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“IT’S THE RIGHT THING TO DO”: WHY THE ANIMAL AGRICULTURE INDUSTRY SHOULD NOT OPPOSE SCIENCE-BASED REGULATIONS PROTECTING THE WELFARE OF ANIMALS RAISED FOR FOOD

Angela J. Geiman^{* †}

INTRODUCTION

Since the beginning of history, people have used farm animals to assist with their work and to provide a source of food. These agricultural pursuits were not questioned; rather, they were a widely-accepted way of life. In fact, many people still say that the very purpose of livestock on this Earth is to provide these resources for mankind. As for the proper way to treat our livestock, we commonly hear farmers and livestock producers make comments like, “If we take care of the animals, they will take care of us,” and, “We treat our animals well because that’s just good business.”

Though times and methods have changed, our need for the resources provided to us by farm animals has not. Today individual families rarely raise their own livestock to harvest on the farm or at the local butcher shop. The majority of animals are raised in larger scale operations, and the task of harvesting them has been assumed by the meatpacking industry. This change has been driven not only by economics, but also by the fact that urbanization has encroached on previously rural lands. People do not want, or have the space, to grow their own food.

The purpose of this commentary is to respond to the question, “Should laws criminalizing animal abuse apply to animals raised for food?” The simple answer to the question is “yes,” but the reality is not simple. It requires analyzing both the science of raising livestock and the current legal framework, which we must understand before discussing what to require and how to implement those requirements. Continued improvements in the livestock and meatpacking industries and the rising expectations of consumers add to the complexity of the issue.

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I. THE SCIENCE OF CARING FOR ANIMALS

The average consumer is likely unaware of the sophistication of the livestock production and meatpacking industries. When these industries are publicized, it is, all too often, not in a good light. We see photos of swine or poultry in buildings described as crowded or dirty by those who do not understand animal science. Unfortunately, we also sometimes see situations that are inexcusable—as repulsive to the industry as to those observing through the media.

Livestock production is a science. Thousands of students every year graduate with degrees in animal science (or animal husbandry, as it used to be called). For those who are unaware of this field of study, the definition of “animal husbandry” from the *Saunders Comprehensive Veterinary Dictionary*, is instructive:

The methods employed in keeping domestic animals in such a way as to avoid their abuse but so as to provide food, fiber, entertainment and company at levels described as love, companionship, physical guidance, protection, shepherding. In many instances the overriding constraint is that the maintenance system must be cost-effective so as to provide an occupation for the owner. In other circumstances the rewards are less tangible and come within the ambit of emotional gratification or psychological dependence. In more pragmatic terms the discipline includes nutrition, genetics and breeding, housing, handling facilities and techniques, hygiene, sanitation, health maintenance and disease prevention, marketing, preparation for contests, physical and psychological training, culling, management in times of drought or other civil disaster, use of animal experiments and codes of practice for the management and transport of various classes of animals.

Concern for animal welfare originated with animal scientists. Efficient and successful animal production depends on the proper treatment of animals, and academics and industry experts alike continue to study and make improvements in welfare conditions. On the other hand, many people who support the “animal rights movement” actually oppose most forms of animal husbandry. And some simply do not want to see animals used as food.

If critics have the impression that the livestock and meatpacking industries fight reform of humane treatment laws, it may be because the radical reforms that are sometimes sought have the potential for economic ruin for this industry and the typical American consumer. Ninety-seven percent of Americans are not vegetarians and ninety-nine percent of Americans are not vegans. Demand for products derived from livestock remains strong. Livestock producers and the meatpacking industry continue to produce such products, and they must be able to do so in a way that is economically sustainable.

A vocal few would have us believe that these industries do not want to be regulated in this area. In reality, the industries are already highly regulated, and they must work to improve or exceed existing regulations to meet increasing consumer expectations.

II. CURRENT LEGAL FRAMEWORK

All fifty states have laws prohibiting unnecessary or unjustifiable cruelty to animals. These laws are primarily criminal statutes and are enforced through prosecution by local authorities. Thirty states have excluded accepted animal husbandry practices from the application of their animal protection laws.

At the federal level, the Twenty-Eight Hour Law and the Animal Welfare Act (“AWA”) provide protection for certain classes of livestock. The Twenty-Eight Hour Law requires that animals not be transported for more than twenty-eight hours without being unloaded for at least five hours of rest, watering, and feeding. The AWA is quite limited and applies to those farm animals that are being used for research, testing, and teaching. Most livestock, therefore, are not protected by any federal laws as long as they are on the farm, but they generally are protected as soon as they reach a harvest facility.

Federally inspected harvest facilities, highly regulated on many fronts, must comply with the Humane Methods of Slaughter Act (“HMSA”). The HMSA requires that animals be “rendered insensible to pain” prior to harvest. The USDA enforces the HMSA, and USDA inspectors have the ability to suspend inspection at those facilities where violations are found. This means that a federal inspection seal, which is necessary for interstate shipment of meat and meat products, may not be granted to products being manufactured, effectively halting commercial shipments. There is no doubt that this regulatory framework has been successful in improving the conditions for animals in harvest facilities.

In addition to complying with applicable laws, the livestock and meat industries are under increasing pressure not only to meet, but also to exceed, consumer expectations with respect to animal welfare. These expectations rise as knowledge of industry practices grows, allowing consumers to make more prescriptive choices about food purchases. In an increasingly competitive world market for animal protein products, industry players are committed to continued improvements in animal welfare practices based on both experience and research. Accordingly, a large amount of self-regulation occurs today, which effectively elevates actual standards and practices far above what is required under state or federal mandates.

III. INDUSTRY SELF-REGULATION

Self-regulation and work to meet customer expectations has helped develop processes that improve the welfare conditions of all animals—from the farm, through the transportation process, and to the plant. Animal welfare audits, for example, are a common practice as part of the industry’s service to customers who purchase products and distribute them to consumers, either through retail sales or foodservice outlets. Objective measurements, which may include the percentage of animals that do not vocalize and the percentage of animals that do not slip or fall during han-

dling, have been put into place as the result of such audits. It is a competitive advantage for individual companies to not only comply with, but actually exceed these objective standards. There is no doubt that the increasing standards will continue to drive innovations to improve the treatment of animals.

Despite this high level of self-policing, however, there will still be bad actors—and proven situations of animal abuse should be vigorously punished. While today's laws and regulations are probably already sufficient to deal with egregious actions, a change in the current legal framework may be warranted because sometimes legislative change is required to force improvement upon those who will not adopt willingly.

IV. THE NEW JERSEY APPROACH AND WHY IT COULD WORK

When considering possible changes to the current legal framework, New Jersey's movement to a regulatory approach is interesting and worthy of further examination. New Jersey originally passed legislation in 1996 directing its Department of Agriculture to issue standards to ensure the humane care of domestic livestock. The regulations, which the Department of Agriculture proposed and adopted several years later, are based on objective criteria to assess the health and welfare of the animals. Production practices that are not specifically prohibited are permitted so long as they are "routine husbandry practices" taught at veterinary schools, land grant colleges, or agricultural extension agencies. Thus individual producers cannot, themselves, justify any practice that they wish as "humane." The definition is left in the hands of academic and industry experts.

The New Jersey regulators diligently reviewed scientific texts and research on production practices from governments and academic institutions. They balanced preservation of the agricultural business in the state with the protection of livestock from abuse. Yet their actions have been challenged by a group of plaintiffs that includes many familiar animal rights groups. In *New Jersey Society for Prevention of Cruelty to Animals v. New Jersey Department of Agriculture*, the plaintiffs asserted that the "regulations authorize industry practices that are not humane."

Increased regulation at the state level is, indeed, an enhancement of the overall system. Additional regulations could provide helpful guidelines on acceptable practices and could be amended as new methods and technologies are developed. If the New Jersey regulatory approach were adopted by other states and given an adequate framework of enforcement, improvements to animal welfare would likely continue and perhaps accelerate. Such a system would be similar to the European system, which has been highly regarded as successful by animal welfare proponents and has resulted in many improvements to production practices in European countries.

That said, it is important not to lose sight of the economic reality associated with making improvements to important animal welfare practices. Some of the practices adopted in European countries are proving to be economically infeasible and unrealistic in a competitive world market; and,

consequently, some European producers appear likely to be forced out of business by the high cost of complying with regulations that go far beyond widely recognized production practices. The New Jersey Department of Agriculture recognized the economic realities of animal agriculture. It adopted standards that will protect animals from inhumane treatment while also helping to sustain agriculture. Other states that wish to adopt animal welfare regulations would be well advised to do the same.

CONCLUSION

Governments at the federal and state levels, as well as the industry should focus on reform in areas where the benefit of increased animal welfare is greater than the burden placed on the industry. Production practices being used today are sound, scientific practices that have been developed, evaluated, and approved by experts. Room for improvement certainly exists, but the solution should not force economically unsound practices. If some consumers are willing to pay more for certain production practices, then those consumers should seek out sources for those specific products. The anti-meat agenda that reformists continue to advocate must not be blindly accepted as the driver for reform. Rather the entire supply chain must remain rational and objective as we consider ongoing and continuous improvements to the system.

The livestock and meatpacking industries take their responsibility for the welfare of animals very seriously. How well the industries treat animals affects their bottom line, and hundreds of thousands of jobs are dependent on the industries' economic success. Consumers depend on the industries to find efficient and responsible ways to meet demand for animal-derived products. But, most importantly, the industries care about and will continue to work to improve the treatment of the animals that they raise and harvest because it is the right thing to do.