Part 5:
Animals in Agriculture and Live Animal Export

Bobby Calves and the Dairy Industry:
The Milk of Human Kindness?
Desmond Bellamy


“There is no difference... between the pain of humans and the pain of other living beings, since the love and tenderness of the mother for her young ones is not produced by reasoning, but by imagination, and this faculty exists not only in man but in most living beings.”

- **Maimonides** *(Rabbi Moshe ben Maimon) (1135 – 1204) Guide for the Perplexed*[^1]

1 Introduction
Sharman claims in her paper on farm animal welfare in Australia[^2] that no major farm animal reforms have yet been achieved. This raises the question

of how or, indeed, whether farm animal reforms can be contested and won through legal reform alone. If welfare reforms are to be successful, they can only be driven by supply or demand. Concentrating on ‘supply’ requires legislation to manage industry’s activities through compliance (voluntary guidelines) or deterrence (punitive regulations). Australian welfare regulation reflects both approaches, tending overwhelmingly to the compliance model. The ‘demand’ method attempts to persuade consumers to insist on welfare improvements or boycott products seen as produced through cruel methods. At one end of this spectrum is the RSPCA’s “paw of approval” seal, attempting to identify ‘humanely’ processed animal products; at the other end abolitionists like Francione who reject all reforms as counter-productive tokenism and advocate boycotts of all animal exploitation and a vegan world. Between those positions are the major animal protection organisations such as Animals Australia (AA), Animal Liberation and PETA who lobby for more humane farming methods while simultaneously encouraging supporters to forego animal products. This paper looks at both aspects of the campaign for welfare reform through the lens of one issue: the slaughter of about 700,000 male dairy calves annually in Australia as ‘waste products’, the commercially worthless by-products of keeping milking heifers pregnant in order to maintain high levels of milk production.

2 Is Reform Achievable?

Improving the lot of animals, whether by liberating them or just resizing their pens, requires significant effort or sacrifice by humans, rewarded only by clear consciences (since the animals cannot offer any reciprocal material trade-off).

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4 “If you see the RSPCA logo on a carton of eggs, packet of pork, chicken or turkey, you can be assured that animals involved in the production of these products were raised under high animal welfare standards.” RSPCA, Shop Humane <http://www.rspca.org.au/shophumane/>
Ellis\textsuperscript{6} states that improving animal welfare makes humans more comfortable with continuing exploitation by offering a pretence of protection. Powerful forces back this pretence – the cultural attachment to animal products (in this case dairy products) and the huge profits generated from developing and fulfilling these desires.

Voiceless, the Australian “animal protection institute”, points out that the movement promoting animal law reform is growing rapidly, as evidenced by nine Australian universities now offering animal law courses\textsuperscript{7}. Their patron, JM Coetzee, adds that industry has a huge advantage in resourcing and access to government but \textit{“it is impossible to believe that, in the end, justice and compassion will not triumph.”}\textsuperscript{8}

Others are less sanguine. Animal regulations are overwhelmingly updated and overseen by vested interests, and the regulations themselves are often incoherent, fragmented in authority and rife with conflicts of interest.\textsuperscript{9} The industry counters that welfare regulations are working fine because welfare makes good business sense.\textsuperscript{10} The national industry body, Dairy Australia, posts interviews with farmers, transporters and functionaries of abattoirs stating that all welfare regulations are followed.\textsuperscript{11} The process of removing a baby from his or her mother on the day of birth is claimed to “reduce the risk of getting diseases from adult cattle and lower the stress for cow and calf”.\textsuperscript{12}


\textsuperscript{8} Ibid

\textsuperscript{9} Ellis, above n 6, 353.

\textsuperscript{10} Ibid, 358-9.


Farmers, we are told, give their animals the best of care, because they “wouldn’t make any money if they mistreated them”.13

Animal advocates disagree, pointing to the inexorable trend of increasing productivity at the expense of welfare, more so in the dairy industry perhaps than in ungulate meat production. Francione famously stated that “there is probably more suffering in a glass of milk than in a pound of steak”.14 A cow could live to the age of twenty,15 during which she would normally interact with her calf for 9-12 months. Instead, she is kept lactating and pregnant almost continuously, with the aid of what farmers call a ‘rape rack’ and is ‘spent’ and sent for slaughter at 5-7 years.16 Added to that is the distress of having each calf taken from her within hours of birth. Cows “will bellow for days, pace the spot where they gave birth, and stop eating. Then they’ll produce a season’s worth of milk and be led straight back to the rape rack.”17 The calf, meanwhile, will be raised as a new milk machine or, if male, transported, bewildered and terrified, for butchering.

3 The Bobby Calf Issue

Cows are represented in children’s literature as creatures that ‘naturally’ give milk. In fact, dairy cows are similar to humans: mammals, with a comparable gestation period, who only lactate after giving birth. Selectively bred to produce much larger quantities of milk than their wild ancestors, cows will lactate for up to a year, during which time they will be artificially impregnated so that they are almost always lactating from the previous birth and pregnant for the next. The ‘side effect’ of this cycle is, of course, a calf, half the time a

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17 Ibid.
male\textsuperscript{18}. Besides his first drink of colostrum, the bull calf then becomes a rival for his mother’s milk – the farmer’s commercial product. Bull calves are a financial drain to the dairy industry, requiring feeding and transport to the slaughterhouse. They are taken from the mother at about 12 hours old and, because farmers are ‘squeamish’ about killing them on the farm,\textsuperscript{19} fed watered milk or substitutes for a few days, and then either fattened and processed into veal or shipped to the abattoir at about five days old to be processed into dog food, pharmaceuticals and calf leather.\textsuperscript{20} The cost of transport is often more than the value of the new-borns, and they were (in the days of sterling) sold for a shilling or ‘bob’\textsuperscript{21}; thus the name. The stress on newly born and weaned animals is severe – they are placed in a truck for the first (and last) time, often handled roughly by men facing deadlines, sick from the motion of the vehicle and desperately hungry and thirsty after often lengthy transportation.\textsuperscript{22} Pollan, despite promoting omnivorism, states that weaning is the most stressful time for farmers and animals: “the cows will mope and bellow for days and the calves, stressed by change of circumstance and diet, are prone to get sick.”\textsuperscript{23} Claims are often made that activists indulge in sentimental anthropomorphism, but studies comparing calves separated abruptly to those who can see their mothers show significant physiological and behavioural differences.\textsuperscript{24} Unless we are Cartesians, the distress of the cow and calf are self-evident.

\textsuperscript{18} Sexed semen is available but still considered “unprofitable” - see Albert De Vries, The Economics of Sexed Semen in Dairy Heifers and Cows Animal Sciences Department, Florida Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida <http://edis.ifas.ufl.edu/an214>.
\textsuperscript{19} Donovan, above n 5, 250. Also see Holly Humphreys, ‘Call for better life for dairy’s rejects’, The Age (Melbourne), 13 October 2013 http://m.theage.com.au/victoria/call-for-better-life-for-dairys-rejects-20131012-2vf7.html - “It's too hard. You're not farming to be a murderer.”
\textsuperscript{20} Holly Humphreys, ‘Call for better life for dairy's rejects’, The Age (Melbourne), 13 October 2013 <http://m.theage.com.au/victoria/call-for-better-life-for-dairys-rejects-20131012-2vf7.html>
\textsuperscript{22} Peter Singer, Animal liberation: a new ethics for our treatment of animals (Harper Perennial, 2009), 17.
\textsuperscript{23} Michael Pollan, The omnivore’s dilemma : a natural history of four meals (Penguin Press, 2006), 71.
\textsuperscript{24} EO Price et al, ‘Fenceline contact of beef calves with their dams at weaning reduces the negative effects of separation on behavior and growth rate’ (2003) 81(1) Journal of Animal Science 116.
The dairy industry maintains that it is committed to ensuring that “our calves are provided with a safe, healthy environment for the whole of their lives.”25 As the ‘whole of their lives’ will be under a week for at least half of the calves born in Australia,26 the focus of campaigns that have gone toward improving this ‘safe, healthy environment’ are very narrow, compared to other campaigns that may follow several stages of a particular animal’s life and treatment.

4 The Bobby Calf Campaign

Australian Bureau of Statistics figures indicate that 680,000 calves were slaughtered in the twelve months to September 2013.27 Milk production is centred in Victoria, which produces about 68% of the national total.28 Of the 1.65 million dairy cows in Australia in 2012-13, 1.079 million were in Victoria. Interestingly, the number of dairy farms has fallen from 22,000 in 1979 to 6,400 today while the total herd has fallen by about 12%, indicating a trend to large-scale industrial farming of high-yielding dairy cattle, replacing the family farmer that advertising likes to feature.29

Legal reform in Australia is complicated by the fact that most relevant legislation is determined at State level.30 State and Territory laws are general purpose criminal laws that apply to all animals, but then exclude farmed animals (the vast majority) by classifying them as ‘stock’.31 This ‘sleight of hand’ effectively makes farmed animals ‘disappear from the law’.32 In the

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25 Dairy Australia, above n 11.
26 Humphreys, above n 20.
30 Each of the six states and two territories have their own legislation, e.g. Prevention of Cruelty to Animals Act 1979 (NSW).
31 The NSW Act cited above states that confined animals must be exercised unless they are stock animals (other than horses) or "an animal of a species which is usually kept in captivity by means of a cage." See also Sharman, above n 2, 75-6.
1970s, animal welfare reform overseas (particularly in Europe) gave rise to fears that Australia would be perceived as outdated in its treatment of farmed animals, only perceived as a problem in that it might affect trade. Codes of practice were developed at this time to provide ‘guidance’ to farmers (with no legislative enforcement, which might have been seen as a states rights issue). As these were developed, they were, nominally at least, based on the Farm Animal Welfare Council’s “Five Freedoms.” These were freedom:

1. From hunger and thirst
2. From discomfort
3. From pain, injury and disease
4. To express normal behaviour
5. From fear and distress

Most of the States and Territories adopted Codes of Practices in the 1980s based on the Model Codes developed by the Primary Industry Ministerial Council (PIMC). This left the decision on which Codes to implement (if at all) to individual States and Territories, which failed to institute consistent and uniform adoption of even minimum standards. Accordingly, the Commonwealth from 2005 started developing the Australian Animal Welfare Strategy (AAWS) which aimed to create “a more consistent and effective animal welfare system” which would also have enforceable standards as well as voluntary guidelines.

The first standard developed was “The Australian Standards and Guidelines for the Welfare of Animals: Land Transport of Livestock” in 2008, endorsed by the PIMC in 2009. The draft standards proposed that bobby calves aged 5-30 days and travelling without their mothers be transported “in less than 18

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34 Ibid.
37 Elizabeth Ellis, Hot topics: legal issues in plain language: animal law (Legal Information Access Centre, 2010), 32.
hours from last feed with no more than 12 hours spent on transports.”

As delivery was often followed by an overnight stay before the commencement of slaughter, the sticking point of the proposal became the acceptability of leaving these new-borns hungry for some 30 hours from last feed to slaughter. This seems to fly in the face of all the “Five Freedoms.”

Public submissions were invited by May 2008 and the 16 submissions that mentioned bobby calves resulted in a number of ‘unresolved issues’ which mostly revolved around welfare versus cost. A study of transport mortality from 1998-2000 in Victoria showed that 1,430 calves (0.64%) died on 1,376 consignments, out of a total 220,519 sent to abattoirs. Extensive studies of bobby calf transportation indicate that their welfare “may be seriously compromised.” Both the advocates of animal welfare and the meat processing industries called for the minimum age for transport to be raised from five to eight days, but producers argued that this would cause “significant extra cost”. The 18 hours time-off-feed (TOF) was argued back and forth, and the difficulties in assessing calf welfare as well as proving their ages were considered. The decision was to make no decision, but to examine ways to improve calf welfare and revise the standards “over the next two years.”

Animal Health Australia (AHA) was charged with preparing a “science-based standard” for maximum allowable TOF. Public consultation was invited by

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42 JG Cave, APL Callinan and WK Woonton, 'Mortalities in bobby calves associated with long distance transport' (2005) 83(1-2) Australian veterinary journal 82.


AHA on their preferred option: “a maximum of 30 hours without a liquid feed from the time of last feeding to the next feed or slaughter of the calf.”45 Submissions were invited from 4 January to 3 February 2012, and resulted in some 6,000 email submissions plus 33 detailed written submissions from industry and welfare organisations and government departments.46 The flood of emails came largely through a sustained campaign by Animals Australia (AA) and RSPCA. AA placed quarter-page ads in newspapers around Australia headed “Do you want to know a secret?”47 Much publicity was engendered, such as an article in The Australian which called the issue Dairy’s “dark secret”.48

The AHA reported that the bobby calf issue was ‘emotive’ (implying unreasonable or impractical) and that, while the bulk of email submissions called for shorter TOF or questioned the need for transport at all, there was not unanimous support for a shorter TOF option whereas there was “good support for a 30 hours TOF limit from some government and all industry respondents.”49 As a result of this consultation, and despite the 6,000 email submissions, AHA concluded that “the 30 hours TOF option [be] recommended for government endorsement.” The rationale was largely that this standard would set a mandatory maximum TOF, whereas previously there had been a divergent set of model codes which were applied at law “at best as guidance or a defence to a prosecution.”50 Dale and White bluntly state that this was an example of science being “commissioned to support a pre-determined standard.”51 The report admitted that the science used had several shortcomings in terms of the climatic period chosen, the methods used to test stress and the fact that the report was commissioned by the Dairy

46 Ibid.
47 Animals Australia, Do you want to know a secret? <http://www.animalsaustralia.org/features/newspaper-ads-speak-up-for-bobby-calves.php>.
49 Australian Animal Welfare Standards and Guidelines, n 40, 2.
50 Ibid, 5.
51 Dale & White, above n 33, 175.
Industry. Although a consensus was as far away as ever, the AWS website confirmed that industry had agreed to implement the 30 hour TOF, with a possible further review mooted for 2014. Ellis observes that this is “unsurprising” as this was the industry’s preferred position. Dale and White point out that, since industry controls the funding for research (including the matched government funding), it is quite likely that researchers will often conclude that the status quo does not damage animal welfare.

The proposed 2014 review is unlikely to happen. The Federal government elected in September 2013 scrapped the AAWS Advisory Committee, which oversaw the development of the strategy, in November, then cut funding from the Strategy itself in its Mid-Year Economic and Fiscal Outlook statement in December. This effectively cements the limbo status quo of divergent and largely unenforceable State and Territory standards and guidelines.

The decision by the Abbott government to Axe the AAWS and cut funding to AA (which paid for its participation in the Committee) has delighted supporters of the animal industries.

5 Conclusion

Is reform possible beyond the productivity improvements that may benefit animals as a side-effect of improving profitability? How can we assign value to a ‘waste product’?

Steven Wise asks the “core question” of morality and law: “are things or beings or ideas valuable because we value them or because they are

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52 Australian Animal Welfare Standards and Guidelines, above n 45, 9-10.
54 Ellis, above n 6, 347.
55 Dale & White, n 33, 176.
inherently valuable?" Animals, in Australian law, are considered ‘property,’ which Adams calls a “device used to deny moral culpability.” Supporters of animal agriculture contend that property status protects animal welfare; for example Posner states (as do many industry websites) that “people tend to protect what they own.” Pollan goes further, stating that domestication is not a form of slavery but rather a “symbiosis” that ensures the survival of the species, if not the welfare of the individual animals. However, bobby calves are in the invidious position of being commodities without value. If, therefore, such commodities lack Wise’s ‘inherent value’, a determination that they are without personal value to humans must make any treatment of them acceptable and any legal reforms either superficial or subject to blocking by vested interests. Meanwhile, a significant section of the animal rights movement will settle for nothing less than “the purest philosophical position”, total abolition of animals’ property status.

The bobby calf campaign is a good example of this clash of paradigms. The failed attempts at reform over eight years seem to evidence both Sharman’s statement that no major reform has been secured and Francione’s assertion that welfare reform only results from higher productivity and profits. However, despite or because of its legislative failure, this campaign crystallised the issue around the 30 hour TOF question and led to widespread discussion and public outcry which has certainly raised awareness of the calves’ plight. Further progress will not come from ‘supply-side’ legislative impositions of standards, but rather from industry response to consumer ‘demand’ – the clamour against bobby calving or the wide-scale boycott of

62 Pollan, above n 23, 320.
64 Sharman, above n 2, 81.
dairy products. Some smaller farms are already responding that they do not
bobby calf, instead keeping calves with their mothers for extended periods
before incorporating them into the milking herd or sending them for slaughter.
Dairy Australia has recognised community concern with several programmes
to improve supply-chain handling of calves. Bizarrely, the RSPCA has
encouraged Australians to eat more veal, to motivate farmers to postpone
calves’ slaughter.

Posner, while rejecting ‘ethical’ arguments for animal rights, believes that
people are willing to recognise the inherent value of non-human animals,
regardless of their commercial value, if they are made aware of their needs
(and see minimal personal costs). However, it is unrealistic to expect that
Australia’s 1.65 million cows will be matched in future by the same number of
bulls saved from slaughter, so the only long-term strategy for the reduction or
abolition of bobby calving is reducing demand for dairy products through the
development of public empathy. Children are an obvious target for persuasion
as they tend to observe moral issues with far less social mediation. At
the same time, the burgeoning capital and labour costs of producing milk,
together with the plummeting farm gate price, may in fact be more effective
than any campaigns activists can devise.

As for activism, it is apparent that people will generally avoid campaigns that
make them feel uncomfortable or appear to have personal costs. Future
campaigns, while aiming to convert people to plant-based diets, will most

66 Shop Ethical!, Elgaar Farms responds on bobby calves
<http://www.ethical.org.au/blog/elgaar-farms-responds-on-bobby-calves/>; Barambah
Organics, About the Barambah Farm <http://www.barambahorganics.com.au/barambah-
difference/the-farm.aspx>.
67 “Dairy Australia, Calf management across the supply chain”, Dec. 2010,
68 Humphreys, above n 20.
69 Posner, above n 61, 66.
70 Jill Anderson, Why Do Young Children Choose to Become Vegetarians? (8/8/2006)
71 Mendelson, above n 15, 137.
72 Nick Cooney, Change of heart: what psychology can teach us about spreading social
change (Lantern Books, 2011), 35.
effectively start with the empathetic image of the vulnerable baby animal. Getting people to look into the eyes of a bobby calf, as the AA campaign\textsuperscript{73} did, is far more effective than handing out pamphlets of vegan recipes.

\textsuperscript{73} Animals Australia, \textit{What you never knew about dairy} <http://www.animalsaustralia.org/issues/dairy.php>. 
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Legislation


