

FALLS THE SHADOW: THE ANIMAL WELFARE DEBATE IN NEW ZEALAND

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*The greatness of a nation can be judged by the way it treats its animals.
- Mahatma Gandhi*

*The day may come when the rest of the animal creation may acquire those rights which never could have been withholden from them but by the hand of tyranny...
What is it should trace the insuperable line? Is it the faculty of reason, or, perhaps, the faculty of discourse? But a full-grown horse or dog is, beyond comparison, a more rational, as well as more conversable animal than an infant of a day, a week, or even a month old. But suppose the case were otherwise, what would it avail? The question is not, Can they reason? nor, Can they talk? but, Can they suffer?
- Jeremy Bentham*

*The Animal Welfare Act 1999 marks a major milestone in the development of New Zealand's animal welfare system... and keeps New Zealand at the forefront with some of the world's most progressive and comprehensive animal welfare law.
- NZ Ministry of Agriculture and Forestry*

*Between the idea and the reality falls the shadow.
- T S Eliot*

I was a little nervous when Sir Geoffrey Palmer asked me to make this presentation on animal welfare law. Reading through the reports on the various projects undertaken or planned by the Law Commission, it seemed to me that the legal status of non-human animals lay well outside your mainstream business. However, this initial diffidence was allayed somewhat when my attention was directed by Joanna Tuckwell of MAF to the most recent issue of the e-journal *Reform* published by your counterpart across the Tasman, the Australian Law Reform Commission. That issue was devoted to precisely the subject of this morning's seminar – the place of animals in the law. The journal contains some quite radical articles about animal welfare and animal rights by people such as the Nobel Laureate John Coetzee, the animal rights philosopher Tom Regan, and Steven Wise, who has pioneered animal rights law at Harvard.

In his introduction to the journal, the Commission's president Professor David Weisbrot began by evoking an earlier social movement led by philanthropists like Lord Wilberforce to abolish human slavery. He concluded his introduction by describing a 2006 conference of law reform agencies from 26 Commonwealth countries, who included the condition of animals in a short list they drew up of 'over the horizon' issues that would preoccupy law reformers in coming years. In fact, they identified animal welfare and animal rights as 'the next great social justice movement' (Australian Law Reform Commission 2008).

This emboldened me in preparing for today's seminar. Perhaps I wouldn't be laughed out of court after all. In fact, however, the present paper had far more modest beginnings than its Australian counterpart. Its seeds lay in a casual phone talk I had with Sir Geoffrey last year, in which I mentioned a course on Animals and Human Society that I and some colleagues had recently pioneered at Massey University, and more particularly in an essay topic I had set the students. This required them, first, to describe the main features of the New Zealand Animal Welfare Act 1999, and then to ponder the question: 'Does this Act provide sufficient protection for non-human animals, or does it excessively privilege human interests over animal welfare'? I thought the best way of approaching my talk this morning would be to structure it squarely around that question, as it goes right to the heart of debates that have been raging since the Act was passed.

I will first briefly describe the Act and the administrative and regulatory state apparatus through which it operates, stressing as I go its positive features. I will then outline four areas in which the current animal welfare regime has been criticised in some quarters. In effect, the first part of the paper will argue that the law does indeed provide adequate protection for animals, while the second will present the opposition's case that human interests are excessively privileged at the expense of animal well-being. In neither case will I intrude my own views: I will simply create a collage of the attitudes of others who know the field much better than I do.

THE SPECTRUM OF ATTITUDES TOWARDS ANIMALS

Before presenting the debate, however, I will briefly sketch the spectrum of four possible attitudes that people may adopt towards the human treatment of animals. I will do this by adapting a handy classificatory paradigm used by the Nuffield Council on Bioethics (2004). Although the Nuffield Council itself does not do so, I will typify the four positions along this spectrum in terms of the familiar political categories that range from the far right to far left.

On the far right is what Nuffield terms the ‘Anything Goes’ approach. It dates right back to the first chapter of *Genesis*: ‘And God said, Let us make man in our image, after our likeness: and let them have dominion over the fish of the sea, and over the fowl of the air, and over the cattle, and over all the earth, and over every creeping thing that creepeth upon the earth.’ More recently, this approach was elegantly summed up by the contemporary New Zealand philosopher Michael Cullen: “We won; you lost: eat that!”.

Whether legitimised through divine decree or victory in the evolutionary race, the human species is top dog, and consequently it can do what it likes to all other species, unhindered by statutory regulations or moral squeamishness. In short – unbridled power. Although many New Zealanders do, in fact, endorse precisely this position, at least in private, I will not make any explicit reference to it in my talk: I will just take it as the amoral background premise against which the moral debate takes place.

On the far left lies what the Nuffield Council terms the ‘Abolitionist’ position. Humans must voluntarily renounce the dominion over other species they have practised since the domestication of animals some 10,000 years ago. Animals have the same intrinsic value as humans, and must therefore not be reduced to the status of mere things - instruments for the gratification of human wants. There must be no economic use of animals, no scientific use, no recreational use, no use as animated toys. This is the position propounded in the two most important founding documents of the modern pro-animal social movement, Peter Singer’s 1975 *Animal Liberation* and Tom Regan’s 1983 *The Case for Animal Rights*. Like the ‘anything goes’ position, the animal liberation end of the spectrum will not feature in the present paper.

The paper will limit itself to what the eminently sensible author on the politics of animal welfare Robert Garner (2004; 2005a; 2005b) terms the ‘moral consensus’ in contemporary Western cultures like our own. The vast majority of people accept, willingly or reluctantly, that human society will continue to make instrumental use of animals as exploitable resources in farming, science, recreation and the household. However, this dominion must be curtailed, if necessary by legislation, in line with a new ethic of compassion that has softened the Western heart since the European Enlightenment and the Romantic movement of the eighteenth century. Dominion must be tempered by good stewardship. Use animals, but don’t abuse them.

This notion of a moral consensus brings us to the two remaining positions on the Nuffield spectrum – let’s call them centre right and centre left – who are the two main protagonists in the debate to be outlined. The ‘On Balance’ position maintains that so long as animals are protected from extreme or unreasonable forms of suffering, it is

morally justifiable, perhaps morally required, to accord human interests priority over those of animals. There must be statutory safeguards for animal welfare, and there must be an acceptance by those who use animals that they have an obligation to care for them - power must be bridled. With those checks in place, there is no moral dilemma. In New Zealand, I would suggest that this is the position enshrined in the Animal Welfare Act 1999, and the state regulatory system through which it operates. It is also endorsed, if sometimes reluctantly, by a significant section of the Royal New Zealand Society for the Prevention of Cruelty to Animals (SPCA for short).

However, for those on the centre left, the majority consensus on animal use poses a painful 'Moral Dilemma' – hence the Nuffield name for this position. Putting animals to instrumental ends is a cause for moral regret not experienced so keenly by those who espouse the 'On Balance' position. Those on the centre left cannot and maybe do not want to prohibit animal exploitation, but are appalled at the scale of suffering it necessarily causes. This is the dilemma experienced by many in the SPCA, and by all members of the animal advocacy group Save Animals from Exploitation (SAFE), the latter described (Keel 2008) as 'the SPCA with the volume turned up'.

The main debate over animal welfare in this country is conducted between the centre right and the centre left within the wider moral consensus. Putting it simply, the former – which I will term 'the animal welfare establishment' - maintain that the present regime avowedly privileges human interests over those of animals, but ensures them adequate statutory protection to prevent use turning into abuse. Animal advocates outside the establishment, on the other hand, criticise the present regime for being excessively skewed in favour of human exploiters of animals. The animal welfare establishment allegedly condones forms of institutionalised cruelty which are ethically unacceptable, even if humanly expedient.

The point at issue was well summed up in a paper by Professor David Mellor and Dr David Bayvel at the first OIE Global Conference on Animal Welfare (Mellor & Bayvel 2004). Mellor and Bayvel are arguably the two most influential figures in the shaping and the implementation of the current welfare regime. To summarise their conceptualisation of the central issue, the majority of New Zealanders are not actually much concerned about animal welfare. They want to go about their lives without worrying that they are contributing to animal suffering. They therefore place their trust in the governmental animal welfare system and in the SPCA to get things right on their behalf. Those directly involved in the system for managing animal welfare nationally therefore have the responsibility to ensure that this public trust is well founded.

I consider myself to be a fair representative of the general public evoked in that article. I am concerned about animal well-being, but am impotent to affect it, and am also morally lazy. I want to delegate my responsibility for animal welfare: I want the animal welfare establishment to act as the guardian of my conscience. I would be crippled with anxiety if I had constantly to worry about the 150 million or so livestock processed in this country each year (MAF 2005; Fox 2008), the quarter of a million animals used in research (NAEAC Annual Report 2007), not to mention the unknown multitude of companion animals, the hordes of wild ones, and those used for entertainment and spectacle. I want to trust the Animal Welfare Act, and those who

implement its intentions. So, then, what are the intentions of the Act, and how are those intentions implemented?

THE ANIMAL WELFARE ACT 1999

[Note: material in this section is drawn largely from the following New Zealand sources, supplemented by overseas literature: Bayvel 2008; Fisher 2008; Henderson 2008; MAF 2000, 2005, 2007-8, d.u.; Martin 2008; Mellor 2008; NAEAC & NAWAC Annual Reports; Nicolson 2008; O'Hara 2008; Prattley 2008; Ricketts 2008; Robertson 2008; Stafford 2008; Williams 2008.]

The New Zealand Act (henceforward the AWA) is a recent and impressive flowering of a seed that was first planted in England in 1822, when arguably the most remarkable piece of legislation (as opposed to religious edict) in history was passed. The world's first animal protection law, known as Martin's Act after its promoter in the House, made it an offence punishable by fines or imprisonment to wantonly and cruelly 'beat, abuse, or ill-treat any horse, mare, gelding, mule, ass, ox, cow, heifer, steer, sheep or other cattle.' (Kean 1998). However, the AWA's immediate New Zealand predecessor was Mabel Howard's 1960 Animals Protection Act. The AWA also updated, formalised and gave stronger statutory force to a regulatory system of welfare and ethical codes and committees established in the latter 1980s.

In superseding the 1960 Act, the AWA significantly transformed its spirit. The former Act focused largely on the prevention of cruelty to animals. The new Act maintained and strengthened this deterrent function, but was informed by the more positive spirit of fostering what is referred to in the literature about the Act as a 'duty of care'. Those responsible for animals were encouraged to actively promote their well-being through a culture of humane concern.

This culture has been enshrined in the English-speaking world in the celebrated 'five freedoms' - a kind of animals' Magna Carta, formulated in the UK by the government-appointed Farm Animal Welfare Council (FAWC) in the wake of Ruth Harrison's disturbing exposure of the cruelty inherent in intensive agribusiness in her 1964 *Animal Machines*. The five freedoms are freedom of animals from hunger and thirst, from physical discomfort, from pain, injury and illness, and from mental suffering, along with the positive freedom to express their normal behaviour. The highly regarded authority on animal welfare, Professor John Webster (2005), distilled these into the simple proposition that farm animals should be healthy and happy. Most New Zealanders would probably endorse this. We don't feel bad about eating dead animals if we can be assured that during their lives they were healthy and happy (as they would be if the five freedoms were universally practised) and if they die with the minimum of pain and distress. This is summed up in the words of Temple Grandin, a leading designer of more humane techniques for handling livestock: 'I think using animals for food is an ethical thing to do, but we've got to do it right. We've got to give those animals a decent life and we've got to give them a painless death. We owe the animal respect.' (Grandin d.u.).

The AWA is frequently described as embodying those five freedoms, which are paraphrased in its fourth section, although in a rather diluted form (for instance, freedom from mental suffering is glossed over in that paraphrase). However, the Act

does give explicit statutory expression to one particularly contentious freedom. This is laid down in Section 10, arguably its most significant section, which states: ‘The owner of an animal, and every person in charge of an animal, must ensure that the physical, health, and behavioural needs of the animal are met...’ Two little words – ‘behavioural needs’ – with major resonances. They mean, for instance, that if a layer hen has the species-specific behavioural need to flap its wings, perch, nest and dust bath, then its owner has the statutory obligation to enable it to do so (subject to the qualifications in section 4 and, in relation to codes of welfare, section 73(3) of the Act).

The AWA is regarded by its proponents (and even by critics of the way it has been implemented) as an enlightened piece of legislation, and a world-leader in its field. The latter is suggested by the fact that when the UK passed its own new Animal Welfare Act in 2006, members of the New Zealand animal welfare establishment were consulted about its drafting in the light of their own successful model. True, there are details that need amending in line with evolving standards of husbandry, such as the sections relating to surgical procedures, and there is a gaping hole as regards the protection of animals in the wild. In fact, the failure to provide adequate protection from cruelty to wild animals is arguably the Act’s greatest lacuna. That said, everyone agrees that basically it is a good Act – well ahead of the legislative situation in the USA and Australia.

Furthermore, it is not only progressive in itself, but contains an important mechanism for on-going progress in the future. That is, it is flexible and open to change in light of advances in science, technology, animal welfare philosophy and public opinion. It is legislation which has the potential to evolve, through a process of ‘managed incrementalism’, to be explained shortly. First though, a few words about the mechanism through which the Act operates are necessary.

The nerve centre of what I am terming the state animal welfare apparatus or animal welfare establishment is the Animal Welfare Directorate – a team of advisers and scientific and veterinary experts. This is embedded within the Biosecurity branch of the Ministry of Agriculture and Forestry (MAF), and is therefore responsible to the Director-General of MAF and to the Minister of Agriculture and Biosecurity. It has close working ties with its enforcement branch – the Enforcement Directorate comprising five national inspectors.

The Animal Welfare Directorate also works in close collaboration with two ministerially-appointed advisory and regulatory committees or ‘Quagos’ (quasi-autonomous governmental organisations). These are the National Animal Ethics Advisory Committee (NAEAC), responsible for the ethical treatment of animals in the domain of research, testing and teaching (RTT), and the National Animal Welfare Advisory Committee (NAWAC), responsible for the welfare of all other animals, with particular concern for farm ones.

Apart from these four governmental agencies – the directorate, the compliance and enforcement unit, NAEAC and NAWAC - there is another key actor in the animal welfare field that is probably better known to the public, namely the SPCA. This organisation has an interesting hybrid role to play - partly inside, partly outside the state apparatus. On the one hand, it is a non-governmental organisation (NGO),

operating on donations and bequests, which provides hands-on triage for animals in need or distress, which conducts educational and media campaigns on behalf of animals, and which acts as the independent conscience and critic of society on animal matters, in which capacity it sometimes finds itself criticising official government policies.

On the other hand, it is both de jure and de facto an integral, in fact indispensable, component of the animal welfare establishment. It is represented on NAEAC and on NAWAC (although committee members act in a personal capacity, not as representatives of their nominating bodies) and also on the 35 or so Animal Ethics Committees that oversee the welfare of research animals. More importantly, it has a major statutory law-enforcement function, as its 100 or so trained and officially certified inspectors carry the main responsibility for policing the deterrent, anti-cruelty sections of the AWA. They identify and prosecute alleged offenders, and are responsible for the housing and care of confiscated animals. That is, they are, like the police and the MAF inspectors, agents of the state. In performing this function, they work closely with the Animal Welfare Directorate and the MAF animal welfare inspectors. They operate a kind of power-sharing arrangement, whereby in the main the SPCA focuses on companion animals, MAF on farm and research ones (although in fact the work of the SPCA often involves abused or neglected farm animals as well as pets).

Now let's turn from the state welfare apparatus to the regulatory system through which it operates. The AWA does not lay down a minutely detailed list of 'thou shalt' and 'thou shalt not' about the treatment of animals. To do so would be legislatively and administratively cumbersome, and would carve current practices into tablets of stone, thereby impeding future reform and progress. Instead, it delegates the responsibility for specifying and revising such detailed instructions to codes of welfare issued under the Act by the Minister of Agriculture.

The Codes of Welfare, of which there are currently around nine that have been finalised, are drawn up by working groups representing those with a major interest in the species of animal (layer hens, cats and so on) or the type of practice (develvetting deer, running animal boarding establishments and the like), working in conjunction with the Directorate and NAWAC, and are open to public submissions. The Codes of Welfare lay down a bottom line of minimum standards for the treatment of animals, and also include recommendations for best practice to which animal users should aspire. Minimum standards can be used as rebuttable evidence of the commission of an offence under the Animal Welfare Act, or as a defence to a prosecution for an offence; if an animal user has observed them, the prosecution cannot succeed.

Now let's turn to the use of animals in research, testing and teaching (RTT) as regulated by a special part of the Act (Part Six) devoted to this specific area. Codes of Ethical Conduct governing the welfare of between a quarter and a third of a million animals used each year in RTT are drawn up by organisations or individuals wishing to use live animals in RTT, working from guidelines provided by NAEAC. Every organisation conducting RTT – there are 100 or so of them round the country – must have an animal ethics committee and code of ethical conduct, although around two-thirds of them in fact 'piggyback' on the committees and codes of other organisations. The most important function of these committees is to ensure the good husbandry of

research animals, and to keep their level of suffering, when actually subjected to research, to as low a level as is feasible within the objectives of the research. Suffering is measured on a five-point scale, ranging from none or little to very severe, and statistics of research animals in each category are published in NAEAC's Annual Reports. New Zealand is one of only a handful of countries that makes such figures publicly available.

To guard against the AECs being captured by the researchers themselves, each must include three outside, 'lay' members: a vet, a representative of the SPCA, and a member of the general public appointed by the local regional authority. Furthermore, five-yearly inspections of organisations conducting research are carried out by accredited outside reviewers.

As well as giving advice to the Minister and operating the regulatory regime of codes, NAEAC and NAWAC proactively promote a 'culture of care' for animals. NAEAC, for instance, promotes the adoption of the 'gold standard' for the life sciences embodied in 'the Three Rs' – the research equivalent of the five freedoms in farming. The number of live animals used in research must be reduced as far as possible; wherever practicable, live testing should be replaced by alternative techniques; procedures should be refined to reduce suffering to a minimum (Russell & Burch 1959; NAEAC Annual Reports). For its part, NAWAC holds national workshops to promote humane husbandry, such as a major one in 2006 focusing on the reduction of pain caused by routine farming practices like docking, castration and dehorning (NAWAC Annual Report 2006).

The foregoing was a necessarily truncated account of this country's official animal welfare system, as enshrined in the primary legislation of the AWA and operated through the secondary legislation of the codes of welfare. It is a clear and coherent system, which claims to be one of the most enlightened forms of animal protection in the world, and which has the benefit of adaptive flexibility: it can evolve through a process of managed incrementalism without the cumbersome necessity of constantly revisiting and amending the Act itself.

So far as its basic philosophy of the human-animal relationship goes, the Act is informed throughout by a utilitarian harm-benefit calculation, where the benefits of animal use are tempered by a humane awareness of the suffering caused to animals. The latter is reduced to the minimum that is compatible with human expediency. It is not a perfect system, but on balance it is probably the best that can be achieved in the real world, where humans will inevitably continue their age-old dominion over fish, fowl and cattle. In David Bayvel's words, 'the glass is half full' (Bayvel 2008). There is no need for another Act (Hodgson 2004).

FALLS THE SHADOW: CRITICISMS OF THE ANIMAL WELFARE ESTABLISHMENT

[Note: this discussion is mainly based on material from the following New Zealand sources, supplemented by overseas literature: Bourke & Eden 2003; Fisher 2008; Horrocks 2008; Keel 2008; Kedgley 2003; Kerridge 2008; Kriek 2008; McCaw 1998; Mason 2008; Morris 2000, 2003b, 2004, 2006, 2008; Prattley 2008; Regulations

Review Select Committee 2006; RNZSPCA website; Robertson 2008; SAFE website; Sankoff 2005; Wells 2008.]

Now for the other side of the coin. There are critics on the centre left of the moral consensus who take a more pessimistic view than David Bayvel, maintaining that the glass is half empty, if that. Such people accept the instrumental use of animals (if sometimes reluctantly) but maintain that the utilitarian cost-benefit equation as worked out by the welfare establishment comes down far too heavily on the side of human interests. Furthermore, the philosophy of ‘incremental change’ has allegedly been implemented with painful slowness. Its critics see ‘incrementalism’ as an alibi for inertia. In other words, the establishment is perceived in some quarters as being cautious to the point of conservatism in its interpretation of the Act. It has not adopted the progressive leadership role it was in its power to play. T S Eliot wrote in *The Hollow Men*: ‘Between the idea and the reality falls the shadow.’ Some New Zealanders allege that a similar shadow falls between the idea embodied in the legislation and the reality of its implementation. The rest of this paper will cast a spotlight into this shadow and discuss four alleged shortcomings of the current system lurking there.

FARM ANIMALS: CODES OF WELFARE

Ever since Ruth Harrison denounced the callousness of intensive methods of industrial farm production in *Animal Machines*, there has been a growing body of concerned international literature on the issue (e.g. Garner 2004, 2005a, 2005b; Mason & Singer 1990; Masson 2003; Rollin 1989, 2003, 2004; Scully 2003; Singer 2006; Webster 1994, 2005). There have also been a large number of organised attempts to remedy the problem, exemplified by the work of Compassion in World Farming and the UK Farm Animal Welfare Council. The same concern about a farming regime of institutionalised callousness has been expressed in regard to New Zealand dairy cattle (Finnie 2008); new-born lambs (Rollin & Benson 2004); deer (NAWAC Annual Report 2006); broiler chickens (Morris 2008); breeding sows (Blundell 2005; RNZSPCA 2004; Weaver 2004) and the live shipment of breeding cows (MAF 2004). It is claimed in some quarters that the minimum standards laid down by the Codes of Welfare do not adequately protect farm animals from the ruthless drive for productivity – some would say over-productivity – and the inevitable animal suffering it generates.

Amongst this plethora of concerns, just one will be singled out as a representative example – the controversies surrounding the Layer Hen and the Pigs Codes of Welfare. What makes the layer hen debate particularly interesting in the present context is that its resonances extended right up to the parliamentary Regulations Review Select Committee (2005), and in doing so nicely illustrates a warning issued by the Palmers in *Bridled Power* (2004) about the potential dangers of government by secondary legislation. The danger in question is of a Quago issuing regulations – in this case, NAWAC issuing Codes of Welfare – that violate the spirit or letter of their primary legislation – in this case the Animal Welfare Act.

In 2004, a group called the Animal Rights Legal Advocacy Network (ARLAN) lodged a complaint with the Committee, alleging that the Layer Hens code violated Section 10 of the Act, which lays down that animals’ ‘behavioural needs’ must be

met. In the case of layer hens, NAWAC itself freely conceded in the report which accompanied the code that the basic behavioural needs of around 90% of such hens in New Zealand were manifestly not met. They were – and still are – cooped up in barren cages, deprived of facilities that would allow them to do the normal things for which they are genetically programmed, like perching, nesting and dust-bathing, and each allotted such little space – less than the size of an A4 piece of paper – they cannot even stretch their wings.

Two European countries had already banned those ‘battery cages’ when the New Zealand code was issued, and the European Union had decreed they should be phased out by 2012. Despite those precedents, in New Zealand, supposedly a world leader in animal welfare, no clear end-point was laid down for the abolition of battery cages. The reason given by NAWAC was that it was necessary to conduct more scientific research into the specific conditions of New Zealand hens. Critics of this decision queried why such research was required when a science-based ethical consensus had already been reached in Europe: it was asked what was so different about our scientists and/or our hens.

In the event, the Select Committee agreed with the complainants, saying that the code was indeed in breach of the Act, and that no ‘exceptional circumstances’ as allowed by Section 73 of that Act justified the indefinite retention of battery cages. The finding was overridden by the Minister of Agriculture.

It is perhaps unfair on NAWAC to mention this case, as the code in question – along with those for broiler chickens and for breeding sows which arguably manifest the same in-built problems – are currently under review. Why rake over dead coals? However, the great layer hen fracas – and a similar one surrounding the imprisonment of sows in stalls and farrowing crates so small they cannot even turn round – are worth mentioning as they highlight major bones of contention between the animal welfare establishment and its critics. The latter maintain that NAWAC has implemented the Act in such a cautious and conservative spirit, it has allegedly done little more than endorse the status quo.

In making this criticism, opponents of the codes point out that their construction was heavily influenced by the very industry groups, such as the Egg Producers Federation of New Zealand, who benefited from that status quo. There had been a flood of submissions to NAWAC opposing the codes – around 64,000 against the pig code and 120,000 against the layer hen one. Furthermore, Colmar Brunton surveys showed 79% of respondents were opposed to battery cages and 83% were opposed to the equally inhumane treatment of breeding sows (RNZSPCA 2004). In the event, the codes were perceived as favouring the vested interests of small, one-issue industry lobby groups (ibid).

There is a lot more to be said about the controversies surrounding the codes, but hopefully the revised codes may take some of the heat out of that controversy. In the meantime, though, the matter caused something of a breakdown in confidence on the centre left in the willingness of NAWAC to take the moral initiative it had, in principle, been accorded by the Act. One can sense this disillusionment in a 2004 press release issued by the usually diplomatic and conciliatory SPCA. Entitled ‘SPCA Slams Substandard Codes’, the article says amongst other things: ‘We are disgusted

and appalled by the new codes and we believe that a great many New Zealanders will share our revulsion. The only people with cause for celebration are hardliners from the pork and egg industries, who have lobbied hard for these results. NAWAC has shown a shameful degree of weakness in succumbing to this pressure.’ (ibid).

The upshot is that in the case of NAWAC Codes of Welfare, that trust which Mellor and Bayvel mentioned as being essential between the general public and the state welfare apparatus has been eroded in some quarters. So, too, has their trust in animal welfare science (Keel 2008). Whenever a problem occurs it is handed over to animal welfare scientists for further research. An illustration of this cycle can be found by going back to research funded by MAF in its 1996-97 funding round (MAF 1997). Amongst the research topics back then were mulesing, inadequate shelter for farm animals, painful procedures like dehorning and castration, and the welfare of layer hens: the same issues are still being researched ten years later. If lay people expostulate, saying that quite sufficient good international science has already been applied to such problems, and if they add that there comes a point when science should be subordinated to humane common sense, they are met with the ghostbuster Dr Peter Venkman’s famous put-down: ‘Back off, man. I’m a scientist!’ (Scobie 2002).

ANIMAL RESEARCH

The criticisms just mentioned relate to the ways in which animal welfare science in this country is allegedly sometimes seen to serve as a legitimization of MAF’s excessively cautious approach to farm animal welfare reform. Now we will turn to another aspect of science, and another major bone of contention between those inside and those outside the mainstream animal welfare establishment. This concerns the use of live animals in research, testing and teaching, as governed by Part Six of the AWA, whose sections effectively absolve scientists from the ethos of humane care which pervades the rest of the Act.

Basically, scientists can do things to animals for which they would be prosecuted if they did them to their household pets. The justification for this absolution goes back to that utilitarian cost-benefit calculation mentioned earlier: researchers may deliberately inflict suffering on animals if on balance that suffering will be outweighed by the benefits for economic prosperity, human or animal health or welfare, environmental management, animal productivity, or educational objectives.

Overseas, such research has been the object of serious concern ever since it became a mainstream scientific practice around the mid-nineteenth century (e.g. Armstrong & Botzler, Introduction 2003; Kean 1998; Singer 2002). However, most New Zealanders assume all that is in the distant past, or only happens in barbaric overseas countries.

Dr Michael Morris, a leading academic critic of the animal welfare establishment, challenged this sense of security in a paper given to an animal welfare science conference, which he subtitled ‘The three “Buts”’ (Morris 2004). These ‘buts’ are: ‘But it doesn’t go on here’; ‘but it must be necessary’; ‘but it must be well regulated’.

Those three points serve as handy springboards into concerns felt by a number of New Zealanders on the centre left of the animal welfare debate. The answer to the first 'but' – 'it doesn't happen here' – is that in fact a considerable amount of live animal research does take place in this country: as much or more per head of human population as in the UK. However, the main cause of concern is not so much the overall figures, as the significantly large number of research animals subjected to 'severe' or 'very severe' suffering on the five-point grading scale. Last year (NAEAC Annual Report 2007) over 19,000 animals were in the severe to very severe category (up around 3,000 from the previous year), of which over 16,000 were graded in the 'very severe' X category. By NAEAC's own guidelines, X-rated manipulations 'require especially strong justification and would be approved only in exceptional circumstances and with close supervision.' (MAF d.u.). In practice, it would appear that such manipulations are performed quite routinely. It is on these X-rated forms of suffering that we shall focus in the following.

Now for the second 'but' – such painful research must be necessary. Here we enter fraught and complicated territory. Depending on the type and the purposes of the research, there are three possible answers to the question of whether painful live animal research is necessary and therefore justifiable by the harm-benefit calculation. These answers are emphatically 'yes', paradoxically 'yes and no', and an ambivalent 'don't know'.

Even opponents of animal research may reluctantly accept it is legitimate when its findings are beneficial to other animals, as with vaccines against horrible flesh-devouring diseases like blackleg fever, or pain relief for unpleasant farming practices such as castration or dehorning. Such animal-to-animal application comprises a great deal of the animal research in New Zealand. Even though they find it repugnant, those who oppose animal research in other areas would probably concede that it is permissible when it improves the health and well-being of large numbers of other animals – as opposed to forcing even more productivity out of already over-taxed biological organisms (Morris 2004).

Now for the vexing 'yes and no' verdict. The vast majority of the extreme suffering is caused by routine testing on rodents of vaccines and of shellfish. Both forms of testing protect the health of humans and other animals, and also protect our export trade in shellfish and vaccines. The tragic irony for lab mice, however, is that in strictly scientific terms it is quite unnecessary. In vitro alternatives have been developed – some in our own Cawthron Institute - which are as effective for detecting poison in shellfish as in vivo (live) tests (Seamer 2007). The problem is that the public health regimes operated by our trading partners, such as the USA, do not accept the validity of these alternatives. They require the now out-dated live tests to be continued, or they will not accept our shellfish and vaccines. No live tests, no trade. Dr. David Bayvel is a key player in overseas bodies such as the World Organisation for Animal Health which are trying to negotiate the international acceptance of more humane testing regimes, but progress is frustratingly slow. In the meantime, New Zealand can either unilaterally abandon the production of shellfish and biological substances, or else continue to inflict severe suffering on over 16,000 animals a year – suffering which is scientifically unnecessary, but economically expedient.

Admittedly, as NAEAC Annual Reports regularly point out, the animals in question are ‘only’ rodents, and most New Zealanders operate a ‘sliding scale’ in their concern for animals. We care a lot about our animal friends like dogs, cats and horses, rather less about farm animals, and basically couldn’t care less about the welfare of ‘vermin’. Even so, rodents can suffer physical pain and emotional distress every bit as much as dogs. Hans Kriek (2008) has described a guinea pig infected with blackleg fever gnawing off its own legs in agony. There would probably be a public outcry if it were discovered that over 16,000 beagles died in such agony in New Zealand labs each year, even if it was good for trade.

In a third form of animal research, the answer to the question of its necessity is even more problematic. Many are definitely in favour, some bitterly opposed, while others – bewildered by science – are reduced to an ambivalent, agnostic ‘don’t know’.

Here’s the dilemma. Around 40% of research in New Zealand is devoted to ‘blue skies’ basic biological enquiries or to medical research into human health problems. There is a large body of literature (e.g. ANZCCART 1994; House of Lords 2002; Nuffield 2004; Royal Society 2004; Valley Animal Research Centre website) asserting that the vast majority of biological knowledge and biomedical progress that has accumulated since the Age of Reason, and will continue expanding into the future, is based on live animal research. Animal sacrifice is integral to scientific progress. Only by such progress can scientists alleviate scourges like AIDS, cancer, cystic fibrosis, paraplegia, Alzheimer’s disease and so on. It is almost heretical to suggest that such research is not, in fact, necessary. Most people today have such profound faith in the potentials of modern biomedicine, it would be shocking to have such faith undermined.

Such a heresy, however, has now been around for two decades, and is growing strength, not amongst so-called fringe anti-vivisection ‘cranks’, but reputable biologists and doctors (e.g. BBC 2008a,b,c,d; Coleman 1991; Greek & Greek 2000; LaFollette & Shanks 1996; Rollin 1989; Ruesch 1989; Safer Medicines Trust website; Sharp 1989; Singer 2002). These sceptics argue on strictly scientific grounds that equal if not more scientific progress could have been made without research on live animals, and that false analogies and extrapolations from animal models to humans have actually endangered the health of the latter.

Whichever side we take on this debate, or if – confused by science - we remain agnostic, the point is that it is difficult to conduct it on New Zealand soil. Though a few representative examples of local animal-to-human research are given in the most recent NAEAC Annual Report, it is not really possible for New Zealanders wishing to be adequately informed to find out precisely what our scientists are doing to animals in the names of basic research or medical progress. There is a scientist in this country who, equipped with a pack of 100 or so beagles, proposes protecting children in the third world from unspeakable diseases, overcoming resistance to antibiotics, curing arthritis and osteoporosis, developing non-steroidal anti-inflammatories and injectable contraceptives for dogs, and advising the government on mad cow disease (Valley Animal Research Centre website). Apparently about the only thing the beagles cannot cure is housemaid’s knee! Members of the general public, however, are unable to ascertain the validity of these Promethean aspirations to bring the light of science into a benighted world, as it is all protected by ‘commercial sensitivity’.

In 2004, at a conference of the Australian and New Zealand Council for the Care of Animals in Research and Teaching, it was proposed that NAEAC should release full and clear explanations for lay people of the nature of animal research, including frank discussions of ethical issues and the practical problems they generate. However, when Animal Ethics Committees around the country were consulted about this proposal, a large majority (74%) rejected this call, their reasons including the concern that ‘the information could be used as ammunition by activists, and could be misrepresented in the media’ (NAEAC News 25, 2007). In consequence, a ‘veil of secrecy’ is alleged to shroud a self-enclosed, self-regulated and self-justifying animal research community (Bourke & Eden 2003; Kedgley 2003). Even an MP like Sue Kedgley, equipped with the Official Information Act, has found it virtually impossible to penetrate that veil (ibid). The alleged secrecy is sometimes justified by dark sideways glances at acts of sabotage, intimidation or even terrorism committed by clandestine overseas groups like the Animal Liberation Front, but mainstream animal advocates in New Zealand scarcely warrant the epithet ‘terrorist’. The 18th century poet William Blake wrote: ‘A robin redbreast in a cage/ Puts all Heaven in a rage’. Today, a research rodent in a cage puts Sue Kedgley in a rage – but that scarcely makes her a bomb-toting terrorist.

Concerns about a ‘veil of secrecy’ shrouding live animal research are not limited to New Zealand. The fairly conservative, pro-research Nuffield Commission (op cit) complained that it was deliberately thwarted in some of its attempts to investigate exactly what was happening in science labs by over-secretive researchers. Both the Nuffield Council and the House of Lords Select Committee called for a much freer and franker disclosure, in terms accessible to the general public, of the realities of animal research in the UK. In doing so, they paralleled similar – and similarly ignored – appeals for openness in New Zealand.

Now for Morris’s third ‘but’: ‘but it must be well-regulated’. In principle it is, through a system of front-line Codes of Ethical Conduct and Animal Ethics Committees, the latter containing the safeguard of three lay members appointed from quite outside the research community. Doubts have been expressed, however, as to whether the checks and balances work as well in practice as in principle. Ten years ago, these doubts were expressed by Andrew McCaw, a member of the Ombudsman’s Office (1998). He suggested that there was a danger that the regulatory framework could be captured by the scientific community who could fairly much have things their own way by baffling lay AEC members with science. Again: ‘back off, man. I’m a scientist’. McCaw suggested this potential hegemony of researchers could be checked, as in the UK, by having government inspectors who could conduct thorough, unannounced inspections, and keep the public informed of their findings. Without such stricter external monitoring and reporting, there is a danger that has been pointed out by two respected and conservative English bodies (the House of Lords and the Nuffield Council on Bioethics) that even an apparently enlightened regulatory regime such as New Zealand’s might be used as a smokescreen, behind which researchers could continue inflicting suffering on animals in a way that would be morally repugnant to members of the general public, and might not even be scientifically justifiable.

As for the Three Rs, despite NAEAC’s assiduous promotion of these amongst the New Zealand animal science community, according to the most recent of its annual reports (2007), only 0.03% of animal research was devoted to finding alternatives to

painful forms of scientific manipulation of animals. According to the House of Lords and the Nuffield reports, the same problem exists in the UK, where despite widespread lip service to reduction, replacement and refinement, insufficient research is devoted to them, as ‘there’s nothing in it’ for the scientific community by way of grants, prestigious publications and career advancement.

INADEQUATE RESOURCES

We have now explored two major bones of contention between the centre left and centre right of the moral consensus. The former maintain, first, that even accepting that the cost-benefit calculation inevitably favours human interests over those of animals, the codes of welfare give farm animals far less protection from institutionalised brutality than the law itself (imbued with the spirit of the ‘duty of care’) intends. Second, they argue that given the comparatively large amount of extreme suffering inflicted on research animals, insufficient information is made available to concerned members of the public to enable an informed ethical discussion of the matter. The regime operated by NAEAC is allegedly a closed system, more intent on reassuring the public than justifying the grounds for that reassurance.

There is a third concern about the efficacy of the present regime which is much less controversial than the two discussed above, although even this is played down by key figures in the animal welfare establishment. It was encapsulated in a parliamentary exchange in 2008 between the Hon David Carter, Opposition spokesman for Agriculture, and the Hon Jim Anderton, Minister of Agriculture:

Carter: Is he [the Minister] satisfied with the level of his Ministry’s animal welfare resources; if so, why?

Anderton: No; as I said in the estimates debate, I am not satisfied, but the present budget of between \$2.5 million and \$3 million for animal welfare will be, I am sure, added to incrementally over successive Budgets.

Carter: Does the Minister think it acceptable that there are only five Ministry of Agriculture and Forestry animal welfare investigators across New Zealand dealing with 50 million head of livestock, which is one officer for every 10 million animals; if so, why?

Anderton: No, I do not think it is adequate...

To expand on that brief exchange: including poultry, there are around 150 million farm animals being processed in this country each year. MAF has only five inspectors to monitor their well-being and to implement the codes of welfare. One inspector, for example, has to police a region encompassing the Waikato, Bay of Plenty, Coromandel, Auckland and Northland (Fox 2008). The inspectorate has a working budget of only \$180,000 a year (ibid), and the entire animal welfare establishment has a budget of only between \$2.5 and \$3 million a year. When you consider that the product of those animals accounts for the majority of our export trade and earns the country over \$20 billion a year (Carter 2008), and when one considers the large amount of government expenditure on the well-being of only around 4 million humans, to spend under 3 million (less than the government gave the New Zealand America’s Cup team) on the welfare of the very animals upon whom our national livelihood and our everyday needs are so heavily dependent would appear mean-spirited, even ungrateful.

A similar resourcing problem is experienced by the SPCA. It has the statutory responsibility for investigating and prosecuting alleged acts of cruelty to animals (11000 last year) and to house animals that have been confiscated in the course of those prosecutions. To carry out this work, it maintains around 100 officially accredited inspectors in the field – which is 20 times more than the MAF inspectorate. Even so, like MAF its resources are often stretched very thin. For the entire West Coast, for instance, there is just one unpaid volunteer SPCA inspector. The SPCA does the state's work for it, thus saving government coffers an estimated \$5 million a year (RNZSPCA Annual Report 2007) or twice the budget allotted to the official animal welfare apparatus. True, MAF pays for SPCA inspectors to be trained, but around 80% of those inspectors are unpaid voluntary workers doing the job in their spare time, while the 20% of paid ones get minimal salaries (less than dog rangers) and have no career paths. It is also true that this year the SPCA was given a \$300,000 grant by the Minister of Agriculture to help it cope with the drought (MAF 2008a), but this came after years of asking for government help (Keel 2008; Kerridge 2008; Mason 2008; Prattle 2008; RNZSPCA Annual Reports 2000-2007) and is no guarantee of future governmental support.

The upshot of these comments is that even if this country's animal welfare legislation and its associated regulatory framework may be one of the best in the world in principle, it is manifestly unable to enforce compliance to its own enlightened spirit. Between the principle and the practice falls the shadow. During the drought just mentioned, for instance, according to the head of MAF's animal welfare inspectorate the animal welfare scene was in a state of complete chaos: MAF and SPCA inspectors were running from one metaphorical bushfire to another (Fox 2008). Even outside times of drought and flood, it is clear that MAF is massively under-resourced to police the institutionalised brutality that occurs in the animal production sector. It is also manifestly inequitable that the SPCA should shoulder the statutory responsibility of policing and prosecuting breaches of the Act in regard to companion animals, and housing the animals involved, while having to rely on charitable donations and volunteer inspectors. Wherever one stands on other debates, it would seem undeniable, considering the Minister of Agriculture's own words on the subject, that the New Zealand government wants to have a clean international image for animal welfare without earning it. Putting it crudely, it doesn't put its money where its mouth is.

DIVIDED LOYALTIES AND CONFLICTS OF INTEREST

In the course of this paper, two forms of divided loyalty or conflicts of interest allegedly facing the animal welfare establishment have been touched on, both generated by the harm-benefit calculation required by the Act itself. On the one hand, the well-being of farm animals has to be balanced against the commercial interests of industrial agriculture. On the other, the well-being of research animals has to be balanced against the interests of research organisations and their clients. Combining those, there is a conflict of interests between voiceless animals and the loud voice of what the United States Pew Trust (2008) has referred to as the agricultural/scientific industrial complex. Now a third site of divided loyalties will be mentioned, this time relating to the political domain.

It concerns the structural situation of the Animal Welfare Directorate, which is embedded within the Biosecurity section inside the Ministry of Agriculture. Its marginal institutional situation is reflected in the fact that there is no ministerial portfolio for Animal Welfare as such: the responsible Minister is just Minister of Agriculture and Biosecurity. In fact, the only designated spokesperson for animals within the House belongs to the Green Party. Her apart, animals are voiceless in our political system.

That being the case, it is inevitable that the Ministry's main priorities – the promotion of agricultural productivity and of biosecurity – should often trump animal welfare. This is reflected in its Outcome Framework (MAF 2007-08), which lists as priority outcomes such goals as 'sustainable economic growth and prosperity for New Zealanders'; 'prevention and reduction of harm to economic activity from pests and diseases'; 'healthy New Zealanders and a vibrant rural community' – but not 'animal welfare'.

The marginal situation of the Directorate within MAF can be seen in one small but illustrative case – that of a particularly noxious device called the electroimmobiliser. Farmers clip an electrode to the muzzle of an animal and insert another into its rectum. They switch on the power and electrify the beast, which remains conscious but totally paralysed while painful proceedings like castration or dehorning are performed on it. In 2000, NAEAC asked the Minister to have them banned: according to the most recent Annual Report, it is still waiting. This is only one of a number of cases where NAWAC and NAEAC have appealed for reforms, only to have their appeals sidelined. MAF has other priorities, such as promoting economic growth and prosperity.

To be fair to the Ministry, it does on occasions make pronouncements about the importance of animal welfare. These, however, are very rarely couched in terms of concern for the intrinsic well-being of the animals themselves. They are predicated, rather, on two forms of economic expediency, to which the welfare of animals is only an instrumental, contributory factor.

On the one hand, animals should be cared for because 'happy animals are more productive' (Sutton 2003). On the other hand, MAF publicly champions animal welfare because its neglect may injure our overseas image and therefore our position on the international market for animal products. Increasingly compassionate consumers in Europe and North America are starting to boycott animal-based food and artefacts whose production has inflicted cruelty on the animals themselves, as is the case with New Zealand lambs and dairy cows (Anderton 2008; Rollin 2005). It is therefore important for New Zealand to sanitise its animal welfare image, lest it be used by northern hemisphere competitors to cut this country out of their markets (Anderton 2008; Sutton 2003). This approach is plainly manifest in the following extract from an address by a Minister of Agriculture to a Veterinary Association Conference (Sutton 2003):

Internationally, there are some who believe that the production of food is special. That it is not like the production of other things, say: coal, or steel. I am not so sure about that. Farming is a business, albeit one that is perhaps more at the vagaries of the weather than other businesses.

However, it is increasingly important to think about these issues, as they could have ramifications within the international trading system.

* * * *

The tomtoms are beating in Europe with concerns about our animal welfare and environmental standards. As the pressure goes on European farmers to change their decades-old reliance on export subsidies and the like, they will search for other ways to keep us out of what they think should be exclusively their markets. They will start applying more and more pressure on us to meet nitpickingly high standards in non-trade areas.

New Zealand dairy farmers are already seeing that, with European farmers at a recent conference criticising us for leaving cattle outside where they might get sunburnt and making them walk twice a day to milking sheds, risking chafing to their udders.

More and more, our exporters have to seek to demonstrate to retailers and consumers that our products meet their expectations for animal welfare standards, and thus command premium prices. It is in New Zealand's wider trade interests to continue to position ourselves as having progressive animal welfare policies and to actively participate in international fora.

This concern for our overseas image has been amplified by recent high-profile attacks by international animal welfare organisations like the World Society for the Protection of Animals, and People for the Ethical Treatment of Animals (World Society website; Peta website) on Australia's poor track record in the animal welfare domain, notably the fate of its live shipments of sheep to the Middle East, and the inhumane practice of 'mulesing' merinos – that is, cutting off the backsides of lambs without any kind of pain relief. It is feared that if such organisations turned their attention to New Zealand farm animals, there could be major negative repercussions amongst some of our trading partners. Therefore 'we need to be vigilant; we need to make sure our own house is clean.' (Anderton 2008).

Viewed one way, this argument for animal welfare on the grounds of economic expediency must be good news for the animals themselves. It doesn't matter to our cattle, sheep and deer whether they are being solicitously cared for out of regard for their own feelings, or regard for New Zealand's overseas trading image: they benefit either way. There are two downsides, however, to what some might see as a rather cynical approach to animal welfare.

First, it applies only to export animal products, and only when MAF thinks that someone may be watching, be this the British consumer or the WSPA. It doesn't help the hundred million or so poultry being processed mainly for the home market, nor the hundreds of thousands of 'stir-crazy' sows. Furthermore, the maxim that happy animals are more productive ones only benefits animals when suffering does indeed diminish productivity. This is not the case with breeding sows, layer hens, broiler chickens, nor all the agonisingly painful forms of animal husbandry like dehorning, castration, docking and mulesing. In other words, MAF's concern for animal welfare based on economic expediency leaves a vast amount of animal suffering totally untouched: economic human self-interest does not automatically generate animal well-being.

In the Australian Law Reform Commission's journal mentioned at the start, a solution to the problem of divided loyalties is suggested (Pollard 2008), one which has also

been floated in New Zealand. Animals could have their own independent, stand-alone institutional base, such as a properly-resourced Ministry, or a Commission similar to those for the disabled, children and the environment. Such a body could act as the unambiguous ‘conscience and critic of society’ on behalf of voiceless animals inside government. It would, of course, have to acknowledge economic realities, but even so would not be obliged to regularly dilute its advocacy for animal interests in the light of human ones. With constant calls for the state apparatus to be trimmed down and streamlined, such a proposal would probably not be palatable in most political circles, but it would have the merit of resolving the current division of loyalty experienced by the animal welfare establishment, whose structural location inside MAF obliges it to skew the harm-benefit calculation excessively towards the human side of the equation.

Putting the four criticisms of the New Zealand animal welfare establishment together, some people on the centre left of the debate (e.g. Kriek 2008) maintain that not a single animal in this country has had its welfare improved since the Animal Welfare Act came into effect eight years ago: there was widespread suffering then, and an equal amount of suffering today. Between the rhetoric and the reality falls the shadow.

CONCLUSION: AN APPEAL FOR RECONCILIATION

With that (I hope excessively pessimistic) rhetorical flourish, I am now approaching the conclusion of this overview of the animal welfare debate in New Zealand. In formulating this conclusion, I will step out from behind the mask of the neutral reporter I have worn up till now, and speak with my own voice. I will stop summarising what those who have been engaged in the debate for years, even decades, have thought, felt and said, and will instead say what I, as an outsider and a newcomer to the debate, think and feel. What I’m about to say may well alienate actors on both sides of the debate I have been describing, but I feel strongly that it must be said.

It is sometimes healthy and creative to have robust debates on important issues – but the animal welfare debate is not one of these. To be blunt, I find the whole debate, and the terms in which it is conducted, frustrating, sterile and counter-productive. To clarify this verdict, I will conjure up the ghost of the greatest founding father of sociology, Max Weber.

On the eve of the Russian Revolution, when the armies of the other European superpowers were bogged down in the trenches of Flanders, he wrote an essay called *Politics as a Vocation*, whose insights are as valid today as they were back then. Weber typifies the political arena as divided between two opposed ethics – the Ethic of Ultimate Ends and the Ethic of Responsibility. This dichotomy provides a useful analytical framework for understanding the present standoff between the centre right and centre left of the animal welfare debate.

The former (that is, the animal welfare establishment) is accused of exaggerating the difficulties of implementing reform in ‘the real world’. In the name of ‘responsibility’ it allegedly plays into the hands of the unreformed Anything Goes brigade mentioned

at the start. The centre left, on the other hand, is accused of excessive idealism. In its pursuit of ultimate ends, it ignores practical complexities, flirting instead with the Abolitionist position of animal liberation fundamentalists.

In levelling these accusations, each side mingles truths with distorting propaganda; each reduces reasonable argumentation to unchallengeable mantras. The trench warfare between the two sides has long since reached a point of stalemate. Each side proclaims its own virtues, while denigrating its opponent, sometimes to the point of caricature. It has become a ritualised performance, the actors frozen into stereotypical postures, out of which nothing new emerges, and no progress is generated.

It wasn't always like this. There was a surge of visionary euphoria leading up to the passage of the Animal Welfare Act, in which all sides were united. It was a brief, heroic age when history itself was on the move. That euphoria has long since evaporated, to be replaced (adapting another Weberian expression) by the routinisation of compassion on the centre right, and the routinisation of confrontation on the centre left.

The tragic irony of this stalemate for an outsider like myself is that it is totally unnecessary. Unlike other social controversies, such as abortion, the animal welfare debate is not a zero sum game. Both sides aspire to the same goal, expressed in John Webster's deceptively simple expression 'healthy and happy animals'. Mahatma Gandhi once said that the greatness of a nation can be judged by the way it treats its animals. Both sides aspire to national greatness in these terms. That vision cannot be achieved, however, while the present sterile standoff continues. It simply wastes the huge reservoir of energy, compassion and practical experience that should be directed towards the animals themselves. Wouldn't it be great – wouldn't we be great as a nation - if all that energy, compassion and experience could be harnessed, and everyone could pull together in the same direction – a direction, after all, to which the vast majority of New Zealanders are all committed. History could start moving again.

INTERVIEWS

[Note: Most of the informants listed below have played multiple roles in the field of animal welfare. To economise space, only one title or activity most pertinent to the present paper has been noted. All interviews were conducted June-July 2008.]

Bayvel, David: Director, MAF Animal Welfare Directorate.
Bennion, Tom: Legal spokesperson, Animal Rights Legal Advocacy Network.
Carter, David: National Party spokesman, agriculture.
Fisher, Mark: Director, Kotare Bioethics.
Henderson, Jock: mixed farmer, Hawke's Bay.
Horrocks, John: mixed farmer, Wairarapa.
Kedgley, Sue: Green Party spokesperson, animal welfare.
Keel, Gwendoline: Legal adviser and board member, RNZSPCA.
Kerridge, Bob: Chief Executive, Auckland SPCA.
Kriek, Hans: Campaign Director, Save Animals from Exploitation.
Martin, John: Chair, NAEAC. (email correspondence only)
Mason, Peter: President, RNZSPCA.
Mellor, David: Professor, Animal Welfare Science and Bioethics Centre, Massey.
Nicolson, Don: President, Federated Farmers.
O'Hara, Peter: Chair, NAWAC.
Prattley, Jenny: Vice-President RNZSPCA.
Ricketts, Wayne: former MAF Programme Manager, Animal Welfare.
Robertson, Ian: Director, International Animal Law.
Stafford, Kevin: Professor, Animal and Veterinary Science, Massey University.
Tuckwell, Joanna: senior Policy Adviser, MAF Animal Welfare Directorate.
Wells, Neil: Legal adviser, 1999 Animal Welfare Bill.
Williams, Virginia: Animal Welfare Coordinator, NZ Veterinary Association.

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