

Response of the
Australian Bowhunters Association,
the Australian Deer Association,
Field and Game Australia,
the Sporting Shooters Association
of Australia (Victoria) and
Victorian Hound Hunters Inc.

to the DIRECTIONS PAPER
for a new ANIMAL WELFARE
ACT for VICTORIA



Background:

It is important to recall the origins of the legal recognition of the obligation to ensure the welfare of animals and the radical transformation of that obligation into the ideology underpinning animal rights.

Bramwell Report

The formal recognition of obligations concerning the treatment of animals is founded on the recommendations of the Technical Committee to Enquire into the Welfare of Animals kept under Intensive Livestock Husbandry Systems which the British Government established in 1964 to inquire into practices in intensive livestock systems.

The Committee considered *'the scientific evidence bearing on the sensations and sufferings of animals derived from anatomy and physiology on the one hand and from ethology, the science of animal behaviour, on the other'*¹ and concluded that:

*'there are sound anatomical and physiological grounds for accepting that domestic mammals and birds experience the same kinds of sensations as we do.... It is justifiable to assume that the sufferings of animals are not identical with those of human beings; it is equally justifiable to assume that they suffer in similar ways; the valid point where the line should be drawn is very difficult to determine and must be a matter of balanced judgment. It is extremely important to realise this.'*²

Consequently, the Committee's report, known as the Bramwell Report, said that *'an animal should at least have sufficient freedom of movement to be able without difficulty, to turn round, groom itself, get up, lie down and stretch its limbs'*.³

Five Freedoms

The Committee recommended the establishment of a Farm Animal Welfare Standing Advisory Committee, which was replaced by the Farm Animal Welfare Council in 1979. Professor John Webster, a founding member of the Council, expanded and refined these principles. His revision was adopted by the Council and since then has been known as the Five Freedoms.

*'The Five Freedoms may appear to describe an ideal but unattainable state (Eden). However they should not be interpreted as an absolute standard for compliance with acceptable principles of good welfare but as a practical, comprehensive checklist of paradigms by which to assess the strengths and weaknesses of any husbandry systems.'*⁴

More recently, Professor Webster said this:

*'The phrase (Five Freedoms) began life as the Four Freedoms, introduced by Franklin Roosevelt in his address to the US Congress in 1941. These he identified as freedom of speech, freedom of worship, freedom from want, freedom from fear. It should be obvious that these, like the later Five Freedoms, are aspirations. He was not making it an article of law that all the people should experience all of these perfect freedoms all of the time.'*⁵

However, the RSPCA says that *'the Five Freedoms was the first widely accepted evidence-based framework to capture the key aspects of animal welfare in one model.'*⁶ While it is true that the Five Freedoms are the foundation of animal welfare, it does not mean that the principles are evidence-based as distinct from evidence influenced. Aspirations hardly constitute evidence. Nor do checklists.

The press statement announcing the Professor Webster's formulation of the Five Freedoms makes the limit of the value of the Five Freedoms clear. It says that *'the Council also accepts that animal welfare raises certain points of ethics which are themselves beyond scientific investigation.'*⁷

Whether or not statements which are aspirations and which are not an absolute standard for compliance meet the 'pub test' of being evidence-based is not an academic issue. It is clear that, while the Five Freedoms are evidence-informed, they are not evidence-based.

A legislative requirement that decisions be evidence-based may seem non-controversial and self-evident. However, animal rights proponents would argue that the Five Freedoms provide the

basis for all decisions affecting the treatment of animals because it is evidence-based.

Speciesism

The Discussion Paper places great weight on the proposition that animals are sentient. However, this proposition is not a startling, new revelation. As has been stated 'sentience' underpinned the recommendations of the Technical Committee in 1967. Acceptance of 'sentience' underpins the current Act and the drafters of the current Act did not need to state the fact because it does not add value. It is as meaningful as saying that human beings are human.

What is new is that an ideological or philosophical belief, speciesism, is being imposed on the basis that animals are sentient. The application of speciesism is an example of the Farm Animal Welfare Council's statement that animal welfare raises points of ethics which are beyond scientific investigation.

The nub of the validity of animal rights ideology is whether or not humans are unique, a consequence of which is, to quote Professor Webster, that human beings have '*dominion over the animals whether we like it or not*'.⁸

The creator of animal rights ideology, Professor Peter Singer, the author of *Animal Liberation* which he published in 1975, coined the term speciesism to describe the belief that humans are unique — a belief overwhelmingly accepted in most cultures.

The Greens, which Professor Singer co-authored, encapsulates this ideology:

'We hold that the dominant ethic is indefensible because it focuses only on human beings and on human beings who are living now, leaving out the interests of others who are not of our species, or not of our generation',⁹ and

'The revolutionary element in Green ethics is its challenge to us to see ourselves in universal terms... I must take into account the interests of others, on the same footing as my own. This is true, whether these others are Victorians or Queenslanders, Australians or Rwandans, or even the non-human animals whose habitat is destroyed

*when a forest is destroyed*¹⁰.

Professor Singer follows the logic of his speciesism belief. Thus:

*'(T)here are many nonhuman animals whose rationality, self-consciousness, awareness, capacity to feel, and so on, exceed that of a human baby a week or a month old. If the fetus does not have the same claim to life as a person, it appears that the newborn baby does not either, and the life of a newborn baby is of less value to it than the life of a pig, a dog, or a chimpanzee is to the nonhuman animal.'*¹¹

Animal Rights

The ideology underpinning animal rights does not have anything to do with sentience. What sentience does is to provide a platform and a cover to impose a radical ideology over the rules, regulations and practices governments impose on the owners of animals.

As Professor Ron Gill has observed:

*'Although the activists groups have done a great job of limiting the use of the term "animal rights" and use a more palatable term "animal welfare" in their messages put out to the general public, most of the leaders of these "animal welfare" groups had a long history of animal rights advocacy prior to becoming leaders of the more middle of the road animal welfare advocacy groups.'*¹²

Consciousness of the radical animal rights ideology, which reflects the beliefs of a minority of the community, and the agenda of activists to exploit and use as platforms long-recognised and accepted facts such as animals are sentient, underpin this response to the Discussion Paper.

It is agreed that values are as relevant to the development of legislation and policy as data and facts. However, it is important that processes are transparent and that the difference between the two is both understood and articulated. This includes avoiding creating a platform which allows the prosecution of one (e.g., values) under the pretense of honouring the other (e.g., facts and data).

Endnotes

- 1 Report of the Technical Committee to Enquire into the Welfare of Animals kept under Intensive Livestock Husbandry Systems, p.10
- 2 Report of the Technical Committee, p.9
- 3 Report of the Technical Committee, p.13
- 4 *Animal Welfare: limping Towards Eden* (Chicester, Blackwell Publishing, 2005), p.13
- 5 'Animal Welfare: Freedoms, Dominions and "A Life Worth Living", *Animals*, 24th May, 2016
- 6 RSPCA website, *What are the Five Freedoms of Animal Welfare?*
- 7 Press Release, Farm Animal Welfare Council, 5th December, 1979
- 8 John Webster, *Animal Welfare: A Cool Eye towards Eden* (Oxford, Blackwell, 1994), p.3
- 9 Bob Brown and Peter Singer, *The Greens* (Melbourne, Text Publishing 1996), p.44
- 10 *The Greens*, p.55
- 11 Peter Singer, *Practical Ethics* 2nd edition (Cambridge, CUP, 1995), p.169
- 12 Ron Gill, Ph.D., Professor and Extension Livestock Specialist, Texas A&M University, *Animal Welfare and the "Five Freedoms"*

Responses to proposals

General Observation

For the purposes of clarity and transparency and to avoid confusion the proposed Act should be called an Animal Rights Act and not an Animal Welfare Act. As demonstrated in the Background, the two terms are not synonymous.

Sentience

Option 3 – refer to in definition of animals.

Recognition of sentience has underpinned the approach to the treatment of animals and our responsibility to them since the Brambell Report. Consequently, referring to sentience in the definition of animals is all that is necessary.

Minimum standard of care

The issue will be the standard of care proposed and not the principle.

Prohibited Acts

The proposition that offence categories should be based on the nature of a person's treatment of animals rather than the extent of the harm inflicted may seem unexceptional. However, it is difficult to respond to the proposal until the suggested categories are known. For example, if there is an offence for unnecessarily striking an animal, what is the response to an owner's

being reported for hitting a large dog which is endeavouring to break its leash to chase another dog in a park, lightly across the nose with their hand or a roll of paper? How would striking an animal be categorised?

Controlled procedures

No comment

Consistency of the framework

Option 1 - Continue to allow for some broad exemptions where they meet the objectives of the new Act.

This approach would be consistent with a modern approach to governance which is to regulate to the minimum extent necessary. If there is confusion, and recreational hunting organisations do not find confusion to be a significant challenge, the solution is either more education or improving the drafting of the regulations and codes of practice.

Clarity of framework

Option 1 – a limited set of regulations.

This would be consistent with good governance principles which are to regulate as little as is possible.



National code of practice standards

Option 2 – adopt relevant contents from national standards and regulations. Circumstances vary between states, rendering the one glove fits all approach less than optimal. Further, COAG processes generally operate on a consensus basis, the effect of which is that decisions have to be made without dissent. The distinction between ‘agreed’ and ‘without dissent’ often is lost. If the alternative approach were adopted, Victoria could find itself adopting standards with which it did not agree but which it had not opposed at a national meeting to enable other states to adopt a different approach. This would be fundamentally at odds with the democratic process.

The role of co-regulation

The consequence of this approach would be a ratcheting effect. The standard would be either the statutory standard or the industry standard, whichever is the higher. This approach would lead to confusion with its being necessary to know whether the statutory standard or the industry

standard was the higher. The law needs to be certain and certainty is delivered by basing a system on minimum, legislated standards.

The role of scientific knowledge and expert opinion

Option 3 – include guidance on how science and expert opinion should be considered in the development of regulations and codes of practices.

‘Knowledge’ regularly is in the eyes of the beholder, especially in the eyes of a group of ‘experts’ who view the world through the same prism, and opinions are thoughts not facts. An example is the RSPCA’s claim that the Five Freedoms are evidence based, despite statements from those responsible for the development of these freedoms which make clear that the freedoms are evidence-informed, but not evidence-based.

Better Compliance and Enforcement Model

No comment.

