



AUSTRALIAN FOOD SOVEREIGNTY ALLIANCE

Submission on the Impact of Animal Rights Activism on Victorian Agriculture

9 August 2019

Prepared by

Australian Food Sovereignty Alliance

Addressed to:

aglawsinquiry@parliament.vic.gov.au

Table of Contents

<u>ABOUT THE AUSTRALIAN FOOD SOVEREIGNTY ALLIANCE (AFSA)</u>	3
<u>SUMMARY OF AFSA'S RECOMMENDATIONS</u>	4
<u>RECOMMENDATION 1 - RETAIN THE CURRENT REGULATORY ENVIRONMENT</u>	4
<u>RECOMMENDATION 2 - ENFORCEMENT OF THE CURRENT REGULATORY REGIME SHOULD BE A KEY FOCUS</u>	5
<u>RECOMMENDATION 3 - EXPLORE WAYS TO PROTECT FREEDOM OF SPEECH AND ANIMAL WELFARE</u>	7
<u>ABOUT FOOD SOVEREIGNTY</u>	9

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 impact of animal rights activism on Victorian agriculture.

Summary of AFSA's Recommendations

Recommendation 1	We recommend that existing applicable regulation be retained as we believe that sufficient regulation already exists to cover illegal activities by unauthorised persons on agricultural and associated industries. We would propose however that an exemption be introduced to permit public interest disclosures by whistleblowers or journalists.
Recommendation 2	We recommend that enforcement of offences under existing legislation be consistently and fairly applied in order to address farmers' concerns that their privacy, businesses, and the integrity of their biosecurity systems have been compromised by animal activist activity.
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 license in this area, and note that this is an issue that is being debated across a number of Australian jurisdictions and internationally.

Recommendation 1 – Retain the current regulatory environment

AFSA notes that the existing crime of trespass under section 9(1)(e-g) of the Summary Offences Act 1966 (Vic) applies to unauthorised entry onto agricultural properties. Further, the removal of livestock constitutes theft under section 4 of the Crimes Act 1958 (Vic).

The current maximum penalty for trespass in Victoria is 25 penalty units (approximately \$4000). Penalties for theft range from a maximum of 10 years jail time, fines, community correction orders and suspended sentences amongst others.

There are various other Victorian regulations applicable to illegal actions taken by animal activists, for instance under the Prevention of Cruelty to Animals Act 1986 (Vic)¹ and the Livestock Disease Control Act 1984 (Vic).²

Given the range of regulation already applicable to illegal incursions and behaviour on private agricultural land, AFSA does not believe that a further regulatory regime is required. We would however suggest that an exemption be drafted to the trespass regulations for public interest disclosures by whistleblowers and journalists as this would provide a legislated right to voice credible and compelling concerns around animal welfare.³

However AFSA members are very concerned with the rise in illegal incursions and “hate speech” by animal activists. We 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

¹ For instance the removal/transportation of stock by activists may subject unnecessary pain or suffering in breach of section 9.

² For example, if animals are removed from farms the activists may be in breach of the requirement to house livestock only with a property identification code, which carries a penalty in the vicinity of \$9670.

³ Note the Federal “Criminal Code Amendment (Agricultural Protection) Bill 2019” contains such exemptions.

their food is produced, including its social, environmental and, particular to this submission, animal welfare impacts.⁴

We believe that public 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.⁵ 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.

We note with great concern those Victorian farms or rural enterprises that have recently decided to cease operation due to activist activity, and the job losses in regional areas that naturally occur when this happens. For example in July 2019, following incursions by animal activists, a Victorian free range poultry farmer decided to close down:

"The family were already dealing with health issues and the invasions were the final straw.

"Over the next months we lost our love of farming, lost our lifestyle," the farmer said.

"The effect on my wife was getting worse and worse, and so we said to ourselves we have to leave." ⁶

Recommendation 2 – Enforcement of the current regulatory regime should be a key focus

AFSA proposes that the crimes of trespass and theft in the context of agricultural properties would be suitable candidates for **on the spot fines** and **minimum sentences**.

On the spot fines are already applicable to many offences in Victoria. The existing fines system in Victoria could therefore be utilised under the banner of the Infringements Act 2006 (Vic). On the spot fines could be given by a police officer if the offender was able to be intercepted at the time of the offence, or sent in the mail if the offender were able to be tracked down. This would also reduce court time were the only other option prosecution of the offence. AFSA notes that the New South Wales legislature is introducing on the spot fines of \$1000 in this space.

AFSA's only concern with an on the spot fine regime is the potential for this to be seen as restricting freedom of speech and association. AFSA appreciates that throughout history civil disobedience has been 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 this 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

⁴ "Australia's Shifting Mindset on Farm Animal Welfare" Futureye, February 2019. This report was commissioned by the Federal Department of Agriculture and revealed that 95% of people are concerned about farm animal welfare, 92-95% view farm animals as sentient (depending on which species), and 91% wish to see reforms in this space.

⁵ "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".

⁶ "The Last Straw: Family gets out of farming after activist attacks" The Weekly Times, July 24, 2019

“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, and thus any on the spot fine regime would need to be carefully constructed so as to not repress freedom of speech.

Further, if a minimum penalty were prescribed so that magistrates and judges were required to order a penalty that fits the crime, this would ameliorate the angst of farmers who have recently seen penalties as low as \$1 imposed for breaking biosecurity laws and good behaviour bonds for theft of livestock⁷.

Imposing a minimum penalty for criminal trespass and theft would also signal to activists that their behaviour is viewed as seriously as any other type of trespass and theft, for example home invasion and burglary.

While many in the community appreciate that animal activists act from altruistic motives, this ought not give them licence to commit what would in any other circumstance be seen as abhorrent criminal behaviour. AFSA notes for instance that home invasion is considered a Category 2 offence in Victoria, meaning a custodial sentence is mandatory.

In addition, **proper enforcement by the judiciary of the crimes of trespass and theft** in this circumstance would actually help ensure the ongoing safety of animal activists. 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’ Court⁸. 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 Victorian justice system. This confidence has taken a huge battering in Victoria particularly, when by stark comparison the penalties for illegal animal activism in other states such as Western Australia are being imposed so much more rigorously.⁹

⁷ Activist Cara Garrett was fined \$1 for breaching biosecurity laws, \$1 for housing livestock without a property identification code, and placed on a six-month good behaviour bond for removal of three goats and a lamb from the Gippy Goat farm in December 2018.

⁸ “ ‘You’re a walking talking corpse’: Vile threats toward vegan activist” *The Age*, April 13, 2019

⁹ Two members of an animal rights group who broke into separate WA farms where livestock was stolen were fined \$8000 between them in April 2019 after both pleading guilty to the crimes. “*Vegan activists plead guilty to trespassing in WA piggeries*” *The West Australian*, Tuesday 30 April 2019

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

AFSA submits that a review of existing animal welfare legislation¹⁰ 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.

Industry self-regulation and the lack of enforcement action by organisations such as the RSPCA (due to it being grossly understaffed and underfunded) 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.

Responses of other Australian and international jurisdictions

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 meatworks during protests.¹¹

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”.¹² 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

AFSA maintains a more grounded approach for Victoria to take is to beef up the penalties and manner in which they can be imposed under existing legislation relevant to trespass and theft.

For its part, the Federal Government is considering a Bill¹³ that will create two new offences relating to the use of a carriage service to “transmit, make available, publish or otherwise distribute material with the intention to incite another person to trespass on agricultural land”. AFSA welcomes this change and notes that the publication of the Aussie Farms map and associated incitement was of great concern to its members. While AFSA encourages debate and free speech, this should never be at the cost of personal safety and privacy. We note with approval that the proposed Federal Bill includes a carve out for public interest disclosures by whistleblowers and journalists, which would allow the continued scrutiny of animal welfare practices which a system requiring transparency so very desperately needs.¹⁴

¹⁰ For example the Livestock Disease Control Act 1994 (Vic), Livestock Management Act 2010 (Vic), and the Prevention of Cruelty to Animals Act 1986 (Vic)

¹¹ Biosecurity and Other Legislation Amendment Regulation 2019 (Qld)

¹² 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

¹³ The “Criminal Code Amendment (Agricultural Protection) Bill 2019

¹⁴ Section 474.47(2) and (3) of the Criminal Code Amendment (Agricultural Protection) Bill 2019

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.¹⁵

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

¹⁵ "Attack on Factory Farm Whistleblowers Goes Global" The Dodo, February 16 2014

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.”¹⁶

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.¹⁷

¹⁶ The Australian Food Sovereignty Alliance, <<https://afsa.org.au/?s=food+sovereignty+>>.

¹⁷ Patel, R. (2009). What does food sovereignty look like? *Journal of Peasant Studies*, 36(3), 663-671.