal on biosecurity grounds of non-chicken poultry from a streamlined application process for pasture poultry production, discussed in “Duck and Cover – Epidemiological and economic implications of ill-founded assertions that pasture poultry are an inherent disease risk” Wallace, Robert G (an assessment commissioned by AFSA) September 2018

At the international level, AFSA notes that this issue has been debated globally for some time. Disappointingly it is not yet possible to point to any jurisdiction that seems to have found the right balance between animal welfare, freedom of speech, and personal safety and privacy concerns.⁵

Industry self-regulation and the lack of enforcement action has clearly led to community cynicism generally, but has truly disheartened animal activists and those farmers who do hold animal welfare as a high priority. This has certainly contributed to heightened animal activism. No wonder there are fears of “ag-gag” laws entering this arena,

Moreover, when a community feels that justice for the crime has been fairly meted out, it is less likely to take matters into its own hands and threaten the activists. This has been recently seen in the case of Cara Garrett who has received alarming personal threats since her case was decided by the Latrobe Valley Magistrates’ Court⁶. Ms Garrett was fined \$2 and placed on a good behaviour bond. She was also ordered to pay the farmer whose livestock she stole \$250 in compensation. The understandable outcry against this trivial sentence recognises that clearly the punishment did not fit the crime, but also reveals a dark undercurrent that poses a potential risk to the safety of the activists themselves.

Stronger penalties and assurance in them being imposed would help restore farmers’ confidence in the justice system. It would also provide activists with much clearer parameters within which to exercise their freedoms of speech and association.

In conclusion, AFSA looks forward to further debate on this topic and would welcome the opportunity to discuss further if required.

⁵ “Attack on Factory Farm Whistleblowers Goes Global” The Dodo, February 16 2014

⁶ “ ‘You’re a walking talking corpse’: Vile threats toward vegan activist” The Age, April 13, 2019

About Food Sovereignty

“Food sovereignty asserts the right of peoples to nourishing and culturally-appropriate food produced and distributed in ecologically-sound and ethical ways, and their right to collectively determine their own food and agriculture systems.”⁷

The core of food sovereignty lies in the following principles:

- Food is a human need and a basic right, rather than a commodity.
- Food systems should be democratically constructed, responding to diverse social, cultural and environmental conditions.
- Food systems should be based on a strong commitment to social justice: for farmers, food system workers, and the most vulnerable members of our society who experience food insecurity.
- Resilient food systems require long-term environmental sustainability, transitioning away from dependence on fossil fuels and chemical inputs.
- Resilient and sustainable food systems will be more localised and regionalised.
- Trade in food and agricultural products can enhance economic and social well-being but should be conducted on the basis of international solidarity, respecting and not undermining the food sovereignty ambitions of other peoples and countries.⁸

⁷ The Australian Food Sovereignty Alliance, <<https://afsa.org.au/?s=food+sovereignty+>>.

⁸ Patel, R. (2009). What does food sovereignty look like? *Journal of Peasant Studies*, 36(3), 663-671.