



September 25, 2024

Ferda Simpson
Committee Clerk
Standing Senate Committee on Agriculture and Forestry
The Senate of Canada
Ottawa, Ontario K1A 0A4

Dear Ms. Simpson:

Re: Committee Consideration of Bill C-275, *An Act to Amend the Health of Animals Act*

We submit this brief on behalf of Animal Justice, Canada’s leading animal advocacy organization focused on using the law to protect animals. Animal Justice successfully challenged the constitutionality of Ontario’s agricultural gag, or “ag gag” law - the *Security from Trespass and Protecting Food Safety Act* - on the basis that it violates individuals’ Charter right to free expression and freedom of the press.¹

Animal Justice strongly opposes Bill C-275, *An Act to Amend the Health of Animals Act (biosecurity on farms)* (“**Bill C-275**”), particularly section 9.1, which reads as follows:

9.1 No person shall, without lawful authority or excuse, enter a building or other enclosed place in which animals are kept, or take in any animal or thing, if their entering such a place or taking in the animal or thing could reasonably be expected to result in the exposure of the animals to a disease or toxic substance that is capable of affecting or contaminating them.

As set out below, although advocates of the Bill allege it is about biosecurity, Bill C-275 is an ag gag bill. Rather than addressing known causes of disease outbreaks in the agricultural sector, it focuses narrowly on persons present “without lawful authority or excuse”. Contrary to claims made by proponents of the Bill, no disease outbreaks on Canadian farms have ever been caused by activists protesting or entering facilities without permission or by individuals otherwise present without lawful authority. Bill C-275 will not improve biosecurity or prevent the spread of disease because it exempts owners, operators, contractors, delivery personnel, visitors, etc., thus ignoring the most common infectious disease vectors.

It is important to note that though section 9.1 may seem to target only individuals who enter facilities without permission, in Alberta it would also apply to employee whistleblowers,

¹ See *Animal Justice et al v. Ontario*, 2024 ONSC 1753, available online: <https://www.canlii.org/en/on/onsc/doc/2024/2024onsc1753/2024onsc1753.html>

journalists, and others who enter a facility with permission but record conditions to publicly expose unlawful or unethical activities. That is because Alberta has a draconian American-style ag gag law on the books, aimed at preventing undercover exposés at farms and slaughterhouses by making any entry under “false pretences” unlawful. Bill C-275 would further restrict important expression about animal abuse and mistreatment, workers’ rights, and public health and safety in Alberta, and would therefore violate s 2(b) of the Charter which guarantees freedom of expression.²

Furthermore, to the extent that section 9.1 does apply to those who enter farms without permission, it is redundant because trespassing is already illegal under provincial laws. It risks interfering with provincial jurisdiction under the *Constitution Act, 1867* and appears to improperly expand the scope of the *Health of Animals Act*.

Rather than passing a redundant and potentially unconstitutional bill to try to make trespassing more illegal than it already is, we urge Canada to focus its efforts on enacting legally binding standards to protect the welfare of animals kept on farms and prevent the emergence and spread of disease at Canadian farms. At a minimum, Bill C-275 requires some amendments (as discussed below).

1. Background

In February 2020, MP John Barlow introduced [Bill C-205](#), *An Act to Amend the Health of Animals Act*. The bill was intended to amend the *Health of Animals Act* by adding a Section 9.1 to the *Act*:

No person shall, **without lawful authority or excuse**, enter a building or other enclosed place in which animals are kept knowing that or being reckless as to whether entering such a place **could result** in the exposure of the animals to a disease or toxic substance that is **capable of** affecting or contaminating them. **(emphasis added)**

Due to concerns about infringement on provincial jurisdiction, as well as the Bill’s failure to address the main infectious disease threats on Canadian farms, the House of Commons Standing Committee on Agriculture and Agri-Food (“AGRI Committee”) amended Bill C-205 to make it applicable to all persons, and to provide clarity about the connection needed between entry and disease risk:

9.1 No person shall enter a building or other enclosed place in which animals are kept, or take in any animal or thing, knowing that or being reckless as to whether entering such

² Though key portions of Ontario’s ag gag law have now been struck down as unconstitutional, that province has already announced plans to re-draft the offending provisions. If Bill C-275 is passed in its current form there is a risk that it will similarly apply to employee whistleblowers, journalists, and others in Ontario once the second iteration of its ag gag law comes into force.

a place or taking in the animal or thing **could reasonably result** in the exposure of the animals to a disease or toxic substance that is capable of affecting or contaminating them. **(emphasis added)**

After the 2021 federal election, MP Barlow introduced Bill C-275, which was largely identical to Bill C-205 in its original form. The AGRI Committee made an important amendment to s 9.1 to require a reasonable connection between an individual's entry and the exposure of animals to disease but the majority declined to amend the Bill to apply equally to all persons.

2. Evidentiary Record Before the Committee

a) Canada's industrialized animal agriculture sector

Over the years, animal agriculture has become increasingly industrialized and intensified. In addition to adversely affecting the welfare of animals raised and slaughtered for food and fur in Canada,³ this increasing industrialization and intensification has also contributed to infectious disease and biosecurity risks in the sector. The conditions in which animals are raised is a key factor that contributes to disease risk, as is the sheer number of animals raised for meat and fur in Canada.

In 2023, more than 841 million land animals were slaughtered for food in Canada, the vast majority of whom spent their lives confined indoors at large-scale intensive livestock operations or "factory farms".⁴ Though industry representatives often suggest that Canadian farms are smaller in scale, government statistics are clear that animal farming in Canada has become increasingly intensified over the past few decades. The number of animal farms has been steadily decreasing while farm size has dramatically increased. For instance, the average number of pigs per farm in Ontario in 1976 was just 103; in 2016 it was 1,280.⁵ The picture is similar across Canada where, for example, the number of chicken farms decreased between 1976 and 2016 from 99,128 to 23,910 but the average number of chickens at each farm increased sevenfold from 878 to 6,086.⁶

The vast majority of farmed animals spend their entire lives indoors, and are only exposed to the outdoors during transport. It is standard industry practice to keep farmed chickens, pigs, egg-

³ See, e.g. <https://faunalytics.org/farm-animal-welfare-a-review-of-standard-practices-and-their-effects/>

⁴ This number does not include farmed animals such as mink or foxes farmed for fur, horses slaughtered for meat, millions of male chicks killed at hatcheries, or any aquatic animals killed for food.

⁵ See:

<https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3210015501&pickMembers%5B0%5D=1.7&cubeTimeFrame.startYear=1976&cubeTimeFrame.endYear=2016&referencePeriods=19760101%2C20160101>

⁶ See:

<https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3210015501&pickMembers%5B0%5D=1.1&cubeTimeFrame.startYear=1976&cubeTimeFrame.endYear=2016&referencePeriods=19760101%2C20160101>

laying hens, turkeys, ducks, and other animals confined in pens or cages indoors.⁷ Keeping thousands of genetically similar animals, a significant percentage of whom have compromised immune systems and are subjected to stressful conditions and painful mutilations, confined indoors in crowded conditions with poor air flow, increases the risk of the emergence and spread of disease.⁸ Indeed, deadly strains of avian and swine flu have emerged from North American intensive livestock operations in the past and scientific experts agree that they could be the source of the next global pandemic.⁹

Despite these risks, there are no legally mandated biosecurity standards for Canadian farms and, absent a known disease outbreak, no public inspections or oversight to proactively monitor biosecurity and disease risks at these facilities.

Proponents of Bill C-275 have repeatedly claimed that the CFIA inspects farms regularly for animal welfare. This is false. The CFIA does not have jurisdiction over animal welfare on farms. Moreover, there are generally no legally binding standards of care to protect the welfare of these animals, aside from when they are transported or slaughtered (when the federal *Health of Animals Act* applies). There has been much discussion during hearings on Bill C-275, both before this Committee and the AGRI Committee, about enforcement of recommendations developed by the National Farmed Animal Care Council (“NFACC”), but those are non-binding recommendations developed largely by industry and there are no public (or even NFACC) inspections to monitor compliance with those recommendations.

b) Budget of Animal Protection Groups

This Committee heard from MP Barlow that animal protection groups in the U.S. fundraise \$800 million annually off of trespassing on farms. We wish to be clear that this is incorrect and does not reflect the situation in either the U.S. or Canada. It is possible that a figure in the order of several hundred million could be arrived at by including the budget of every single mainstream animal welfare organization in the U.S., like the Humane Society of the US and the ASPCA. These groups work closely with government and industry and do not fundamentally challenge animal agriculture practices, let alone engage in trespassing or other unlawful activities. The sole

⁷ Cows raised for meat are the exception. They are not generally kept indoors but they are typically kept on private property.

⁸ See, e.g. “Animal Markets and Zoonotic Disease in the United States” (Harvard Law School and New York University):https://animal.law.harvard.edu/wp-content/uploads/Animal-Markets-and-Zoonotic-Disease-in-the-United-States.pdf?_jtsuid=44037169989256672550132; Otte et al. “Industrial Livestock Production and Global Health Risks” (2007 Research Report):

⁹ See, e.g. <https://www.usatoday.com/story/news/health/2023/07/22/deadly-covid-style-pandemic-could-easily-start-in-us-report-finds/70442786007/>;
<https://www.vox.com/videos/2020/8/18/21374061/factory-farming-meat-coronavirus-pandemic>

organization in the US that systematically enters farms, called Direct Action Everywhere, had an annual [budget](#) of only US\$563,000 in 2022.

Moreover, it is worth noting that the combined annual budget of all Canadian animal advocacy groups is less than \$15M, which is a fraction of the marketing budget of animal agriculture industry associations. For instance, all Canadian animal protection groups combined have an annual budget that is significantly less than the annual marketing budget of Dairy Farmers of Canada alone, which was \$80M in 2018. And of course, they are just one of many industry groups tasked with marketing and messaging related to animal agriculture in Canada. No animal protection groups in Canada are engaging in or fundraising off of trespass events.

c) Animal Protection Advocates Have Never Caused a Disease Outbreak on a Farm

This Committee heard allegations that activists entered the Porgreg pig farm in Québec and caused an outbreak of rotavirus. These allegations have been conclusively proven false through testing. The judge in the trial in question rejected this allegation by the farm owner.¹⁰ The individuals involved were not prosecuted for this as they did not spread disease.

The activists who entered the Porgreg facility were convicted in 2022 of criminal offences (including break and entering, and obstructing police) as it is already an offence in Canada to sit-in on private property, including farms and slaughterhouses. The judge in the Porgreg [decision](#) agreed that the images taken inside the facility ([see here](#)) were disturbing and troubling (paras 205-206). They showed crowded pigs covered in feces; dirty floors partially covered with feces; cobwebs hanging from the ceiling; dead piglets in with live animals; and rows of mother pigs in tiny gestation crates so small they could not walk or turn around.

Provincial Ministère de l'Agriculture, des Pêcheries et de l'Alimentation ("MAPAQ") inspectors visited the farm following the sit-in. Their report documented evidence of inadequate ventilation, accumulation of manure, and suffering animals in need of medical attention. Nonetheless, the operators of the facility were never charged with any offence.

When he appeared before this Committee, MP Barlow also mentioned an alleged distemper outbreak at an Ontario mink farm after individuals released some animals from their cages. We cannot confirm whether those claims are accurate, as there is no public evidence to support the claim. In that case, any alleged disease outbreak was caused by the release of mink from cages, and not brought in by individuals entering the facility. Releasing animals is illegal in every province and there was a full police investigation in this instance. Bill C-275 does not target the release of animals, it targets bringing an animal into a facility so, as drafted, it would not apply to an instance such as this.

¹⁰ See paras 291-293 of this [decision](#).

This Committee heard an allegation that in California, activists caused avian flu outbreaks at two facilities. At the time animal activists entered those facilities, there was a widespread outbreak of avian flu in California impacting many commercial flocks. No report has conclusively tied animal activists to any outbreak of avian flu in California.

MP Barlow alleged that individuals who have unlawfully entered farms in Canada have entered multiple facilities, thus posing disease and biosecurity risks. This is also false. On the rare instances where individuals have staged sit-ins or otherwise entered facilities, they have entered only one facility, generally donning protective gear. Again, these activities are already illegal and individuals have been charged and convicted under provincial trespass laws and the Criminal Code following such instances.

3. Concerns with Bill C-275

a) Bill C-275 ignores serious risks to biosecurity in the animal agriculture sector

Existing biosecurity standards are inadequate and voluntary

Animals kept in industrial farms or “intensive livestock operations” tend to be confined indoors by the hundreds, thousands, or tens of thousands under stressful conditions that create the perfect breeding grounds for the emergence and spread of disease.¹¹ Risks of disease emergence and spread in the animal agriculture sector are serious. Disease outbreaks can have devastating impacts on farmed animals and humans, as well as significant economic impacts. In 2004, Canadian officials announced that 19 million chickens in southwestern British Columbia would be killed in response to cases of H7 influenza in workers.¹² And since 2022, millions of wild and farmed birds have been impacted by an outbreak of highly pathogenic avian influenza in Canada, with the disease now impacting cows in the U.S. dairy industry.¹³ For all of these reasons, biosecurity at industrial animal agriculture operations is a matter of great importance.

These risks can be mitigated to some extent with careful surveillance, vaccination, isolating sick animals, and other biosecurity and infection and control measures. As noted above, Canada lacks legally binding, proactive biosecurity protocols to prevent the emergence and spread of disease at

¹¹ See, e.g. Jay P. Graham, PhD et al, “The Animal-Human Interface and Infectious Disease in Industrial Food Animal Production: Rethinking Biosecurity and Biocontainment”, Public Health Rep. 2008 May-Jun; 123(3): 282-299. Online: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2289982/>; Bryony A. Jones et al, “Zoonosis emergence linked to agricultural intensification and environmental change”, Proc. Natl Acad Sci USA, 2013 May 21; 110(21) 8399-8404. Online: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3666729/>. See also: <https://www.theguardian.com/commentisfree/2020/apr/20/factory-farms-pandemic-risk-covid-animal-human-health>;

¹² See: <https://www.cidrap.umn.edu/news-perspective/2004/04/canada-kill-19-million-poultry-stop-avian-flu>

¹³ See: <https://inspection.canada.ca/animal-health/terrestrial-animals/diseases/reportable/avian-influenza/latest-bird-flu-situation/status-of-ongoing-avian-influenza-response/eng/1640207916497/1640207916934#a1>

intensive livestock operations. The federal *Health of Animals Regulations* grant veterinary inspectors powers to make orders to sanitize facilities where there is a risk of disease; grant veterinary inspectors powers to make orders regarding the sanitization of public sales, markets, or livestock auctions; and regulate the sanitization of containers used for the import and general transportation of animals and animal products.¹⁴ After BSE devastated the beef industry, and led to over 200 tragic cases of dementia and death in people, regulations were passed to prohibit feeding cows and other ruminant livestock animals meat and byproducts from other ruminant animals. But these narrow provisions fall short of establishing comprehensive biosecurity measures to prevent known sources of infection in the animal agriculture industry. They do not set out legally binding protocols to guide farming practices and address the primary sources of biosecurity risks on farms. Rather than waiting for another public health crisis before mandating further biosecurity protocols in the agricultural sector, Canada should take action now to promote animal and human health and well-being by introducing mandatory standards.

Similarly, provincial legislation tends to empower officials to respond to biosecurity hazards only once they are detected, rather than requiring proactive adherence to specific standards on farms and other agricultural facilities to prevent disease outbreaks. While the CFIA has developed a biosecurity guide to assist Canadian producers in developing on-farm biosecurity plans and to prevent the emergence and spread of diseases, this guide is not legally binding and adherence is purely voluntary.¹⁵

No disease outbreaks have been caused by activists

Despite the stated purposes behind Bill C-275,¹⁶ it does not further biosecurity objectives. CFIA data since 2000 shows that there has not been a single documented case of a disease incident caused or contributed to by someone entering onto an agricultural facility without permission. This data is set out in a report prepared by Animal Justice entitled “Animal Advocates or Poor Farm Practices? Disease Outbreaks and Biosecurity Failures on Canadian Farms”.¹⁷

The data shows that the known causes of outbreaks have been some combination of the following: standard farm practices, poor adherence to biosecurity protocols, animals being fed the remains of other animals (e.g., mad cow disease), workers or others in close contact with animals spreading disease including influenza (e.g. outbreaks of COVID-19 at B.C. mink farms),

¹⁴ *Health of Animals Regulations*, CRC, c 296, ss. 104 - 109

¹⁵ Canadian Food Inspection Agency. National Biosecurity Standards and Biosecurity Principles. Government of Canada. Online: <https://inspection.canada.ca/animal-health/terrestrial-animals/biosecurity/standards-and-principles/eng/1344707905203/1344707981478>

¹⁶ See e.g., MP John Barlow Statement (Feb 18, 2020). Online: <https://johnbarlowmp.ca/2020/02/18/mp-barlow-introduces-private-members-bill-to-protect-biosecurity-on-farms/>

¹⁷ Available online: <https://animaljustice.ca/wp-content/uploads/2023/08/Animal-Justice-2023-Biosecurity-Report--Animal-Advocates-or-Poor-Farm-Practices2023.pdf>

re-use of needles and equipment, failure to properly disinfect trailers, workers entering multiple facilities, and exposure of farmed animals to virus-carrying wild animals (and vice versa¹⁸). The risks posed by the rare instances when individuals have engaged in sit-in events are significantly smaller than risks posed by routine farming practices and the conduct of farm owners and operators themselves.

Dr. Jaspinder Komal, formerly the Chief Veterinary Officer for Canada and Vice President of the Science Branch at the CFIA, provided compelling testimony before the AGRI Committee on May 6, 2021 during its study of Bill C-205 in the last Parliament. In his submissions, Dr. Komal stated as follows:

Is there a level of risk? We think the level of risk that will be induced by trespassers would be very minimal, because in order to have a risk from a disease perspective, you have to have continuous and prolonged contact with the animals, as that's how diseases are spread. African swine fever is one of them, which is a very slow disease that actually is transmitted between pigs, unless humans are within the farm, in the pig barn with the pigs for a longer period of time and then transmitting the virus.¹⁹

Industry's poor adherence to basic biosecurity measures

Scientific research has shown that, without proactive and legally binding rules in place, adherence to basic biosecurity requirements in the Canadian agriculture industry varies widely, with many farms demonstrating poor adherence to voluntary biosecurity protocols. For instance in one 2019 study, researchers found poor adoption of infection spread reduction measures on Canadian dairy farms, with a majority of farms not adopting sanitary practices.²⁰ Less than 15% of farms studied had measures in place to limit or control visitors entering the facility, with only half requiring visitors to adhere to infection minimization processes like changing boots and clothing. Similarly, a 2011 study using hidden cameras to evaluate biosecurity protocol adherence on a number of Quebec chicken farms also showed poor compliance. The study showed that personnel regularly disregarded biosecurity measures, including disrespecting clean vs. contaminated areas, failing to adequately wash their hands, and failing to properly change

¹⁸ “Wildlife surveillance surrounding mink farms in British Columbia” (Canada Communicable Disease Report, 2022): <https://www.canada.ca/en/public-health/services/reports-publications/canada-communicable-disease-report-ccdr/monthly-issue/2022-48/issue-6-june-2022/sars-cov-2-wildlife-surveillance-mink-farms-british-columbia.html>

¹⁹ Standing Committee on Agriculture and Agri-Food Transcript (May 6, 2021). Online: <https://www.ourcommons.ca/DocumentViewer/en/43-2/AGRI/meeting-31/evidence>

²⁰ Denis-Robichaud, J., Kelton, D.F., Bauman, C., Barkema, H.W. (2019) Biosecurity and herd health management practices on Canadian dairy farms. *Journal of Dairy Science*. 2019 July 102(10). https://www.researchgate.net/publication/334660417_Biosecurity_and_herd_health_management_practices_on_Canadian_dairy_farms

boots and clothing. The researchers concluded that the nature and frequency of the errors suggested a lack of understanding of biosecurity principles.²¹

Indeed, one of the key witnesses to appear in support of Bill C-275 before the AGRI Committee was Ray Binnendyk, an owner of Excelsior Hog Farm in British Columbia. Mr. Binnendyk focused his testimony on his allegedly high biosecurity and animal welfare standards, and a 2019 incident in which several individuals staged a sit-in at his pig farm. The sit-in followed the release of footage showing horrific animal suffering and abuse at the facility, including crowded pens full of thousands of pigs, and animals suffering from hernias, bloody lacerations, and golf-ball-sized growths. Some pigs could not walk, so they languished and slowly died on the filthy concrete floor. Dead pigs were found rotting in pens with other pigs eating their dead bodies. Additional hidden camera footage was later released, showing the owners and operators of Excelsior Hog Farm engaged in what appears to be criminal animal cruelty, including using electric prods on the sensitive faces of pigs, repeatedly hitting and kicking the animals, and cutting off the tails and testicles of screaming piglets with no apparent pain relief. Neither Excelsior nor Mr. Binnendyk was ever prosecuted.

In 2023, two activists were [convicted](#) of criminal mischief and break and enter for the sit-in at Excelsior. Mr. Binnendyk was required to testify during pre-trial motions, where he admitted that he urinates throughout the barn, which obviously does not comply with biosecurity rules. Footage released publicly in 2023 after his appearance before the AGRI Committee on Bill C-275 also showed troubling abuse and significant biosecurity concerns, including feces in water troughs, floors caked in feces, cats using pigs' feed as a litter box, dead pigs left to rot, the bodies of half-eaten dead piglets throughout the barn, teenagers in bathing suits and baseball caps walking through the barn, goats walking through the barn, and an individual rollerblading through the barn.²²

Conclusion: Bill C-275 will not prevent disease outbreaks

In conclusion, Bill C-275 would not address any of the known risks to biosecurity. Unlike all other provisions in the “Prohibitions” section of the *Health of Animals Act*, which apply to all persons, section 9.1 would effectively exempt farm owners, operators and others. It would apply only to persons who enter a farm without lawful authority. To truly prevent the emergence and spread of diseases on Canadian farms, Canada needs legally binding biosecurity standards that apply to all persons, including farm owners and operators.

²¹ Racicot, M., Venne, D., Durivage, A., Vaillancourt, J. (2011) Description of 44 biosecurity errors while entering and exiting poultry barns based on video surveillance in Quebec, Canada. *Preventative Veterinary Medicine*. 2011 July 1;100(3-4): 193-9. <https://pubmed.ncbi.nlm.nih.gov/21605922/>

²² <https://www.youtube.com/watch?v=hbfs8wPWWUY>; <https://www.youtube.com/watch?v=LWwiiw0Gdvk>.

b) Trespassing is already illegal in Canada

Under Bill C-275, as amended by the AGRI Committee, persons who enter a building in which farmed animals are kept without lawful authority could be guilty of an indictable offence and liable to a fine of up to \$100,000 or up to one year of imprisonment. An organization could be fined as much as \$500,000. To be liable to these significant penalties, an individual does not have to actually cause any harm to a farmed animal or to food security.

Furthermore, Bill C-275 does not address a legislative gap. It targets conduct that is already illegal. Provinces already have anti-trespass legislation. It is also illegal under the *Criminal Code* and provincial animal welfare legislation to harm or poison animals. In the rare instances when individuals have trespassed on farms, they have typically been charged under these existing laws.²³

Rather than add yet another layer of illegality, we urge the government to address the root cause of the current crisis of confidence in the animal farming system. This includes creating legally binding standards of care to protect the welfare of farmed animals, as well as proactive and transparent enforcement of those standards.

c) Trespass to property is a matter of provincial jurisdiction

Bill C-275 appears to be aimed not at addressing known disease risks in the animal agricultural sector, but at creating a new legal mechanism, in addition to existing provincial laws, to charge individuals who trespass on farms. Bill C-275 is, in effect, an anti-trespassing law, and is therefore likely unconstitutional as an intrusion on provincial jurisdiction. Under section 92(13) of the *Constitution Act, 1982* provinces are granted exclusive jurisdiction relating to property and civil rights within the province.

Provinces already have laws prohibiting individuals from trespassing on private property. In fact, several have gone further in recent years and amended their trespass laws to enact ag gag laws, as described above, designed to make it even more difficult for individuals to document and publicly expose animal abuse and suffering in farms, slaughterhouses, and transport trucks.

d) Interplay with provincial ag gag laws

Alberta has an ag gag law that prevents undercover exposés at agricultural facilities by making it an offence to enter a facility under “false pretences”.²⁴ Ontario had a similar law until portions of it were struck down as unconstitutional in April 2024, though the province is already taking steps

²³ Note that the fact of charges having been laid on a date following an incident does not always make the news, leaving the erroneous appearance in some instances that no charges were laid.

²⁴ Note that Animal Justice is currently challenging the constitutionality of Ontario’s ag gag law on the basis that it contravenes Charter-protected rights to free expression and peaceful protest.

to introduce an amended version of its law. PEI also passed Bill 120, *An Act to Amend the Animal Health Act*, that is nearly identical to Bill C-275.²⁵

The interplay between Bill C-275 and provincial ag gag laws is another matter to which this Committee should give careful consideration. Because Bill C-275 applies to individuals who enter a facility “without lawful authority”, section 9.1 would apply to a broad range of individuals—including investigative journalists and employee whistleblowers—in Alberta (and potentially Ontario once the next iteration of its ag gag law is introduced), and any other province that chooses to adopt similar ag gag laws in the future. This means that an employee who conducts undercover work on a farm in Alberta could be subjected to draconian fines and even jail time under both the provincial ag gag law and Bill C-275.

e) **Inadequate Resources for the CFIA to Enforce Bill C-275**

Compounding the above-noted problems with Bill C-275 is the fact that the CFIA—the body that would be tasked with administering the new law—is ill-equipped to handle enforcement. The Bill improperly expands the scope of the *Health of Animals Act*, adding an anti-trespass law to a statute aimed at protecting the health and well-being of animals. As Dr. Komal, the Vice President of the Science Branch at the CFIA, remarked at the May 6, 2021 Committee hearing:

[E]xisting legislation already clearly defines and deals with issues related to private property, and its enforcement largely rests with provincial authorities, including peace officers. There are also existing federal provisions under the *Criminal Code* that deal with trespassing, as well as specific prohibitions on animal cruelty and abuse. **What Bill C-275 proposes represents a significant shift from what the CFIA has been mandated to do, and therefore would require an investment of additional inspection resources, further training, and increased legal authorities to assume these additional responsibilities.** Given the combination of *Criminal Code* provisions, provincial trespass and animal health legislation and producers’ commitment to on-farm biosecurity that already exist, the proposed amendments would provide limited additional protection to farmers and producers.²⁶ **[emphasis added]**

Dr. Komal went on to state that the current resources that the CFIA possesses are “for inspectors to be working under the *Health of Animals Act* to investigate diseases.”²⁷ These limited resources

²⁵ See: <https://docs.assembly.pe.ca/download/dms?objectId=5fea6563-d6a4-4454-84e9-624c4e7ad93e&fileName=chapter-86.pdf>

²⁶ Standing Committee on Agriculture and Agri-Food Transcript (May 6, 2021). Online: <https://www.ourcommons.ca/DocumentViewer/en/43-2/AGRI/meeting-31/evidence>

²⁷ Ibid

should not be further diverted towards enforcing trespassing laws, as there are already authorities in place who oversee the enforcement of these types of offences.

As Dr. Komal further noted, enforcing Bill C-275 would be a “game-changer” for the CFIA. The Agency would require more inspectors, with substantially more resources, instruments, tools, and training— all in the name of enforcing a Bill that takes aim at conduct that provincial authorities are already tasked with policing.

4. Conclusion

The federal government should develop an approach to promoting biosecurity that focuses first and foremost on addressing the underlying risks posed by Canada’s increasingly industrialized animal food and fur product production system. Such an approach would be consistent with a One Health approach that recognizes the interconnectedness and interdependent nature of human, animal, and environmental health.²⁸ In addition to the urgent need to address standard practices and conditions at industrialized animal agriculture facilities that increase infectious disease and biosecurity risks, mandatory biosecurity standards should be introduced to prevent the emergence and spread of disease.

Bill C-275 is unnecessary and would not improve biosecurity at farms. We urge the Committee to reject the Bill or amend it to ensure it applies equally to all persons. This would ensure that all individuals present at farms and agricultural facilities are held to the same standards and are subject to the same fines and penalties for entry that could cause the introduction of disease. To this end, we propose striking the words “without lawful authority or excuse” from section 9.1.

Alternatively, the Bill could be amended to apply only where an individual exposes animals to disease, thus bringing it within the purview of an actual biosecurity law and not merely a redundant trespassing law. This could be accomplished by striking out the words “could reasonably be expected to” such that the new s 9.1 would state:

9.1 No person shall, without lawful authority or excuse, enter a building or other enclosed place in which animals are kept, or take in any animal or thing, if their entering such a place or taking in the animal or thing results in the exposure of the animals to a disease or toxic substance that is capable of affecting or contaminating them.

We also propose striking the language of “an animal or a thing” as this seems specifically designed to target a hidden camera or phone that may be used at a farm by an undercover worker, and further puts whistleblowers at risk of prosecution.

²⁸ See, e.g. <https://www.who.int/news-room/fact-sheets/detail/one-health>

We further propose striking s 2 of Bill C-275 in its entirety, as it provides for extreme penalties that are significantly higher than the general penalties provided for a contravention of the *Health of Animals Act*, including corporate penalties.

Thank you for your consideration of these comments. Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Pierre Sadik', with a long horizontal flourish extending to the right.

Pierre Sadik
Government and Legislative Affairs Counsel
Animal Justice
psadik@animaljustice.ca