

# Farm animal welfare in Europe: From legislation to labelling

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## 1. Introduction

The modern idea of animal welfare was born in Europe in the 1960s in response to the concerns of informed citizens about the plight of animals in modern, intensive animal production. Since then the idea has undergone several significant transformations. To understand today's focus on animal welfare as a consumer issue we therefore propose, in this paper, to track the idea back to its origins. We begin by (in Section 2.-4.) by providing the wider context within which the final presentation of animal welfare as a driver in the market for animal products in Europe (in Sections 5.-6.) can be understood. We will throughout use regulation of pig production and the market for pork as an illustration.

## 2. The Brambell Committee and the origin of the idea of animal welfare

Concern about the way animals are treated has a long heritage in Europe. In nineteenth-century Britain there was an upsurge of interest in the prevention of *cruelty* to animals. The UK enacted the world's first anti-cruelty law in 1822; other European countries soon followed. Concern about cruelty (understood as causing gratuitous suffering to animals or being grossly negligent in their care) has a relationship to the idea of welfare. But it is significantly different from the modern idea of animal welfare, which dates back to the 1960s – more specifically to the publication of Ruth Harrison's book *Animal Machines* (1964).

The book gave rise to increasing misgivings among members of the British public about conditions in intensive farm animal production. This led the UK Government to form the Brambell Committee, whose job it was to investigate and report on welfare conditions in British livestock farming. In 1965, the Committee issued its "Report of the Technical Committee to Enquire into the Welfare of Animals Kept under Intensive Livestock Husbandry Systems". The Brambell Report, as it became known, was *theoretically* important for the way in which it conceptualized animal welfare. It was also *practically* important because its recommendations formed the basis of subsequent British and European animal welfare legislation.

As concerns the theoretical importance, a major conceptual shift took place in the Brambell report, and the animal welfare legislation that followed it. Whereas previous anti-cruelty legislation had focused on preventing what was seen as pointless, or as it was said "wanton", suffering without human benefits, this new development involved protecting animals against the adverse consequences of human activities even if the activities made food production more efficient. For example, although keeping sows confined using chains or crates or housing slaughter pigs at very high stocking densities could be seen as integral to the most efficient production of pork, these methods were still criticized for denying animals the fulfilment of their needs.

The Brambell Report understood animals' needs as requirements which, if they were not met, would cause suffering. The Report also insisted on a new and wider understanding of suffering. Until that point, suffering had been conceptualized in terms of persistent and significant pain. However, the Report introduced the idea that suffering could also follow from the frustration of "behavioural urges" in the form of discomfort, stress, and other negative mental states. This understanding of suffering made it possible, for example, to criticize the confinement of sows, not on the basis that confinement causes pain, but rather because confinement prevents animals from engaging in behaviours they are highly motivated to perform.

Using these ideas, the Brambell Report formulated the general requirements that farm animals should be free to "to stand up, lie down, turn around, groom themselves and stretch their limbs" (Brambell, 1965 p. 13). These requirements came to be called the "Brambell Freedoms" and were later developed into the Farm Animal Welfare Council's Five Freedoms (FAWC 2009). Viewed against the background of context of current critical debates about farm animal production, the Brambell Report did not go very far. In particular, it focused exclusively on reducing what is now called "negative welfare" – harmful experiences and outcomes such as pain and frustration – and did not include positive welfare.

Nonetheless, the vision of animal welfare presented in the Report was at that time both new and highly influential. Together with similar initiatives in other European countries, the Brambell Report initiated developments that we will describe in the next sections.

### *3. First phase in the development: National animal welfare legislation*

The Brambell Committee saw national legislation as the main tool with which to secure animal welfare. However, since the remit of the committee extended only to affairs and arrangements in the UK, its findings focused exclusively on British legislation. In other words, Brambell's recommendations relate to changes in British animal welfare legislation.

The committee was aware of that scientific knowledge about farm animal welfare was limited. For this reason, and to allow for flexibility to deal with new developments in agriculture, it argued that:

*"It must be possible to modify any standards laid down without the necessity for constantly amending the main legislative instrument. Therefore we recommend that any Act necessary to make our recommendations effective should be in the form of an enabling Act, so that Statutory Instruments can be made to implement them and to give early effect to desirable changes which may prove necessary" (Brambell 1965, p. 60).*

In this way the committee ingeniously suggested a flexible legal structure of animal welfare legislation which has subsequently been adopted in many European countries.

The principal idea is that animal welfare is regulated by legislation imposing requirements that guarantee a decent minimum standard of animal welfare. The committee was aware that, given the extra costs placed on domestic farmers by the legislation, and given the risk of imports of animal products from countries with less stringent standards of animal welfare, this policy could lead to competitiveness problems. However, it referred this issue to the British Government:

*“... we recognise that the effect of some of our recommendations may be to increase costs in certain sectors of the industry, at least in the initial stages. We believe that public concern about animal welfare on farms is such that this will be understood and consumers will be prepared to meet any marginal extra costs. We would, however, be concerned if the standards we have recommended for adoption in this country had the result of encouraging imports produced overseas under systems contrary to these. This might largely invalidate the intention of our Report; we therefore recommend that the Government take such steps as may be practicable to ensure that it does not happen.”*  
(Brambell 1965, p. 62)

This may have been something a British government could deal with in 1965. However, with the rules governing international trade today this is certainly no longer the case. Since the 1970s the EU has placed limits on what individual member state governments can do to regulate trade; and more recently, through international trade agreements, limits have restricted what the EU can do by way of regulation. Although in theory WTO rules allow for non-discriminatory measures to protect animal health – a provision which is clearly linked to animal welfare – in practice animal welfare seems not to be recognized as a legitimate concern of the sort permitting trade restrictions, and animal products are sold freely across continents provided they comply with requirements designed to ensure food safety and prevent the spread of animal diseases.

An example of British legislation that is in line with the Brambell report is the UK ban, introduced in 1999, on the confinement of breeding sows in stalls and tethers for dry, mating and pregnant (but not farrowing and lactating) sows. This undoubtedly led to improvements in the welfare of sows housed on British farms, but unfortunately, together with a number of other factors, it also led over the following decade to a fall in English pig production of about 40% (House of Commons 2008) and a similar increase in pork imports to the UK.

To avoid unintended negative effects of national animal welfare legislation of this kind (where costly improvements lead to falls in local production compensated for by increased production in countries with lower standards of animal welfare legislation) efforts have been made in Europe since the 1970s to set up common rules and standards for animal welfare at an international level.

#### *4. Second phase in the development: Animal welfare standards and rules defined at European level*

The idea of developing common standards of animal welfare to ensure a level playing field for European animal production was first taken up by the Council of Europe in the early 1960s. The Council is a supranational collaboration of 47 European states dating back to 1947 (not to be confused with the later European Union, of which only 28 states are members).

A primary focus of the Council of Europe is the protection of human rights, but the Council has included in its remit a wider concern about animal welfare. Thus in a recommendation issued by the Parliamentary Assembly of the Council of Europe in September 1961 it is stated that “the humane treatment of animals is one of the hallmarks of western civilisation, but ... even in member states of the Council of Europe, the necessary standards are not always observed” (Ausems 2006). In light of this Council of Europe began drafting conventions to regulate animal welfare at European level.

The prime convention concerning how farm animals are housed and cared for is the “European Convention for the Protection of Animals kept for Farming Purposes.” This Convention, which was issued by the Council of Europe in 1976, laid down basic principles for the proper treatment of farm animals and formed the basis of a number of later recommendations by a standing committee on more specific subjects, including pig production.

Article 3 defines the key principle of the Convention: “Animals shall be housed and provided with food, water and care in a manner which – having regard to their species and to their degree of development, adaptation and domestication – is appropriate to their physiological and ethological needs in accordance with established experience and scientific knowledge” (Council of Europe 1976). The requirement to house animals in accordance with not only their physiological but also their behavioural (“ethological”) needs echoes the Brambell committee’s expansion of the notion of suffering to include the frustration of what it termed “behavioural urges”.

The Convention binds only those member states which have chosen to ratify it, and the Council does not have the means to enforce transgressions. However, among members of the Council who were also member of the European Economic Community (EEC, since 1993 the European Community, and since 2009 the European Union) the convention achieved legally binding status by being ratified (in 1988, following approval in 1978) by the EEC.

The chief purpose of the EEC was to ensure free trade within its borders. Here the approval of the convention, and of subsequent more specific sets of common rules for different forms of animal production, was beneficial, since “disparities between existing national laws on the protection of animals kept for farming purposes ... may give rise to unequal conditions of competition and ... may consequently have an indirect effect on the proper functioning of the common market” (Council of the European Communities 1978).

Following this, particularly in the 1990s and the early 2000s, the European Community embarked on the development of minimum requirements for animal welfare standards for most of the main animal species farmed in Europe, including pigs.

The first set of common requirements governing the welfare of pigs were set out by the EEC in 1991 in its “Council Directive 91/630/EEC laying down minimum standards for the protection of pigs”. The main provisions of this directive defined a minimum space requirement for different categories of pig and banned the use of tethers for the confinement of sows (to be phased out in existing housing by 1995). The Directive had to be implemented in the legislation of each country, and countries were permitted to make its provisions more stringent. Thus, for example, some countries went further and banned not only tethers but also other forms of sow confinement.

The earlier “European Convention for the Protection of Animals kept for Farming Purposes” of 1976 had required regulations to be updated at regular intervals in light of “established experience and scientific knowledge”. This is precisely what has happened to what are now the EU rules on the protection of pigs: they underwent a thorough revision in 2001, introducing a ban on stalls and a requirement that sows are to be group-housed “from 4 weeks after the service to 1 week before the expected time of farrowing” (Council of the European Union 2001).

The most important additional welfare requirements regarding pigs defined by the rules from 2001 are the following:

- Minimum unobstructed floor space (specific requirements for different weight groups)

- Provision of material to enable investigation and manipulation
- Light with an intensity of at least 40 lux for a minimum period of eight hours per day
- Ban on routine tail-docking of piglets

Although these are conceived as common minimum standards, there are clear differences in the ways in which the rules are implemented in different countries (Mul et al. 2010). For example, in some countries the requirement to supply material that enables investigation and manipulation has until recently been seen as one that can be met by providing an iron chain hanging from the roof, whereas other countries required a wooden stick or the like to be placed on the floor. Similarly, the ban on routine tail-docking is interpreted very differently: a few countries, including Finland and Sweden, have very strict bans, but other countries, in practice, allow high levels (over 90%) of tail docking.

Some countries have legislation that is designed to go further than the EU rules. Thus Sweden has a total ban on the confinement of sows which also applies when they are farrowing and lactating.

Originally, as mentioned above, the EEC did not recognize animal welfare as part of its primary mandate. However, in reality that changed over the years, and in 1999, when the so-called Treaty of Amsterdam came into force, this reality was recognized through the inclusion of a protocol on animal welfare designed to "ensure improved protection and respect for the welfare of animals as sentient beings". In this sense, a commitment to improving animal welfare is now incorporated in the European Union constitution.

Despite this, since the beginning of the 2000s there has been a marked slow-down in the role of the EU when it comes to farm animal welfare legislation – over this period there have been no major legal initiatives. This change may have been brought about by several things: the accession of a number of Eastern European countries to the EU with fewer concerns about animal welfare, a focus on dealing with economic crises in several countries, growing scepticism about the EU as such in a number of member countries, and increasing competition from animal production outside the EU.

Whatever its causes, the net effect of the slow-down is that increasingly, when animal welfare improvement is considered, the focus is now on market-driven mechanisms rather than the development of further shared regulatory minimum rules across the EU countries.

##### *5. Third phase in the development: Market-driven animal welfare*

EU policy makers have shown a growing interest in the idea of using the market as a means to improve farm animal welfare. The underlying logic is described in the following way in a report published by the EU Commission in 2009:

*“Improved information to consumers offers the prospect of a virtuous cycle where consumers create a demand for food products sourced in a more animal welfare friendly manner which is transmitted through the supply chain back to the primary producer, who may be able to receive a premium price for their product and thus recoup a portion of any associated higher production costs.” (Commission of the European Communities 2009)*

A “virtuous circle” rationale is presented here. The idea is that, with improved information for consumers, farmers will be able to ensure higher standards of animal welfare without risking losses of income. Conflicts with free trade agreements will thereby also be avoided.

The idea of market-driven animal welfare is, of course, not new. Labels on eggs, dairy products and meat describing welfare provisions that go beyond the legally required minimum began to appear in the 1980s. Since then there has been considerable growth in the market share of such products across the Western world.

The basic idea of market-driven animal welfare is that welfare is made a selling point through a label or a brand. However, a number of important distinctions need to be borne in mind here.

First, it makes a difference whether *animal welfare is the only, or primary, selling point, or whether welfare is presented as part of a wider quality label*. A good example of the latter is organic labelling. Over the last few decades, organic-labelled products have gained a strong market position in many European countries. The label is primarily about natural production without the use of chemicals such as artificial fertilizers or pesticides, but increasingly animal welfare has become an important element in the public perception of organic animal products. This has led to an increase in animal welfare regulations within organic animal production, including regulations to the effect that “organic” animals must be provided with outdoor access and other opportunities to exercise natural behaviours.

Secondly, there is a distinction between *products where consumers have a choice* at the cold counter and *products where animal welfare standards are part of the brand* of the relevant shop (or indeed restaurant). For example, in many European countries a number of retailers have chosen not to sell cage (battery) eggs, denying their customers choice, even though they remain legal; and one can imagine that this approach will expand in the future.

Thirdly, *animal welfare can be defined in different ways*. We saw above that the Brambell Committee defined it as the absence of various forms of suffering. However, over the years the notion of animal welfare has been broadened in various ways. There has, for example, been a growing focus on the idea of *positive* welfare. With that focus, it becomes clear that for pigs to have good lives they should not only avoid suffering but also enjoy their lives. Interest in “naturalness”, and the opportunity for animals to express species-specific behaviours, has also intensified. (For a general account of this development see Palmer and Sandøe 2018).

Fourthly, *animal welfare comes in degrees*. In Denmark, and in many other Western countries, it is now possible not only to buy either standard pork products, or very expensive premium products based on organic or other forms of outdoor pork production, but also middle-range alternatives with enhanced indoor production (Heerwagen et al. 2015). Recently, in both Denmark and the Netherlands, labels have been developed which describe animal welfare on a three- or four-level scale (Ministry of Environment and Food in Denmark n.d.; Better Leven n.d.)

Finally, there is an important difference between *degrees of public or other third-party certification and auditing of animal welfare*. At one end of the scale are private labels with no third-party certification and auditing. At the other there are state labels with independent auditing, like the organic EU label.

It is important to specify the nature of any initiative aimed at promoting pig welfare through market mechanisms in the light of these five distinctions. Exactly how an initiative works in

relation to these distinctions may, as we shall see in the next section, have significant effect on its success.

In a system where motivated consumers buy products with labels based on production methods and animal welfare, concerns about the animals used for non-labelled products may persist. And the question then arises about the protection of the welfare of these animals.

There are various solutions to this problem. For a start, animal welfare legislation may still be in place ensuring what is considered a “decent minimum” as is currently the case in Europe. It may also be suggested there is a trickle-down effect, so that today’s premium standard will be tomorrow’s legally required minimum. For example, in the case of pork various “free-range” pork products had been sold for decades in Europe before the EU ban of crated pregnant sows was implemented; and it can be argued that the “free-range” producers paved the way for legal reforms outlawing the confinement of pregnant sows within the EU. Similarly, it is imaginable that NGO pressure on the food industry will eventually bring an end to the crating of farrowing and lactating sows and also deliver other reforms to improve the welfare of pigs produced in Europe and in countries selling pork into the European market.

However, successful market-driven animal welfare presupposes that consumers actually view animal welfare either as a quality worth paying for or as something that is linked to other qualities that they will pay for. We will now turn to examine this presupposition.

#### *6. The effect of animal welfare on consumer perceptions of pork quality*

Following Brunsø et al. (2005) it is possible to distinguish between four types of food quality: product-oriented quality such as fat percentage or muscle size of meat; process-oriented quality, which covers aspects related to the way the product was produced; quality control, defined as the standards a product has to meet in order to be approved for a special classification; and finally user-oriented quality, which is a subjective quality perception defined from a user point of view.

Animal welfare is clearly the second type of quality. For pork, it concerns the conditions the animals live in before they end up being sold as meat products – so in a clear sense it is about process rather than product. However, there may be connections with the three other types of quality: First, the way animals are kept may influence objective properties of the final product. Thus keeping pigs outdoors may have a positive effect on the occurrence of various pathogens. Secondly, as we saw above, animal welfare initiatives may or may not be linked to systems for quality control. Thirdly, and most importantly in the present context, animal welfare may affect product quality as it is perceived by the consumer and thereby influence the willingness of the consumer to pay a premium for the product.

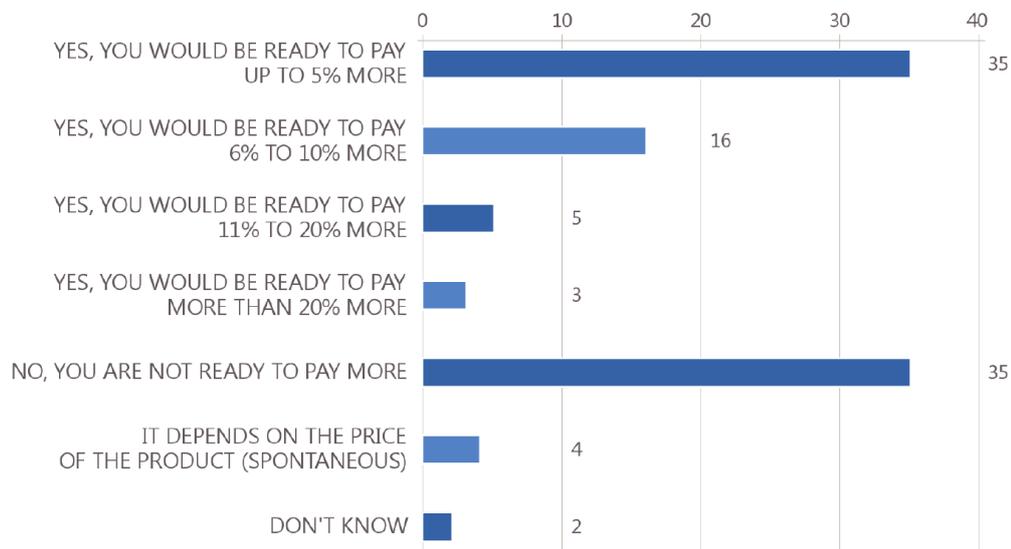
At this point we will focus on the following two questions:

1. Are European consumers willing to pay extra for animal welfare?
2. If so, how does this willingness relate to the five distinctions outlined above?

On the first question, a number of surveys and other studies (Vanhonacker et al. 2007, Verbeke et al. 2010, European Commission 2016; Clark et al. 2017) give us good reason to believe that there is enough willingness among European consumers to pay for improved animal welfare to make room for a market for labelled pork products where welfare is part of the message. However, it is also

clear that consumers differ in their levels of interest in animal welfare. This is shown by Figure 1, from a recent (2015) survey of citizens in all 28 EU countries:

**QB7** Would you be willing to pay more for products sourced from animal welfare-friendly production systems? (% - EU)



Base: all respondents (N= 27,672)

Figure 1: Distribution of answers to the question “Would you be willing to pay more for products sourced from animal welfare-friendly production systems?”, responses from 27,672 EU citizens from different social and demographic categories, reprinted from (European Commission 2016)

However, the survey also indicates that there are significant regional differences in consumers’ willingness to subsidize animal welfare, with a smaller number of people answering that they are ready to pay more in the Southern and Eastern European countries. These countries differ from the Western and Northern European countries both in being less affluent and in having a shorter history of public engagement with animal welfare issues. There are also significant demographic differences, with younger people, more highly educated people, and people in better jobs, exhibiting a greater willingness to pay animal welfare premiums.

Where the five distinctions mentioned above are concerned, the following can be said:

First, a number of studies have shown that although many European consumers do care about animal welfare, they care more about other features of meat products such as taste and food safety (Vanhonacker et al. 2010; Grunert et al. 2018). It may be suggested that it would therefore be wise to bundle animal welfare traits with these other quality features, and to focus on aspects of animal welfare that are linked, in consumers’ minds, with these other features (e.g. to harness the assumption that healthy animals mean healthy products).

Secondly, and relatedly, increasingly retailers and fast food chains are linking animal welfare to their brands, so that the consumer does not have to make complicated choices while shopping. The only remaining choice will be which retailer or restaurant to visit.

Thirdly, when it comes to defining animal welfare there is no doubt that it is easier to sell a product by telling a positive story (e.g. about pigs snuffling freely in the field) than a negative one (e.g. about limiting the occurrence of wound or ulcers). Studies also show that people care a lot about animals being allowed to live natural lives (Lassen et al. 2006). So, labels regarding animal welfare will typically focus on positive welfare linked to natural living (free-range, outdoor, etc.). However, it may still be important to avoid various forms of suffering relating to disease and injury, since the exposure of suffering in farm animals may well give rise to negative reactions. Therefore, well designed market-driven welfare initiatives for pork should combine a positive story about animal welfare and natural living with an underlying quality assurance scheme which also monitors negative welfare and intervenes in cases where welfare problems are obviously significant.

Fourthly, when selecting a level of animal welfare to label it is important to focus on a specific segment of consumers and its willingness to pay. It has been argued that in Europe there is room for at least two levels of welfare pork above the basic level: A premium level aimed at consumers who are very concerned about animal welfare and willing to pay a significant premium, and a quality level with less ambitious and less costly welfare improvements (Heerwagen *et al.* 2015). Of course, consumers will need to find the right balance between their wish for aspects of natural living, typically linked to premium products, and raised prices. Many mid-level animal welfare pork products focus on systems of indoor production where pigs face more free or natural living compared to standard housing – for example, systems with more space per animal, longer periods of group housing of sows, more straw, no confinement of sows during farrowing and lactation, or systems where tail-docking is not practiced (Christensen *et al.* 2014).

Finally, to maintain consumer trust in the products it will be important to ensure that any claims made about animal welfare do not turn out to be inflated or unsubstantiated. It may be wise to base welfare requirements on independent advice, and to ensure that compliance with that advice and other requirements is documented and transparent to consumers.

## 7. Conclusion

As we have seen in this paper, consumer concerns about animal welfare in Europe did not originate as concerns about the *quality* of pork and other animal products. Rather they began life as a growing unease, among British and other European citizens, about how animals are treated in modern intensive production. When this unease surfaced in the 1960s, the main focus was on battery hens and veal calves. Since then pig production has surfaced as a major public issue as a result of increasing public perceptions of animal welfare problems in intensive pig production, together with a rise in the prominence of food safety and environmental issues relating to this form of production.

The original policy response to concerns about animal welfare in intensive animal production was to develop minimum standards and implement these in legislation – first, at the national level and later across the EU. It is fair to say that significant progress has been achieved through European animal welfare legislation. However, it is also fair to say that serious issues remain, including the

confinement of farrowing and lactating sows, barren conditions for slaughter pigs, and the limited space afforded to slaughter pigs during the last stage of the fattening period.

For a number of reasons, the political will to continue with efforts to improve pig welfare through legislation at national and EU level has nearly disappeared. Instead there is a growing focus on market-driven animal welfare. As we have argued above, there are good prospects for marketing pork products sold at a premium on the basis that they guarantee animal welfare and other qualities about which consumers care.

It is true that at present it is only a relatively small group of consumers who are prepared to pay for upper-end premium pork products. However, many people seem to be willing pay a little extra to ensure better welfare for pigs – although it must also be recognized that a sizeable number of consumers do not care enough, or are unable, to pay even a little extra above the price of the standard pork products retailers sell.

To deal with the concerns of the citizens it will therefore still be necessary to operate legally defined minima of animal welfare. Ideally, a virtuous circle, in which successful forms of market-driven animal welfare initiatives pave the way for improved legislation, which in turn leads to an increase in the welfare standards reflected in special labels or brands, will develop.

#### *Acknowledgements*

Funding from the Danish Pig Levy Foundation is gratefully acknowledged. We are also grateful to Birte Broberg and Vivi Aarestrup Moustsen for useful comments on an earlier draft of this paper. Finally, thanks are due to Paul Robinson for helping to improve our English. Section 2 was developed from material in Palmer & Sandøe (2018), and Section 3 draws on passages in Sandøe & Jensen (2012). A slightly different version of this paper has also been submitted to proceeding of the Chinese Swine Industry Symposium to be held in Shanghai in October 2018 where it will appear in Chinese.

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