

**Committee Secretary
Senate Rural and Regional Affairs and Transport Committee
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Canberra ACT 2600
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**A SUBMISSION MADE TO THE SENATE RURAL AND
REGIONAL AFFAIRS AND TRANSPORT COMMITTEE**

BY

**THE INTERNATIONAL COALITION FOR
WOMEN IN SHOOTING AND HUNTING (WiSH)**



**WITH REGARD TO THE
'NATIONAL ANIMAL WELFARE BILL 2005'**

Introductory Statement

Ensuring that the welfare of animals is subject to appropriate legislative provisions is important not only for maintaining the wellbeing of animals within the Australian community, but also for providing mechanisms through which persons engaging in actions contravening animal welfare can be held accountable. In order to confirm that the standards against which animal welfare is assessed remain contemporary, it is crucial to promote accordance between legislation and advances in scientific knowledge.

While the intent of the National Animal Welfare Bill 2005 (the Bill) is commendable, a wide range of stakeholders have, in their submissions to the Inquiry, highlighted the fact that existing state/territory provisions effectively encompass the majority of proposals put forward in the Bill. The potential for the substantial overlap between the Bill and existing laws to create confusion and conflict has been detailed by others, including the RSPCA. Similarly, arguments that the existing federal commitment to the Australian Animal Welfare Strategy (AAWS) and the financial expenditure associated with this commitment demonstrate the redundancy of the Bill have already been advanced.

WiSH supports the points already raised concerning redundancy, overlap, and unwieldiness. Therefore, this submission focuses upon theoretical and conceptual matters associated with certain key aspects of the Bill. In particular, ensuring that animal welfare and animal 'rights' are not conflated is a serious concern, given that confusing these distinct areas has strong potential to undermine federal credibility on animal welfare issues.

I would be delighted to provide further detail on any of the themes and concepts raised herein, should that be acceptable to the Committee.

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Executive Summary

- Animal welfare standards should be based, wherever possible, upon reliable evidence and objective frames of reference.
- Objectivity necessarily involves comprehensive scientific and veterinary input.
- It is a significant concern that the role of veterinarians has been overlooked throughout the Bill.
- The placement of an ethicist on the proposed National Animal Welfare Authority at the expense of veterinary representation suggests that ‘objective’ versus ‘subjective’ frames of reference have been inadvertently conflated.
- Ethicists deal intimately with subjective frames of reference, value judgements, and individual beliefs.
- These concepts cannot be objectively quantified and thus run counter to best practice animal welfare considerations.
- For legislation to be workable, definitions and the application of principles based on those definitions must be consistent.
- The definition of ‘animal’ explicitly excludes humans, which necessarily means that animals are not humans.
- Using this definition, assuming that human experiences of pain can be extrapolated to animals is invalid.
- However, if no division is drawn between humans and animals, then the killing of an animal for any reason, including human consumption, becomes ‘murder’.
- One purpose of the Bill is to prohibit the killing of wild animals for ‘entertainment’ or ‘sport’.
- Arbitrary definitions and inconsistencies regarding the purpose and its enactment highlight the potential for improper application of the Bill.
- The Bill could be interpreted as banning both hunting and fishing.
- It is inappropriate for federal policy to be seen to tacitly condone any position encouraged by animal ‘rights’ extremists.
- The Bill focuses on perceived ‘reasons’ for the despatch of an animal, rather than assessing whether the method used is humane.
- Opposing perceived ‘reasons’ reflects an ideological standpoint rather than objective animal welfare concerns.

Conflation of subjective versus objective frames of reference

Considerations of animal welfare standards should be based, wherever possible, upon solid evidence. While animal welfare is an understandably emotive issue, it is nonetheless crucial to ensure that legislation is supported by objective information and driven by a proven need. For example, it is unquestionable that advances in our understanding of animal physiology, pathology, and immunology have fostered corresponding alterations in attitudes towards what is, and is not, in the interests of animal welfare.

In order to maximise the likelihood of legislation reflecting legitimate animal welfare concerns, it is crucial to formulate policy with reference to objective criteria. This necessarily entails comprehensive veterinary and scientific input. Similarly, it is paramount that assessments of possible contravention of animal welfare legislation be undertaken by suitably qualified personnel; in general, this refers to veterinarians.

As such, it is a substantial concern that the role of veterinarians has been overlooked throughout the Bill. This is particularly prominent in Part 2, Section 10(1) – Constitution of Authority. Although an ethicist is included in the suggested composition of the National Animal Welfare Authority (the Authority), there is no provision for the inclusion of veterinarians. Similarly, it is not stipulated that the scientists represented on the Authority must have any expertise in animal science (for example, physiology/anatomy).

The placement of an ethicist on the Authority at the expense of veterinary representation raises significant concerns that ‘objective’ versus ‘subjective’ frames of reference have been conflated. This difficulty must be acknowledged in order to avoid inadvertently confusing animal welfare and animal ‘rights’. Animal welfare is a matter able to be objectively assessed and quantified. In practical terms, this role can be fulfilled by veterinarians and scientists with expertise in relevant fields.

In contrast, the task of ethicists is to speculate upon theoretical and abstract concepts. Ethicists deal intimately with subjective frames of reference, value judgements, and individual beliefs – the foundation of animal ‘rights’ philosophy. There are no valid methods of scientifically assessing animal ‘rights’, and therefore the potential for the Bill to be interpreted as substituting animal ‘rights’ for animal welfare runs counter to a best practice framework.

Definitional Inconsistencies

In order to facilitate workable legislation, there must exist consistency between definitions and the application of principles based on those definitions.

It is stated in Part 8 - Animals used for experimental purposes and in Schedule 2 - Definitions that:

animal means an invertebrate or vertebrate animal other than a human being. (p.58)

And that:

...a human being or human foetus is not an animal. (p.79)

However, it is also declared that:

pain refers to both psychological and physical pain and, in an animal, is taken to be the same sensation that an average, well human, having suffered the same trauma, would experience. (p.58)

To state that humans are not animals logically entails that animals are not humans. Therefore, the definition of what constitutes an animal is incompatible with the assertion that it must be assumed that animals experience and/or are aware of physical and psychological sensations in the same manner as humans.

There are two methods of resolving this inconsistency.

The first method is to accept that animals and humans differ in their subjective experiences of sensory events (including pain), their psychological capacity for self-awareness and awareness of events, and their abilities to perceive themselves and their world. Therefore, the assumption that the experiences of animals are analogous to those of humans must be rejected. As such, the current definition of ‘pain’ becomes problematic.

The second possibility is to draw no distinction between animals and humans. When taken to its logical conclusion, accepting this premise would mean that killing animals for any reason, including human consumption, is ‘murder’. The statement that “meat is murder” represents animal ‘rights’ philosophy rather than an objective assessment of animal welfare.

If the assumption that animals experience the world in the same way as humans is retained, the logical endpoint of this assumption – that killing animals is ‘murder’ - demonstrates that the assumption itself has no bearing on legitimate animal welfare concerns and reflects a purely ideological, subjective belief. Clearly, this is an unacceptable basis upon which to formulate animal welfare standards.

Statement of Purpose

In Part 1(3)(b) - Statement of Purpose, it is indicated that the Bill aims to:

- (ii) prohibit the capture and killing of wild animals for the purpose of entertainment or sport (p.2)

It appears that this purpose is to be enacted, initially, through provisions contained in Part 4, Division 4 - Prohibited Events.

The events include instances such as bullfighting, cockfighting, dogfighting, and certain types of hunting, including particular forms of hunting where shooting is used as a method of despatch.

The provisions also include:

(f) an event prescribed under a regulation held for public enjoyment or entertainment, with or without charge to anyone present, at which anyone participating in the event causes an animal pain. (p.49)

Part 1(3)(b)(ii) stipulates a prohibition upon the killing of wild animals. However, the explicit provisions in the Bill do not relate to wild animals. They relate primarily to animals that are, or have been, under the direct control of a human (bulls, dogs, and the like). Consequently, while the specifics of the Bill deal mainly with ‘domestic’ animals, the purpose of the Bill largely contradicts the existing provisions.

The contradiction between the purpose of the Bill and the manner of its enactment raises significant concerns. The difficulties of adequately defining what can be considered ‘pain’ have been discussed previously. Similarly, the arbitrary manner in which ‘public’, ‘entertainment’, ‘sport’, and ‘enjoyment’ are used in the provisions highlights the potential for inappropriate application of the purpose and specifics of the Bill.

Under the current wording, the provisions could be applied to an individual who:

- Undertakes hunting or fishing - ‘wild animals’,
- With friends - a gathering of members of the ‘public’,
- In their recreation time - undertaking outdoor activities in one’s own time is defined by some as constituting a ‘sport’, and
- ‘Enjoys’ the activity - as inferred from the fact that they participate in the activity.

Seen in this light, the Bill would effectively ban both hunting and fishing. While the banning of hunting and fishing forms an integral part of many animal ‘rights’ organisations’ existence, it is clearly inappropriate for federal policy to be seen to tacitly condone the extremist position encouraged by such individuals and groups. Therefore, the Bill requires significant revision in order to clarify the fact that the purpose of, and prohibitions contained within the Bill are not intended for application to either hunting or fishing.

Furthermore, the Bill does not take into account the crucial animal welfare issue of the method of despatch of an animal, focussing instead on perceived 'reasons' for the despatch (such as 'enjoyment', inferred from the fact of participation), or on circumstances associated with the despatch (vaguely defined 'public' events, certain 'types' of hunting).

An example of the confusion inherent in the Bill is that the use of shooting as a method of despatch indisputably falls within the definitions provided of a humane death – shooting is a "...rapid and effective" means (p.81) of ensuring despatch.

Indeed, shooting is frequently used in animal welfare situations for the purpose of euthanasia. Shooting during hunting is undertaken to ensure a rapid despatch for a variety of purposes (commonly, to obtain meat and/or to control declared pest species). Thus, the reasons for shooting differ between circumstances, but the method of despatch remains the same and is equally humane despite the different circumstances.

Philosophical opposition to perceived 'reasons' for despatch, or to the circumstances of that despatch, does not negate the fact that the method used is humane and appropriate. Humane methodology is a sustainable animal welfare consideration, whereas disputing the perceived 'reasons' or 'motivations' for a humane despatch rests purely upon animal 'rights' ideology. Such considerations, while valuable for stimulating robust debate, are nonetheless irrelevant to legitimate and objective animal welfare concerns.