

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

I wish to be part of a nation deeply committed to improving animal welfare. I support any actions that seek to alleviate animal suffering and to put an end to animal cruelty where it occurs.

I am troubled that the proposed federal ag gag laws are a gross violation of our democratic freedoms and right to know. If these laws go ahead, people who expose cruelty will be more hamstrung and punished than those who perpetrate it.

In the course of social justice movements, such as the fight for animal rights, a core principle exists to expose cruelty and exploitation, challenge the status quo, and demand change.

Without activists and whistleblowers we wouldn't have any of our current knowledge about the vile corruption and cruelty in the greyhound racing industry, or of the cruel conditions and behaviour that occurs as lawful practice in intensive farming.

Adequate trespass laws already exist, which activists are aware of when they take action. This Bill is not about that, it is about entrenching power in the agricultural industry to get away with gross cruelty behind closed doors.

I'm especially troubled by the broad provisions regarding "incitement", clearly designed to prosecute people just for publishing material that is already publicly available.

I fully reject any attempts to minimise and remove

mechanisms that would increase transparency and accountability to this end.

The Criminal Code Amendment (Animal Protection) Bill 2019 seeks to deter and punish those who would expose to the public visual evidence of animal cruelty in commercial animal industries. It would do this by effectively criminalising activists and investigators while turning a blind eye to the perpetrators of that cruelty.

Indeed, the bill would result in greater penalties being imposed on those who record/expose animal cruelty, than those who would commit the cruelty which remains an illegal act.

Support for the bill comes those commercial interests that would benefit from less scrutiny of their animal welfare practices. It would ensure that such businesses could continue profiting or benefitting from the mistreatment and suffering of animals.

Without the voices and actions of Australians from all walks of life and political persuasions; without the journalists, activists and investigators of animal welfare issues; without the hard work of our animal welfare organisations across Australia, animals suffering systemic and casual cruelty would forever remain voiceless and unnoticed behind closed doors.

This bill protects enterprises and associated persons and ventures from having evidence of systemic and long-term animal cruelty collected and exposed to the public and to legal scrutiny and accountability.

It also gags public revelations of animal cruelty by meting out draconian and disproportionate punishment to the investigators, whistle-blowers, advocates and media who would make and accumulate that visual record evidencing the animal cruelty.

It should be noted such bodies of evidence have been necessary for the successful prosecution of animal cruelty cases and for informing public demand for change to alleviate harm inflicted on animals by animal enterprises. This bill if passed would also diminish the chances of successful legal prosecution of cases against perpetrators of animal cruelty and neglect.

The bill turns a completely blind eye to the perpetrators of animal cruelty, despite the illegality of those crimes and the public demand for such crimes to be investigated and prosecuted.

Animal activists have done public health a service in exposing the overcrowded, unhygienic conditions of animals on factory farms, where antibiotics are needed in such quantities to fend off disease that mutations are facilitated. Intensive animal agricultural practices are themselves the biosecurity threat, not the activists. How healthy can it be to ingest meat full of adrenaline from terrorised animals?

Were the Government to live up to its responsibility of protecting our fellow beings from exploitation and abuse, instead of leaving it to under-resourced charities, police, etc, welfare activists would not have to resort to actions such as trespass.

The bill unnecessarily duplicates existing laws with the risk of double punishments, confused legal processes and compromised investigations by authorities.

State and federal laws already exist to protect all persons including “animal enterprises” from trespass, property damage, and conduct involving bodily injury, threats, harassment or intimidation. Those laws are already adequate.

Indeed I submit this bill would confuse and complicate law enforcement of those existing statutes.

I note the Joint Media Organisation’s observation that the Australian Government Annual Deregulation Report 2014 states that “poorly designed and inefficient regulation has been imposing unnecessary costs on us all” and that the government in 2014 removed “over 10,000 unnecessary and counter-productive regulations and redundant acts of parliament”.

I suspect that this bill is drafted to suit the political and commercial agendas of its proponents and to ensure a criminal conviction to suit those agendas.

This is dangerous territory indeed. As noted by Barristers Animal Welfare Panel, the RSPCA, and other submissions in 2015, it risks serious abuse of legislative power to secure criminal convictions for political or commercial advantage.

The bill seeks draconian and disproportionate penalties for those seeking to obtain evidence of cruelty in animal enterprises that exceed maximum penalties for the actual infliction of animal cruelty.

Under this bill, it is conceivable that an individual could be imprisoned for breaking a lock or rescuing a sick or injured hen, which would certainly be an unjust outcome.

I condemn the inadequacy of current laws that purport to protect the welfare and wellbeing of animals within industry and other so-called “animal enterprises”.

The lack of well-funded independent overseeing of animal cruelty protection and the inadequate monitoring and enforcement of existing animal protection laws by government agencies continues to condemn animals to short lifetimes full of pain, fear and great suffering beyond the spotlight of the public gaze.

It is the lack of will and commitment from government that necessitates organisations such as Animals Australia, Animal Liberation, PETA and the many other courageous animal groups, journalists and committed individuals to investigate, bear witness to, and collect evidence of systemic industry-wide and long-term animal cruelty.

It is a lack of government support and funding that finds inadequately funded or legally empowered animal protection enforcement bodies such as the RSPCA, who are then put in a position to have to act on a reactive basis, after the harm is done.

The significant impact such investigations have had on the development of animal welfare law, on enabling prosecutions against animal cruelty, increasing consumer and public awareness and forcing changing practices by offending

industries and businesses cannot be underestimated.

This bill would put an end to the community's most formidable weapon in exposing and prosecuting widespread routine and systemic cruelty: Covert surveillance in long-term investigations.

The whole nation was horrified by eposés regarding the treatment of live export sheep in transit and live baiting in the greyhound industry, but the nation had a right to know.

This bill is an undisguised and clumsy attempt to end the scrutiny of offending animal industries, by punishing the investigators and protecting the offenders. It offers nothing to repair our completely ineffective animal welfare regulatory framework.

There has been no evidence presented to support a case that this bill is required or appropriate. It undermines basic legal principles necessary to a fair and just legal system. It has no social license.

I suggest this bill not proceed. Instead I would recommend:

Employees, owners and operators, associates and others connected to animal facilities who suspect or are witness to animal cruelty or neglect in that enterprise should be compelled to report it.

Strong and effective legal protections should be afforded to those who thus are required to report animal cruelty.

Minimum Standards and Codes of Practice should meet public expectations of what constitutes humane treatment of animals.

They should not codify animal cruelty that would otherwise be prosecuted under existing animal protection legislation.

The Australian Government should reinstate withdrawn funding for the Australian Animal Welfare Strategy and its advisory committees and commit to supporting animal welfare initiatives at a federal level, and prosecuting breaches to its own regulations such as the ESCAS that pertains to live exports.

Departments of Agriculture represent the interests of industry and should not be responsible for overseeing animal welfare investigations.

An Independent Office for Animal Welfare (IOAW), should be introduced by the federal government to oversee and coordinate state based IOAWs. All IOAWs should be empowered, resourced and compelled to fully investigate, enforce and prosecute all animal welfare cases, including not only domesticated animals but also native and non-native wildlife.

More and adequate funding and resources should be provided to animal protection organisations such as the RSPCA and The Animal Welfare League who are charged with investigating animal cruelty complaints.

Investigating organisations and animal welfare investigative officers such as the police and the RSPCA should be provided with appropriate powers and resources to detect long-term systemic animal cruelty and to enforce and prosecute breaches. This includes the ability to covertly record

investigated premise and unannounced inspections of facilities.

Industries and sectors who use animals in any way should be encouraged by government to promote public transparency and accountability to ensure their treatment of animals meets social and ethical expectations of humane treatment. CCTV cameras in slaughterhouses would be a good initiative.

Activists who expose cruelty should not be persecuted for their selfless actions in trying to make a kinder world.

Mary Forbes