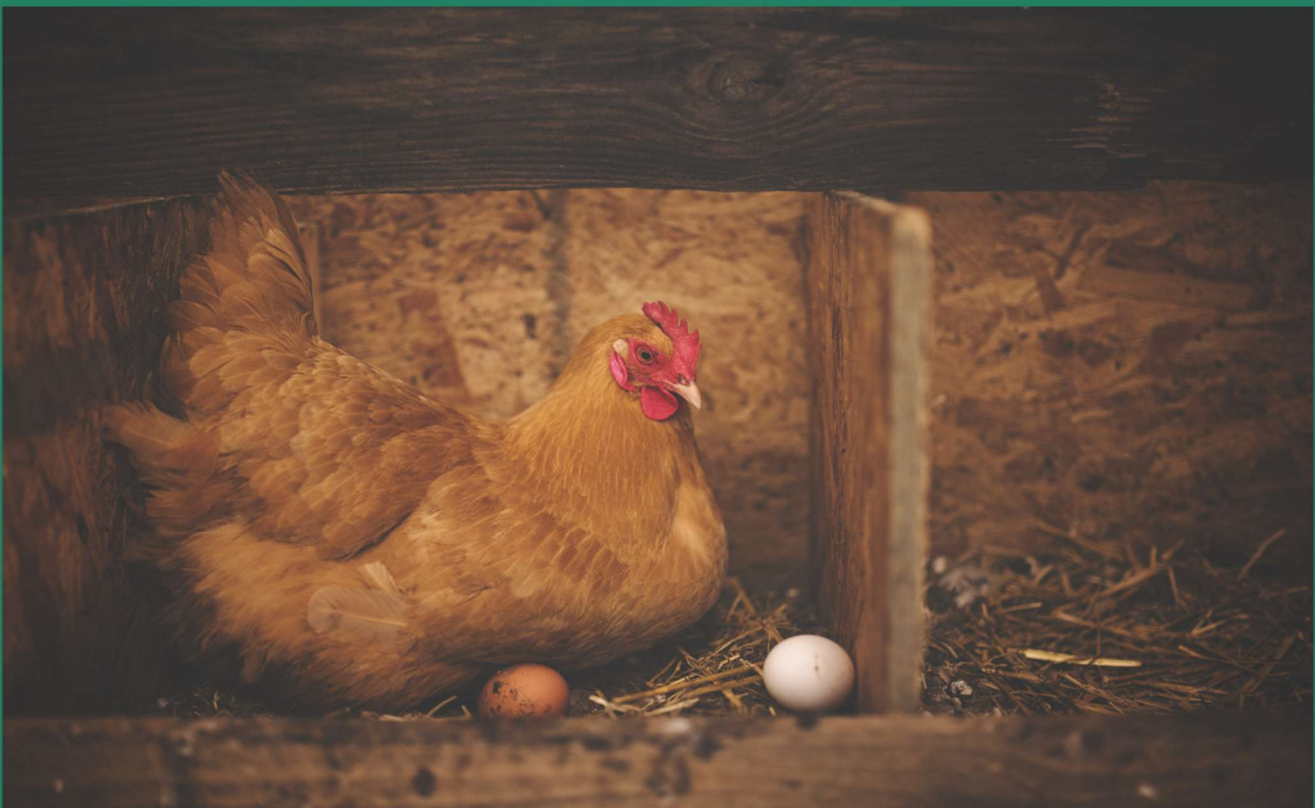


LAYING DOWN THE FACTS **V3**

ANIMAL WELFARE STANDARDS
OF THE COMPANIES
PROVIDING YOUR FAVOURITE FOODS



CORPORATE ACCOUNTABILITY
AND THE EGG INDUSTRY IN
SOUTH AFRICA

***NOTE:** This is Version 3 of the report titled “*Laying Down the Facts: Animal Welfare Standards of the Companies Providing Your Favourite Foods*,” originally published in August 2023 (“**Version 1 of the Initial Report**”). Version 2 was published in September 2024, with revisions relating to one of our Selected Stakeholders, Bidcorp, indicated throughout in red font, with red asterisks and/or yellow highlighting. As of November 2024, further amendments have been made that relate specifically to the Regulations Regarding the Grading, Packing, and Marking of Eggs Intended for Sale in the Republic of South Africa (the “**Egg Labelling Regulations**”) indicated throughout in red font, with red asterisks. For a record of all changes, please see **Revision Note I of September 2024** on pages 281–283 and **Revision Note II of November 2024** on page 284 below. Any reference to the Initial Report or “this report” throughout this document should be regarded as a reference to Version 3, rather than Versions 1 or 2 of the Initial Report.

ANIMAL LAW REFORM SOUTH AFRICA

Animal Law Reform South Africa (“**ALRSA**”) is South Africa’s first and only dedicated animal law non-profit organisation. ALRSA envisages a society whose laws, courts, enforcement agencies and private entities advance the protection and flourishing of humans, non-human animals and the environment, and are held accountable.

ALRSA operates through three key Pillars being: **Animal Flourishing; Social Justice; the Law.**

ALRSA undertakes its work through three main “Mechanisms”, namely:

Education & Research; Legislative & Policy Reform; Litigation & Legal services.

Through these Mechanisms, ALRSA aims to contribute to the development of a robust animal law ecosystem in South Africa **which recognises the intrinsic worth of non-human animals as sentient beings.** Our work is grounded in our understanding that it is critical for a context-sensitive approach to be taken to the furtherance of animal protection in South Africa, and that the impact of our work is enhanced through an intersectional understanding of animal flourishing, social justice and environmental protection.

ALRSA is a civil society organisation and registered non-profit company and NPO acting in the public interest.

ACKNOWLEDGEMENTS

FUNDING

Our work is in part funded by a grant from the Open Wing Alliance (“**OWA**”). Read more on their website: <https://openwingalliance.org/>.

CO-AUTHORS’ DISCLAIMER

The co-authors of this Initial Report are:

Amy P. Wilson is a co-founder and director of ALRSA. She is an attorney who holds a Master of Laws Degree (LL.M) in Animal Law from Lewis and Clark Law School in Portland, Oregon and B.Com and LL.B degrees from the University of Johannesburg, South Africa. Amy is the co-founder and Director of Animal Law Reform South Africa and a Research Associate, Lecturer and LLD Candidate with the University of Johannesburg. *Primary contributions: Lead author: Sections I, II, III, and V of this Initial Report.*

Cheslyn Ceaser is a Legal Researcher with ALRSA. Cheslyn holds a LL.B degree and LL.M in Environmental Law from the University of the Western Cape (UWC). Cheslyn is a LL.D Candidate at UWC. *Primary contributions: Lead Author: Section IV and contributor to Animal Welfare and Environmental Pillar of Section III of this Initial Report.*

COMMENTER

Melanie Murcott is a director of ALRSA and an Associate Professor, Institute of Marine and Environmental Law at the University of Cape Town. She holds a LL.B cum laude degree obtained from the University of Cape Town; Master of Laws Degree (LL.M cum laude) obtained from the University of Pretoria, and Doctor of Laws (LL.D) obtained from North West University. She has more than 10 years of practice experience as an attorney of the High Court of South Africa. She is also the Vice Chairperson of the Environmental Law Association of South Africa. *Primary contribution: Commenter on the entirety of this Initial Report.*

CONTRIBUTOR: RESEARCH ASSISTANCE

Li-Fen Chien is an Independent Consultant with Animal Law Reform South Africa. She holds a Master of Laws Degree (LL.M) in Environmental Law from the University of the Western Cape. Li-Fen is a non-practising legal practitioner with over 10 years of professional experience, mostly focused on environmental and corporate law. *Primary contributions: Animal Welfare Pillar and Environmental Pillar of Section III of this Initial Report.*

***PLEASE READ OUR LEGAL AND DISCLAIMERS SECTION.**

PLEASE CONSULT OUR GLOSSARY FOR A LIST OF DEFINED TERMS. Unless the context otherwise requires, capitalised terms have the meanings ascribed to them in the Glossary.

Recommended citation: Animal Law Reform South Africa, *Laying Down the Facts* (August 2023 updated September 2024 and November 2024). Available at: www.animallawreformsouthafrica.org

This Initial Report and other information relating to the Project are accessible at: www.animallawreformsouthafrica.org

We welcome comments, corrections, suggestions on and proposed amendments to this Initial Report including by the Selected Stakeholders.

We remain committed to engaging in an open and transparent manner in respect of this Initial Report. We reserve the right to amend this Initial Report.

Please email: outreach@animallawreform.org

© ANIMAL LAW REFORM SOUTH AFRICA 2023. ALL RIGHTS RESERVED.

SECTION III

REVEALING THE CRACKS: RESEARCH COMPONENT



ANIMAL LAW REFORM
SOUTH AFRICA

“From the ancient Khoisan reverence of the eland
to the contemporary conception of the dog
as “man’s best friend”,
humans and animals have a storied relationship,
one that is a part of the fabric of our society,
homes and lives.

Animals have shifted from being
“mere brutes or beasts”
to “fellow beasts, fellow mortals or fellow creatures”
and finally to “companions, friends and brothers.”

To protect these voiceless companions,
individuals have time and again
stepped in when animals are mistreated.”

– Justice Khampepe
Constitutional Court Judge

National Society for the Prevention of Cruelty to Animals
v Minister of Justice and Constitutional Development
and Another [2016] ZACC 46

SECTION III: REVEALING THE CRACKS: RESEARCH COMPONENT

INTRODUCTION

This Section III contains the Research Component of this Initial Report and provides context about the Egg Supply Chain in practice including its impacts and its regulation. Research conducted for this component assisted with the identification of the Pillars, and informed the Stakeholder Component as further set out in Section IV. Specifically, the Pillars and matters identified within them, informed the PAIA Requests sent to the Selected Stakeholders as well as the rating Criteria and Indicators, with a focus on animal welfare.

The Egg Industry in South Africa impacts on various areas of importance and relevance to the South African public and their rights. After researching these impacts, they were categorised into six main Pillars being: Animal Welfare; Environment; Food Safety and Health; Social Issues and Rights, Consumer Protection, and Corporate and Business. Each of these Pillars is expanded on in further detail in this Section III below, with the Animal Welfare Pillar being the focus for purposes of this Initial Report. Each Pillar introduces the relevant issue in broad terms, explores some ways in which the issue intersects with the Egg Industry, and sets out at a high level the regulatory framework applicable to the issue in South Africa. Some Pillars also contain examples of the issue in practice.

One of the aims of the Project is to foster public interest in the South African regulatory regime as it pertains to the Egg Industry. This benefits the public generally as well as other animal advocacy organisations, who conduct important work in areas outside of the law. Many such organisations are not fully aware of the legal framework including all of the relevant laws, policies, standards, etc.) and are therefore not able to draw on relevant legal materials in their engagements whether it be with government, Corporations, or the public more generally. Governance measures, including the law, are important tools to understand and can assist in important animal advocacy efforts.

Accordingly, by laying the foundations, laying out the facts, and laying down the law in respect of each of the aforementioned Pillars, members of the public, animal advocacy groups, and others may begin to understand their rights and interests as well as the areas in which they can pursue Corporate Accountability.

YOUR CONSTITUTIONAL RIGHTS ARE IMPACTED BY THE EGG INDUSTRY


ANIMAL LAW REFORM
SOUTH AFRICA


OPEN WING
ALLIANCE®



THE SOUTH AFRICAN CONSTITUTION CONTAINS RIGHTS FOR ALL WHO LIVE IN THE COUNTRY.

Some of these rights are impacted by the egg industry!



RIGHT TO ENVIRONMENT

Section 24 of the Constitution guarantees everyone the right to have the environment protected for the benefit of both current and future generations and that the state must take reasonable legislative and other measures to achieve the progressive realisation of that right.

Intensive animal agriculture including egg production has innumerable negative impacts on the environment including water, soil and air pollution; water and land use; biodiversity loss; habitat destruction and degradation and others.



WORKER'S RIGHTS

Workers and their rights are protected in various ways in the South African Constitution including section 23 of the Bill of Rights which relates to "Labour Relations" and states that everyone has the right to fair labour practices, among others.

Research shows that workers in the animal agriculture industry suffer a significant level of rights violations, ranging from bad living conditions and low wages. Farm workers, in general, form a vulnerable and marginalised group due to a number of social and economic conditions.

Studies including from a commercial abattoir in South Africa illustrate the risk potential of employees suffering from post-traumatic stress syndrome.²



RIGHT TO WATER

Section 27 of the Constitution states that everyone has the right to adequate water.

Animal agriculture (which includes egg production) is the largest use of fresh water in the country 135 litres of water are needed to produce one single egg.¹



OTHER RIGHTS

These are just a few examples:

Other rights are implicated by animal agriculture including the egg industry, such as consumer rights against practices such as "green-washing" and "human-washing" where the public is misled by false, exaggerated or confusing claims.

THE GOVERNMENT AS WELL AS CORPORATIONS OWE YOU AS SOUTH AFRICANS DUTIES IN RESPECT OF YOUR RIGHTS.

¹ Food & Agriculture Organisation of United Nations

² Victor, K., & Barnard, A. Slaughtering for a living: A hermeneutic phenomenological perspective on the well-being of slaughterhouse employees. *International Journal of Qualitative Studies on Health and Well-being*, 11, Article 30266. (2016). <https://psycnet.apa.org/record/2016-33756-001>

PILLAR 4: FOUL PLAY? SOCIAL ISSUES AND RIGHTS: COMPROMISING JUSTICE FOR PROFITS

PART A: LAYING THE FOUNDATIONS

This “Social Issues and Rights” Pillar contains a high-level summary of some of the social matters (including social justice) and human rights issues arising in the Egg Supply Chain in South Africa. It is intended to provide an overview of selected matters only and is non-exhaustive of all relevant social issues, rights considerations and law and policy.⁵⁹⁷ This Part A sets out the rationale for the selection of this Pillar; the main national government departments with mandates in respect thereof. Part B sets out background information as to how the Pillar connects with the Egg Supply Chain. Part C provides an overview of selected rights issues associated with this Pillar in the context of the Egg Supply Chain in South Africa.

Matters already dealt with in detail in other Pillars or sections of this Initial Report and have not been repeated.

This Pillar has been selected for purposes of this Project because the Constitution is the supreme law of the land and the rights contained in the Bill of Rights must be protected and respected. Community is of great importance throughout South Africa and community activism has been at the heart of mass change within the country throughout the liberation struggle and since the beginning of democracy. South Africa has a robust, supreme Constitution which grants a plethora of critical rights to its people and with which all law, policy and actions are measured against. These include the rights to access to water and food (section 27); the right to freedom and security of the person (section 12); the rights of workers (section 23); and the rights of children (section 28). These rights are aimed at social justice and human dignity.

For purposes of this Project, we explore briefly the interaction between factory farming / industrialised animal agriculture (particularly in the Egg Industry) with these rights. The right to access to information, the right to an environment not harmful to health or well-being, and the right to

⁵⁹⁷ For a more detailed analysis of social issues and rights matters applicable to animal agriculture in South Africa, please refer to ALRSA’s Food System Working Paper <https://www.animallawreform.org/wp-content/uploads/2022/07/Working-Paper-Food-Systems.pdf> and White Paper (October 2022) <https://www.animallawreform.org/wp-content/uploads/2022/10/White-Paper-Food-Systems.pdf> respectively.

freedom of expression have been discussed elsewhere in this Initial Report and are not discussed below to avoid repetition. Please refer to Section II, Pillars 1 and 4 in particular.

All government departments have mandates to respect, protect, promote and fulfil the Bill of Rights. However, with regard to matters of justice and the constitution more generally, as well as social issues, the Department of Justice and Constitutional Development; the Department of Social Development; and Department of Labour have specific mandates.

PART B: LAYING DOWN THE FACTS

This Pillar highlights a few lesser explored links between guaranteed human rights in the Constitution, social injustices, and animal agriculture, with particular reference to the Egg Industry. These links are important given that South Africa is one of the most unequal countries in the world. More than 50% of the population lives in conditions of poverty, with limited access to water and food.⁵⁹⁸ Gender-based violence is rife. Women and children are among the most vulnerable in society.⁵⁹⁹ An energy crisis⁶⁰⁰ driven by government maladministration and corruption plagues the country.⁶⁰¹ This social context exacerbates inherent justice issues relevant to the Egg Industry.

An intersectional understanding of justice recognises that all injustices are interconnected. As Martin Luther King Jr said:

*“Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly”.*⁶⁰²

Just two justice issues are highlighted here that point to the need to look holistically at the justice implications of the Egg Industry.

GENDER JUSTICE ISSUES

Practices within the Egg Supply Chain raise several issues relating to gender, one of the important aspects addressed in the Constitution through the right to equality and prohibition on discrimination on the grounds of gender (section 9). The production of eggs relies on the reproductive cycle of the

⁵⁹⁸ <https://www.statssa.gov.za/?p=12075>.

⁵⁹⁹ <https://www.unicef.org/southafrica/press-releases/crime-statistics-devastating-violence-against-children-and-women-continues>.

⁶⁰⁰ <https://theconversation.com/south-africas-power-crisis-will-continue-until-2025-and-blackouts-will-take-5-years-to-phase-out-206343>.

⁶⁰¹ Corruption Watch - Annual Report 2020 available at <https://www.corruptionwatch.org.za/publications-2/>.

⁶⁰² Martin Luter King Jr. Letter from a Birmingham Jail [King, Jr.] 16 April 1963. Accessed via African Studies Center - University of Pennsylvania https://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html.

female Chicken to be consistently exploited until such time as the female is considered “useless” or “spent” and unable to produce eggs. Layer Hens are not able to have the experience of rearing their young or to have normal cycles of reproduction – often being artificially inseminated. On the other side of the spectrum, male Chicks are killed shortly after they are born because they are deemed to be useless within the Egg Supply Chain (although there are some instances where these animals are utilised). These practices reinforce oppressive gender stereotypes that impair the dignity of humans and nonhuman animals alike.

An expansive body of literature is emerging on gender issues and animal use, exploitation and rights. In the South African context, research has been done on issues of women and the representation of animal bodies, particularly chickens in the broiler industry.⁶⁰³ Tsampiras for example, in her work “Hot Chicks on Board” explores the gendered nature of the marketing and consumption of meat in South Africa which she notes is evident in multiple media, from local wholesale delivery trucks that transport the flesh of chickens, to sexist adverts by South African-owned fast-food chains with national and international reach. Her article analyses the vehicle delivery and television and printed adverts devised to sell meat to consumers, and argues that *“the representations of bodies – those of womxn and the bodies of other species – as being available for consumption (visual or otherwise), is an expression of the gendered social processes associated with food “production” and consumption (visual and physical) within the patriarchal capitalocene”*.

She goes further on to state that the *“representations and production of food are innately linked to multiple forms of violence, including the repetitive visual aggressions associated with the female form being constantly under scrutiny and available for consumption. In the visual representations of convenience foods, the food and the absent referents they rely on deploy stereotypes of heteromasculinities and (hyper)femininities and are used to reinforce hierarchies of gender, species, and economic systems (and the violence associated with them). These images and food items thus act as “ordinary” indexes of patriarchal, capitalocene power relations.”*

Outside of South Africa, there is a vast body of work on the gendered nature of animal agriculture - not only in relation to chickens but also cows, who are exploited in the dairy industry⁶⁰⁴ as women and more specifically, as mothers. Additional international literature on this issue including most notably, the work of Carol J. Adams, in *The Sexual Politics of Meat: A Feminist-Vegetarian Critical Theory* which explores a relationship between patriarchal values and meat eating by interweaving the insights of feminism, vegetarianism, animal defense, and literary theory.⁶⁰⁵

Given the vulnerability of women in South Africa including the high rates of femicide, rape and other violence against women, practices both within and outside of animal agricultural industry more broadly that

⁶⁰³ Tsampiras, C. (2021). “Hot Chicks on Board” – Gender, Meat, and Violence in Food Marketing in, and from, South Africa. *Gender Questions*, 9(1), 24 pages. <https://doi.org/10.25159/2412-8457/7408>.

⁶⁰⁴ See for example You Are What You Drink: A Feminist Critique of Milk and its Consequences for the Female by Tessa Cunningham (Undated). Accessed: Animals & Society website: <https://www.animalsandsociety.org/research/sloth/sloth-volume-i-no-1-march-2015/you-are-what-you-drink-a-feminist-critique-of-milk-and-its-consequences-for-the-female/>.

⁶⁰⁵ <https://caroljadams.com/spom-the-book>.

reinforce oppressive gender roles (such as the use of a woman’s body (regardless of whether they are a human or nonhuman animal) merely as a reproductive machine, from the moment they are ‘fertile’ until they are considered to be ‘spent’ (as is prevalent in the Egg Industry) as well as violence against women, should be critically examined and rooted out of society.

ENERGY CRISIS

South Africa’s energy crisis is having a devastating impact on all people in South Africa as well as the economy. It is estimated that \$51 million is lost every day due to load shedding.⁶⁰⁶ Animals too, are suffering terribly. Various reports show single instances of 40,000 broiler chickens having suffocated and died due to power supply disruptions.⁶⁰⁷ Poultry operations rely on a consistent power supply to regulate the environment in which his chickens are bred (including lights, ventilation and cooling among other issues). In January 2023 it was reported that in excess of 10 million day old chickens were killed in a matter of weeks due to loadshedding,⁶⁰⁸ more specifically, ventilation shutdown.

The CEO of SAPA confirmed that:

*“Companies that do not have generators can have up to 10,000 birds hanging on shackles in the abattoir, not being processed. These birds are lost and disposed of during load shedding due to the lack of cooling and potential food safety issues”.*⁶⁰⁹

It is evident that the energy crisis is causing immense food waste, threatening human health and food safety. Countless animals are experiencing needless suffering, only to become waste.

The rights highlighted in this Pillar include: the right to access to water; the right to access to food; the right to freedom and security of the person; worker’s rights, and children’s rights. In respect of each of the rights, there exist specific laws and policies in South Africa, which have not been expanded on for purposes of this Pillar due to reasons of scope and length.

⁶⁰⁶ <https://www.africanews.com/2023/03/27/south-africa-the-heavy-cost-of-load-shedding-on-farmers//>.

⁶⁰⁷ <https://www.africanews.com/2023/03/27/south-africa-the-heavy-cost-of-load-shedding-on-farmers//>.

⁶⁰⁸ <https://www.citizen.co.za/business/10-million-chickens-dumped-load-shedding/>.

⁶⁰⁹ <https://www.suidkaapforum.com/News/Article/Agriculture/load-shedding-s-devastating-impact-on-sa-s-poultry-sector-202304171242>.

PART C: LAYING DOWN THE LAW

REGULATION OF THE EGG INDUSTRY: THROUGH A SOCIAL ISSUES AND RIGHTS LENS

RIGHT TO WATER

Section 27 of the Constitution states that everyone has the right to have access to sufficient water. Animal agriculture (which includes egg production) is the largest use of freshwater in the country. According to the Food and Agriculture Organisation of the United Nations, 135 litres of water are needed to produce one single egg.⁶¹⁰ Other estimates indicate that is over 50 gallons of water or 600 gallons for a dozen (which equates to approximately 189.3 litres per egg or 2,271.60 litres for one dozen eggs). Other nutritional foods use substantially less water, including most fruits, vegetables and legumes. Water usage is relevant considering the current and increasing water crisis faced by the country. Amidst poverty and inequality, water is not evenly distributed. The most vulnerable in society ought to have sufficient water to meet their most basic needs. Women bear a disproportionate responsibility for securing food, water, and fuel, rendering uneven distribution of these resources a gender justice issue.⁶¹¹ Unjustifiable water uses ought to be curtailed to ensure equitable access to water.

RIGHT TO FOOD

Section 27 of the Constitution states that everyone has the right to have access to sufficient food. While eggs are undoubtedly an important food source for many in the country, it must be considered whether there are less harmful means of achieving this right, particularly when one has due regard to the concept of ‘proportionality’ which is prevalent in the Constitution and can be seen from section 36 thereof.

⁶¹⁰ Food & Agriculture Organisation of United Nations
<https://www.facebook.com/UNFAO/photos/a.448783138585/10160584123123586/?type=3>.

⁶¹¹ UN Women, Explainer: How gender inequality and climate change are interconnected.
28 February 2022. <https://www.unwomen.org/en/news-stories/explainer/2022/02/explainer-how-gender-inequality-and-climate-change-are-interconnected>.

For example, there are many other food sources (potentially non-animal-sourced foods) which are nutritious, accessible, and do not cause animal welfare, environmental, and health implications that eggs do (to name a few).⁶¹²

In addition, given the serious pressures on the Poultry Industry from South Africa’s energy crisis as well as rising feed costs and serious outbreaks of highly pathogenic diseases, including avian flu (among other issues), it is questionable whether the Poultry Industry can be considered to be ecologically sustainable and socially and economically justifiable, in accordance with the environmental right. Alternatives should be explored.



RIGHT TO FREEDOM AND SECURITY OF THE PERSON

Section 12 states that everyone has the right to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sources. The Poultry Industry violently slaughters approximately 1 billion sentient animals for meat as well as thousands of Chicks and hens per year. Although the term “everyone” is not currently understood to include nonhuman animals, there is a body of scholarship arguing for law reform in this area.⁶¹⁴ Moreover, factory farm workers ought not to be exposed to the levels of brutality involved in factory farming, and their exposure to this violence could be viewed as a violation of their right to freedom and security of the person.

⁶¹² For a more detailed discussion on alternatives, please refer to Animal Law Reform South Africa’s Working Paper and White Paper on alternatives to animal sourced foods. Accessible: <https://www.animallawreform.org/wp-content/uploads/2022/10/White-Paper-Food-Systems.pdf> and White Paper (October 2022) <https://www.animallawreform.org/wp-content/uploads/2022/10/White-Paper-Food-Systems.pdf> respectively.

⁶¹³ <https://twitter.com/theEVERYcompany/status/1398017525254737920/photo/1>.

⁶¹⁴ Bilchitz, David. ‘Does Transformative Constitutionalism Require the Recognition of Animal Rights?’ (2010) 125 Southern African Public Law 267-300. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1872936.

WORKERS' RIGHTS

Workers and their rights are protected in various ways in the Constitution including in section 23 of the Bill of Rights, which relates to “Labour Relations”. It states that everyone has the right to fair labour practices, among others. The Poultry Industry in South Africa provides direct and indirect employment to over 110 000 people; is the second largest consumer of maize in the country; and supports many peripheral businesses (including the feed industry) and those downstream in the value chain.⁶¹⁵

Research shows that workers in the animal agriculture industry suffer significant rights violations, ranging from bad living conditions and low wages. Farm workers form a vulnerable and marginalised group due to a number of social and economic conditions.⁶¹⁶

Studies including from a commercial abattoir in South Africa illustrate the risk of employees suffering from post-traumatic stress syndrome,⁶¹⁷ related to slaughtering animals, is high. It is equally likely that workers responsible for killing millions of male Chicks in the Egg Industry could suffer some sort of psychological distress from the work of killing sentient animals.

The South African Human Rights Commission notes in its handbook on Farmworkers and Human Rights that “Farm workers, in general, form a vulnerable and marginalised group due to a number of social and economic conditions”.⁶¹⁸ This vulnerability manifests in the form of poor remuneration, long working hours, poor housing conditions, forced and child labour, failure to provide adequate leave allowances and unfair termination of labour amongst others.⁶¹⁹

⁶¹⁵ South African Poultry Association 2021 Industry Profile. <https://www.sapoultry.co.za/wp-content/uploads/2023/01/2021-Industry-Profile.pdf>.

⁶¹⁶ In the South African context, see South African Human Rights Commission ‘Farm Workers and Human Rights’ <https://www.sahrc.org.za/home/21/files/FINAL%20Farm%20Workers%20and%20Human%20Rights%20Educational%20Booklet.pdf>. In the USA context see [Delcianna J. Winders and Elan Abrell, *Slaughterhouse Workers, Animals, and the Environment: The Need for a Rights-Centered Regulatory Framework in the United States That Recognizes Interconnected Interests* Health and Human Rights Journal (December 2021). <https://cdn1.sph.harvard.edu/wp-content/uploads/sites/2469/2021/12/abrell.pdf>.

⁶¹⁷ Victor, K., & Barnard, A. Slaughtering for a living: A hermeneutic phenomenological perspective on the well-being of slaughterhouse employees. *International Journal of Qualitative Studies on Health and Well-being*, 11, Article 30266. (2016). <https://psycnet.apa.org/record/2016-33756-001>.

⁶¹⁸ South African Human Rights Commission ‘Farm Workers and Human Rights’ <https://www.sahrc.org.za/home/21/files/FINAL%20Farm%20Workers%20and%20Human%20Rights%20Educational%20Booklet.pdf> (accessed 2 April 2022).

⁶¹⁹ South African Human Rights Commission ‘Farm Workers and Human Rights’ <https://www.sahrc.org.za/home/21/files/FINAL%20Farm%20Workers%20and%20Human%20Rights%20Educational%20Booklet.pdf> (accessed 2 April 2022).

There is very little information publicly available online relating to the workers in the Egg Industry in South Africa. A cursory online search indicates that the hourly rate for industry: Chicken Egg Production is ZAR34.60, although this has not been independently verified.⁶²⁰

Further information and research regarding the circumstances of the workers in the Egg Industry is needed in order to determine the extent to which the rights and interests of these workers are being properly considered in this context. Given the known issues of farmworkers more broadly, as well as some of the potential health and safety and environmental risks associated with the Egg Industry (as further set out in the Environmental Pillar and Food Health and Safety Pillar respectively) labour rights and laws should be responsive to any potentially harmful or unfair treatment and to ensure worker's rights are protected.

CHILDREN'S RIGHTS

In terms of section 28 of the Constitution, every child has the right to basic nutrition, among other rights. In some instances, as expanded on below, eggs are offered as a solution to nutritional deficiencies experienced by children. In addition, specific campaigns by the Egg Industry target children. Below are a few examples of dedicated programs and advertising campaigns by the Egg Industry focusing on children. This is despite the fact that egg allergies are one of the more common allergies in children,⁶²¹ such that the inclusion of eggs in their diets should be carefully considered against the rights of the child to basic nutrition.

It was reported in January 2023 that Hy-Line International together with Hy-Line South Africa approached Dr. Blessman (of Blessman International, an organisation which focuses on several issues including feeding children) to cooperate with his feeding program with the purpose to add “an-egg-a-day” to the feeding program to “further enhance his efforts by enhancing the nutritional content of the meals”.⁶²² This means that beneficiaries of the program, who receive daily meals consisting of a basic grain and vegetable-based diet, would now receive eggs too.

The “Eggs are Magic” campaign mentioned on the SAPA website and in the Industry Component in Section II of this Initial Report was reported⁶²³ to be directed at school children and their moms, and features a through-the-line mix combining activations and industrial theatre, competitions, mobile media, radio and giveaways, all of which are designed to showcase the versatility of eggs.

⁶²⁰ https://www.payscale.com/research/ZA/Industry=Chicken_Egg_Production/Hourly_Rate.

⁶²¹ <https://www.healthdirect.gov.au/egg-allergy>.

⁶²² <https://www.poultryproducer.com/hy-line-launches-partnership-to-provide-egg-protein-to-malnourished-african-children/>.

⁶²³ <https://www.bizcommunity.com/Article/196/179/61647.html>.

ACKNOWLEDGMENTS AND LEGAL

ANIMAL LAW REFORM SOUTH AFRICA

Animal Law Reform South Africa ("**ALRSA**") is South Africa's first and only dedicated animal law non-profit organisation. ALRSA envisages a society whose laws, courts, enforcement agencies and private entities advance the protection and flourishing of humans, non-human animals and the environment, and are held accountable.

ALRSA operates through three key Pillars being: **Animal Flourishing; Social Justice; the Law.**

ALRSA undertakes its work through three main "Mechanisms", namely:

Education & Research; Legislative & Policy Reform; Litigation & Legal services.

Through these Mechanisms, ALRSA aims to contribute to the development of a robust animal law ecosystem in South Africa **which recognises the intrinsic worth of non-human animals as sentient beings.** Our work is grounded in our understanding that it is critical for a context-sensitive approach to be taken to the furtherance of animal protection in South Africa, and that the impact of our work is enhanced through an intersectional understanding of animal flourishing, social justice and environmental protection.

ALRSA is a civil society organisation and registered non-profit company and NPO acting in the public interest.

ACKNOWLEDGEMENTS

FUNDING

Our work is in part funded by a grant from the Open Wing Alliance ("**OWA**"). Read more on their website: <https://openwingalliance.org/>.

CO-AUTHORS' DISCLAIMER

The co-authors of this Initial Report are:

Amy P. Wilson is a co-founder and director of ALRSA. She is an attorney who holds a Master of Laws Degree (LL.M) in Animal Law from Lewis and Clark Law School in Portland, Oregon and B.Com and LL.B degrees from the University of Johannesburg, South Africa. Amy is the co-founder and Director of Animal Law Reform South Africa and a Research Associate, Lecturer and LLD Candidate with the University of Johannesburg. *Primary contributions: Lead author: Sections I, II, III, and V of this Initial Report.*

Cheslyn Ceaser is a Legal Researcher with ALRSA. Cheslyn holds a LL.B degree and LL.M in Environmental Law from the University of the Western Cape (UWC). Cheslyn is a LL.D

Candidate at UWC. *Primary contributions: Lead Author: Section IV and contributor to Animal Welfare and Environmental Pillar of Section III of this Initial Report.*

COMMENTER

Melanie Murcott is a director of ALRSA and an Associate Professor, Institute of Marine and Environmental Law at the University of Cape Town. She holds a LL.B cum laude degree obtained from the University of Cape Town; Master of Laws Degree (LL.M cum laude) obtained from the University of Pretoria, and Doctor of Laws (LL.D) obtained from North West University. She has more than 10 years of practice experience as an attorney of the High Court of South Africa. She is also the Vice Chairperson of the Environmental Law Association of South Africa. *Primary contribution: Commenter on the entirety of this Initial Report.*

CONTRIBUTOR: RESEARCH ASSISTANCE

Li-Fen Chien is an Independent Consultant with Animal Law Reform South Africa. She holds a Master of Laws Degree (LL.M) in Environmental Law from the University of the Western Cape. Li-Fen is a non-practising legal practitioner with over 10 years of professional experience, mostly focused on environmental and corporate law. *Primary contributions: Animal Welfare Pillar and Environmental Pillar of Section III of this Initial Report.*

*PLEASE READ OUR LEGAL AND DISCLAIMERS SECTION.

PLEASE CONSULT OUR GLOSSARY FOR A LIST OF DEFINED TERMS. Unless the context otherwise requires, capitalised terms have the meanings ascribed to them in the Glossary.

Recommended citation: Animal Law Reform South Africa, *Laying Down the Facts* (August 2023). Available at: www.animallawreformsouthafrica.org

This Initial Report and other information relating to the Project are accessible at: www.animallawreformsouthafrica.org

We welcome comments, corrections, suggestions on and proposed amendments to this Initial Report including by the Selected Stakeholders.

We remain committed to engaging in an open and transparent manner in respect of this Initial Report. We reserve the right to amend this Initial Report.

Please email: outreach@animallawreform.org

© ANIMAL LAW REFORM SOUTH AFRICA 2023. ALL RIGHTS RESERVED.

LEGAL AND DISCLAIMERS

The focus for the Project is on the large scale, industrialised and intensive animal agricultural and production sector, specifically in relation to chickens in the Egg Industry, and where relevant other poultry (including broilers, among others). As such, this Initial Report does not include the informal sector, nor small scale and subsistence farming operations. Where appropriate, examples of other farmed animals, or examples from other jurisdictions have been incorporated, particularly where such information is not readily nor easily available in the South African context.

While government and public bodies have an essential role to play in ensuring the well-being and welfare of animals as well as the protection of the environment and human rights, the focus of this Initial Report is largely on the role of the private sector, specifically Corporations. Aspects of governmental and public body regulation and policies are highlighted and discussed; however, these aspects are not the focal point of this Initial Report.

As an organisation focused primarily on animal law, this is the predominant lens through which this Initial Report has been drafted and should be considered, i.e., the centering of animals, their interests, and their intrinsic worth in the dialogue. While social justice and environmental protection are critical components of the work of ALRSA, more research has been done in these areas as there are already a number of important organisations focusing on these aspects. As such, this Project aims to fill a gap within current research to additionally include animals and their welfare, flourishing and protection into this discussion, and the legal and policy tools which can be used to do this. This Initial Report does not intend to defame or harm the reputation of any company mentioned within.

This Initial Report is as a result of the preliminary research and the review performed by ALRSA and the co-authors and commenter as at the published date. It is published as at 3 August 2023 and is intended to provide only a summary of issues which may be relevant to the topic. It is limited in scope based on various factors. This is a non-exhaustive report intended to stimulate debate, research and law reform in the area of animal law and food systems and requiring further context and information in relation to all of the issues included herein.

ALRSA has focused on selected regulatory aspects and has not considered all legal, economic, political, social, environmental, technological, and other relevant aspects pertinent to some of these issues. All such factors should be considered when pursuing any further work or research.

It is also important to note that the focus of this Initial Report is on industrialised animal agricultural operations and practices occurring therein. Given the various types of systems, these all have different considerations and consequences. Statements, observations and recommendations do not and will not apply to small scale and extensive farming systems nor to other less harmful methods of animal agriculture including egg production and should not be constituted as allegations.

It is explicitly recognised that animal agriculture including egg production is not all conducted in the same manner, and it is dependent on the particular farmer, facility, method of farming, geographic location and various other factors. Therefore, only generalised statements and recommendations are made focusing on harmful potential impacts of industrialised animal agriculture and are representative of what is understood in that context which may not be applicable to or appropriate for all animal agriculture and animal production, nor appropriate to all of the role-players and stakeholders mentioned in this Initial Report. Statements made will not apply to all facilities and stakeholders and should not be construed as such.

This Initial Report does not contain a detailed description of all relevant laws and policies, papers and each document reviewed. Its purpose is to set out those legal issues which ALRSA considers to be material. Reliance should not be

placed solely on any of the summaries contained in this Initial Report, which are not intended to be exhaustive of the provisions of any document or circumstances. ALRSA reserves the right to amend and update this Initial Report including in light of new information and comments received.

Unless otherwise expressly agreed by ALRSA in writing, no person is entitled to rely on this Initial Report and neither ALRSA nor the co-authors or commenter shall have responsibility or liability to any party, whether in contract, delict (including negligence) or otherwise relating hereto.

This Project has been conducted and this Initial Report drafted by a civil society organisation in the public interest. In particular, with regard to the protection of guaranteed constitutional rights in mind and in exercising of ALRSA's freedom of expression as contained in the Constitution of the Republic of South Africa, 1996.

ALRSA is registered and established as a non-profit company and non-profit organisation. It is neither a registered law firm nor a law clinic. This Initial Report does not constitute legal advice.

Any views and opinions expressed in this Initial Report are those of the relevant co-author or commenter and do not necessarily reflect the views or positions of any entities they represent. Such opinions, views, comments, and expressions are protected under the right to freedom of expression as provided for in the Constitution. Neither ALRSA nor the co-authors or commenter accept any liability for any indirect or consequential loss or damage, or for any loss of data, profit, revenue or business (whether direct or indirect) in each case, or reputational damage, however caused, even if foreseeable.

Any resources or referenced materials, sources or sites included in this Initial Report do not constitute endorsement nor do ALRSA and/or the co-authors or commenter accept any responsibility for the content, or the use of same and we shall not be liable for any loss or damage caused or alleged to be caused by or in connection with use of or reliance on any content, goods or services available on or through any other resource.

None of the statements made or information presented in this Initial Report shall be considered as allegations against any person or entity, including the Selected Stakeholders of contravention of or offences in terms of any South African or international law and/or regulation. ALRSA declares that it has no malicious intent to defame, disparage, or harm the reputation of any person or entity, including the Selected Stakeholders, mentioned in this Initial Report. ALRSA aims to promote constructive dialogue and encourage responsible practices concerning animal welfare.

END.

REVISION NOTE I: SEPTEMBER 2024

This revision note documents the updates made to the report titled *Laying Down the Facts: Animal Welfare Standards of the Companies Providing Your Favourite Foods*, originally published by ALRSA in August 2023 (“**Version 1 of the Initial Report**”) and republished with these amendments in September 2024, regarding Bidcorp, a Selected Stakeholder featured in the report. The revision aims to uphold transparency and accountability throughout the reporting process of ALRSA’s Corporate Accountability Project.

ALRSA’S ENGAGEMENT WITH BIDCORP

On 25 November 2022, ALRSA submitted a request for access to information from Bidcorp under PAIA. On 23 December 2022, Bidcorp requested that ALRSA pay a fee to process the request. In the same correspondence, Bidcorp refused to provide the requested records but stated it would reconsider if additional documents were supplied by ALRSA (“**Bidcorp’s Refusal Letter**”).

On 13 February 2023, ALRSA responded, urging Bidcorp to reconsider its decision, rebutting the grounds for refusal, and stressing the importance of transparency and accountability when engaging with civil society. ALRSA requested a response by 20 February 2023 on an urgent basis. Bidcorp did not respond by this deadline. The Initial Report was therefore prepared based on the correspondence received from Bidcorp as of 20 February 2023.

Following the publication of the Initial Report in August 2023, ALRSA commenced the second phase of its multi-phase Corporate Accountability Project. As part of this phase, ALRSA submitted a request for access to information from Bidcorp on 4 December 2023. Bidcorp responded on 20 December 2023, alleging that certain statements in the Initial Report regarding Bidcorp were inaccurate and requested written confirmation that the inaccuracies had been corrected.

CORRECTIONS REQUESTED BY BIDCORP

Bidcorp claimed that:

1. Version 1 of the Initial Report incorrectly implied that Bidcorp was not entitled to request a PAIA fee, emphasising that no exemption exists for non-profit organisations to pay a request fee under the law.
2. Version 1 of the Initial Report falsely asserted that Bidcorp did not respond to its request for information after receiving payment from ALRSA, as it submitted a response on 13 March 2023.

ALRSA maintains that the statements on page 236 of Version 1 of the Initial Report, regarding Bidcorp's PAIA fee request and being the only stakeholder to do so, are factually accurate. As such, no amendments are required in this regard.

However, we acknowledge Bidcorp's subsequent, belated correspondence received on 13 March 2023 ("**Bidcorp's Belated Response**"), which granted ALRSA partial access to the requested records. In light of this, and in the spirit of constructive stakeholder engagement, we issue this revision note to reflect the impact of Bidcorp's Belated Response on the Initial Report.

CHANGES MADE TO THE INITIAL REPORT IN RESPECT OF BIDCORP

The following amendments have been made in Version 2 of the Initial Report in respect of Bidcorp:

DESCRIPTION OF AMENDMENT	PAGE NUMBER: VERSION 1 OF THE INITIAL REPORT	PAGE NUMBER: VERSION 2 OF THE INITIAL REPORT
Amended the overall rating for Bidcorp: changed from Red to Orange .	12	12
Amended the overall rating for Bidcorp: changed from Red to Orange .	234	234
Removed statement regarding ALRSA's correspondence with Bidcorp post-payment of the PAIA request fee: <i>"[o]nly for Bidcorp, a major Corporation, to then refuse access to any of the records requested on spurious grounds and with limited justification. Upon ALRSA making this payment, and providing further substantiation for our request, Bidcorp acknowledged receipt of the requested payment and undertook to respond to our request but did not do so beyond this acknowledgement."</i>	236 & 237	237
Amended ratings for Indicators 1.1, 1.3, 2.1, 2.3 and 2.5 of Rating Criteria 1 and 2: Internal Policies and Annual Reports changed from Red to Green , Orange , Green , Orange , and Orange respectively.	238	238
Amended ratings for Indicators 3.1–3.2 and 4.1 of Rating Criteria 3 and 4: Compliance with Relevant Legislation and Evidence of Adverse Findings changed from all Red to all Green ratings.	241	241
Amended the colour rating for Indicator 5.3 of Rating Criteria 5 and 6: Evidence of Relevant Commitments and Contents of Public Statement changed from Green to Red . <i>*Note – The Green rating awarded to Bidcorp for</i>	244	244

DESCRIPTION OF AMENDMENT	PAGE NUMBER: VERSION 1 OF THE INITIAL REPORT	PAGE NUMBER: VERSION 2 OF THE INITIAL REPORT
<i>Indicator 5.3 in Version 1 of the Initial Report was incorrectly awarded; it should have been a Red rating.</i>		
Amended the colour rating for Indicator 6.1-6.3 of Rating Criteria 5 and 6: Evidence of Relevant Commitments and Contents of Public Statement changed from Red to Orange .	244	244
Amended the ratings for Indicators 9.4 and 10.1 of Rating Criteria 9 and 10: Transparency and Cooperation Compliance changed from Red to Orange .	249	250

REVISION NOTE II: NOVEMBER 2024

This revision note formally documents updates to the report *Laying Down the Facts: Animal Welfare Standards of the Companies Providing Your Favourite Foods*, published by ALRSA in August 2023 (“**Version 1 of the Initial Report**”), and updated in September 2024 (“**Version 2 of the Initial Report**”). The revision addresses references to the “Egg Labelling Regulations” (“**Version 3 of the Initial Report**”) that previously stated or implied that indicating production methods (such as “caged,” “barn,” or “free-range”) is mandatory. This update clarifies that including egg production methods on labels is, in fact, optional. Amendments specifically addressing these changes are detailed in the table below.

CHANGES MADE TO THE INITIAL REPORT IN RESPECT OF THE EGG LABELLING REGULATIONS

The following amendments have been made in this Version 3 of the Initial Report in respect of the Egg Labelling Regulations:

PAGE NUMBER: VERSION 2 OF THE INITIAL REPORT	PAGE NUMBER: VERSION 3 OF THE INITIAL REPORT
99-100	99-100
185-186	185-186



ANIMAL LAW REFORM

SOUTH AFRICA



OPEN WING
ALLIANCE®