

HOLEY COW: THE LEGAL EXPLOITATION OF CATTLE IN THE UNITED STATES

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INTRODUCTION

One of my most salient childhood memories was plunging my hand inside of a cow’s stomach. This cow—who was very much alive—was standing calmly, chewing her cud, while a group of 4th graders took turns sticking their tiny, gloved hands directly into her digestive tract.

Cattle are subject to many unique forms of legal bodily exploitation such as this. Perhaps the most well-known form of exploitation is, of course, the slaughter of cattle to produce beef. Another common endeavor is to forcibly impregnate cows and collect their milk for processing and distribution.¹ Cattle are also routinely branded, sometimes on the face, for humans to lay legal claims to their bodies.² Cattle are subject to agitation, mutilation, and general discomfort in rodeos across the United States.³ Nearly all these practices are completely legal—and sometimes encouraged—in U.S. law.

The cow in the example above was subject to the unique practice of cannulation. A cannulated cow has a porthole (called a “cannula”) positioned on

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1. PETA, <https://www.peta.org/features/rape-milk-pork-turkey/#> (last visited May 9, 2021).
2. *WHAT’S IN A BRAND? THE HISTORY OF CATTLE BRANDING*, AGAMERICA LENDING (2017), <https://agamerica.com/blog/brand-history-of-cattle-branding/>.
3. Peggy W. Larson, *Rodeos: Inherent Cruelty to Animals*, THE HUMANE SOCIETY VETERINARY MEDICAL ASSOCIATION (Jan. 15, 2015), https://www.hsvma.org/rodeos_inherent_cruelty_to_animals.

her side, allowing direct access to her fourth stomach (called the “rumen”).⁴ Typically, a veterinarian surgically installs this cannula, sewing the cow’s skin and the exterior of their rumen together to allow for easier and safer access to the rumen and its contents.⁵ This results in an easy-access entry point for the study of the rumen.⁶ A cannulated cow will live the rest of her life with this cannula in place.⁷ What does the law have to say about this? Essentially, nothing.

Cannulation of cattle allows museums, research facilities, and various other livestock owners to conduct a myriad of forms of research on cattle. However, cannulated cows are used for a wide variety of other reasons: transfaunation (transferring gut bacteria from one cow to another);⁸ optimizing cow digestion for beef and milk production;⁹ veterinary training;¹⁰ entertainment at events;¹¹ and school field trips. Few other animals are cannulated in the same way or for the same purposes as cows.¹²

This paper aims to unearth patterns, successes, and shortcomings of the legal landscape for cattle in the United States. I will do this by first exploring the history of cattle-human legal relationships, working to understand the philosophical underpinnings of cattle law. I will then provide a brief overview of common laws affecting cattle. Then I will move to focus on two activities that have an outsized impact on cows and the legal protections surrounding them: rodeos and cow milking. These realms of cattle activity and the lack of law surrounding them illustrate how apathy toward and objectification of cattle are normalized. While U.S. law occasionally works to protect cattle against human exploitation, it is not enough. Instead, the United States’ legal approaches to cattle activity should strive to develop empathy and compassion for cattle, in turn promoting and protecting their health and welfare.

4. Scott R. Haskell, *Rumen fistula surgery for the private practitioner*, MILKPRODUCTION.COM (2002), <http://www.milkproduction.com/Library/Scientific-articles/Animal-health/Rumen-Fistula-Surgery> (last visited May 9, 2021).

5. *Id.*

6. *Id.*

7. *Id.*

8. Anna O’Brien, *Holey Cow: The Wonderful World of a Fistulated Cow*, MODERN FARMER (Sept. 12, 2014), <https://modernfarmer.com/2014/09/holey-cow-wonderful-world-fistulated-cow/>.

9. Angela Henderson, *Why Do These Cows Have Holes Drilled Into Their Sides?*, PETA (June 24, 2019), <https://www.peta.org/blog/fistulated-cannulated-cows/>.

10. *Virtual Fistulated Cows*, UNIVERSITY OF IDAHO, https://www.webpages.uidaho.edu/sl/fistulated_cows.htm (last visited May 9, 2021).

11. Henderson, *supra* note 9.

12. *See Blood Sampling: Mouse*, NAT’L CTR. FOR THE REPLACEMENT REFINEMENT & REDUCTION OF ANIMALS IN RSCH., <https://nc3rs.org.uk/mouse-blood-vessel-cannulation-surgical> (last visited May 9, 2021); MD Gil Z Shlamovitz, *Intravenous Cannulation Background, Indications, Contraindications*, MEDSCAPE (April 12, 2021), <https://emedicine.medscape.com/article/1998177-overview>; E. Ramos-Morales et al., *Use of stomach tubing as an alternative to rumen cannulation to study ruminal fermentation and microbiota in sheep and goats* *Animal Feed Science and Technology*, SCIENCE DIRECT (Dec. 2014), <https://www.sciencedirect.com/science/article/abs/pii/S0377840114002995>; *Central Veterinary Research Laboratory (CVRL)*, FACEBOOK (March 27, 2018 at 4:01am), <https://www.facebook.com/CVRL.UAE/posts/1641606059242126>.

I. A BRIEF HISTORY OF CATTLE-HUMAN RELATIONS

Humans have influenced the futures of cattle for millennia, teetering on the line between coexistence and exploitation. The story of modern cattle began when humans began to domesticate around eighty wild aurochs¹³ in Southwestern Asia about 10,500 years ago.¹⁴ Through successive interbreeding, these eighty domesticated aurochs eventually became the more than 1.4 billion cattle on Earth today.¹⁵ However, as human civilization spread throughout Europe and Asia, humans began to hunt wild aurochs at unprecedented rates while occupying vast swaths of land for agricultural purposes. These human activities resulted in the decline of wild auroch populations, and in the year 1627, wild aurochs succumbed to extinction.¹⁶ Humans nonetheless continued to selectively breed domestic aurochs to meet the demands of agrarian societies¹⁷, and in Europe the domesticated aurochs were soon referred to as *katil* or *chatel*, both meaning “personal property” in old Anglo-French.¹⁸ Through continued breeding and etymological evolution, these *katil* became what we now understand to be cattle.¹⁹ Thus, cattle have become synonymous with property.

The industrial revolution catapulted the United States’ consumption of cattle, quickly leading to further inhumane treatment through mass breeding and transportation. Colonists introduced cattle in North America around the early 16th century, but mainly utilized them for small-scale colonial community sustenance.²⁰ The United States’ population growth in the early 18th century led to an increased demand for beef, but because of the distance between human population centers on the East Coast and cattle population centers in the West, cattle were primarily used for their easy-to-transport hides and tallow.²¹ However, the advent of the refrigerated rail car in the 1860s led to a boom in cattle markets in the U.S.,²² and the U.S. population of cattle more than tripled from about 20 million in 1870 to about 70 million in 1900.²³ Technological

13. An auroch is a type of wild oxen that once lived in the Eastern Hemisphere.

14. Duncan Geere, *Origin of Modern Cows Traced to Single Herd*, WIRED (Mar. 27, 2012, 10:39 AM), <https://www.wired.com/2012/03/cattle-ox-origins/>.

15. *Id.*

16. *Aurochs*, ENDANGERED LIST, <https://endangeredlist.org/animal/aurochs/> (last visited May 9, 2021).

17. Barbara J. King, *Prehistoric Aurochs Image Opens Up A New View Of Human Evolution*, NPR (Feb. 27, 2017, 4:20 AM), <https://www.npr.org/sections/13.7/2017/02/27/516981799/prehistoric-aurochs-image-opens-up-a-new-view-of-human-evolution>.

18. *Cattle*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/cattle> (last visited May 9, 2021) (*Katil* and *chatel* derive from the Medieval Latin “capitale,” an ancestor of today’s “capital”).

19. *Id.*

20. *A TIMELINE OF CHANGES: BEEF CATTLE FARMING IN NORTH AMERICA*, ARROWQUIP (June 6, 2017), <https://arrowquip.com/blog/cattle-research/timeline-of-changes-beef-cattle-north-america>.

21. *Id.*

22. *Id.*

23. *1954 Census Publications: Volume 2, Part 6: Livestock and Livestock Products*, USDA CENSUS OF AGRIC. HIST. ARCHIVE (1954).

advances in railroads, highways, and processing and packing facilities²⁴ led to an all-time national high²⁵ of about 115 million head of cattle in the U.S. in 1978.²⁶ Advances in cattle veterinary technology²⁷ and the continued practice of selective breeding for size²⁸ and milk productivity²⁹ have resulted in today's U.S. cattle population of 94.4 million.³⁰

II. THE FOUNDATIONS OF CATTLE LAW

Despite the large United States cattle population, there are few laws protecting cattle. The Animal Welfare Act, one of the most well-known pieces of federal legislation involving animals, fully exempts cattle from its provisions³¹ because its definition of “animal” completely excludes any livestock used for food or fiber.³² The United States Department of Agriculture (USDA) is responsible for enforcing the meager laws protecting cattle used for research, but the threat of enforcement is minimal: the USDA employs just 120 inspectors to ensure compliance of more than 12,000 research facilities country-wide, and penalties are typically small and monetary.³³ Federal law mandates that humans transporting some animals (including cattle) must allow the animals to eat, drink, and exercise every twenty eight hours.³⁴ However, if the cattle are provided access to food and water within the vessel in which they are transported, this rule does not apply.³⁵ Further, the Humane Slaughter Act requires that cattle are slaughtered in a way that minimizes pain, but only applies to the act of slaughter itself.³⁶ There are no federal laws that regulate the treatment of cattle

https://agcensus.mannlib.cornell.edu/AgCensus/getVolumeTwoPart.do?volnum=2&year=1954&part_id=561&number=6&title=Livestock+and+Livestock+Products (last visited May 9, 2021).

24. *A TIMELINE OF CHANGES: BEEF CATTLE FARMING IN NORTH AMERICA*, *supra* note 28.

25. Madeline McCurry-Schmidt, *A glimpse into beef cattle history* *American Society of Animal Science: Taking Stock*, ASAS (2011), <https://www.asas.org/taking-stock/blog-post/taking-stock/2011/11/18/a-glimpse-into-beef-cattle-history> (last visited May 9, 2021).

26. *CATTLE INVENTORY, UNITED STATES, 1999-2005*, SOUTH DAKOTA AGRICULTURAL STATISTICS SERVICE, https://www.nass.usda.gov/Statistics_by_State/South_Dakota/Publications/Annual_Statistical_Bulletin/2005/ab05035c.pdf (last visited May 9, 2021).

27. REBECCA DOYLE & JOHN MORAN, *COW TALK: UNDERSTANDING DAIRY COW BEHAVIOUR TO IMPROVE THEIR WELFARE ON ASIAN FARMS*, 28-29 (Csiro Publishing, 1st ed. 2015).

28. McCurry-Schmidt, *supra* note 34.

29. M. J. VANDEHAAR & N. ST-PIERRE, MAJOR ADVANCES IN NUTRITION: RELEVANCE TO THE SUSTAINABILITY OF THE DAIRY INDUSTRY 1280-91(*Journal of Dairy Science* 2006).

30. M. Shahbandeh, *Total number of cattle and calves in the U.S. 2001-2020*, STATISTA, <https://www.statista.com/statistics/194297/total-number-of-cattle-and-calves-in-the-us—since-2001/> (last visited May 9, 2021).

31. *See* 7 U.S.C. §§ 2131-60.

32. 7 U.S.C. § 2132 (g).

33. *Federal Laws and Agencies Involved With Animal Testing*, ANIMAL LEGAL DEFENSE FUND, <https://aldf.org/article/federal-laws-and-agencies-involved-with-animal-testing/> (last visited May 9, 2021).

34. 49 U.S.C. § 80502.

35. *Id.*

36. 7 U.S.C. § 1902.

at any point in their lives besides during transportation and at the final moments before slaughter.³⁷

Similarly, there are few state legal provisions protecting cattle. Most states have basic animal cruelty laws that prevent the abject mistreatment of cattle.³⁸ However, most states have specific exceptions that allow for common farming practices, regardless of their levels of cruelty, as long as those animals are used for food production.³⁹ Some states also have specific carve-outs for commonly accepted rodeo and research practices.⁴⁰

New Mexico provides one example of state legal exemptions for cattle. New Mexico outlaws negligently mistreating, injuring or tormenting any animal, as well as intentionally or maliciously torturing, mutilating, injuring or poisoning an animal, or maliciously killing an animal.⁴¹ New Mexico also outlaws abandoning or failing to provide necessary sustenance for an animal under a person's custody or control.⁴² However, the state allows exceptions for commonly accepted Mexican and American rodeo practices, commonly accepted agricultural animal husbandry practices, and the practices of licensed research facilities (such as the museum in New Mexico where this story began).⁴³ What constitutes a "common agricultural" or "rodeo" practice is determined by the New Mexico Livestock Board.⁴⁴ Board members are not required to have experience with animal welfare.⁴⁵ However, a majority of the Board's members are required by New Mexico to be involved in the business of raising and owning cattle.⁴⁶

While this does not constitute a full account of state and federal laws regarding cattle, it does provide a representative background of the ways cattle law falls short in actually serving cattle, instead serving the humans surrounding them.

III. SPECIFIC CATTLE-HUMAN RELATIONSHIPS

In order to further demonstrate the ways in which U.S. law addresses cattle exploitation, I will discuss two particular realms of human-cattle interaction: rodeos and milk production. Each of these sections illustrates the ways that state and federal laws remain silent regarding, or even sometimes mandate, violence toward and exploitation of cattle.

37. See *Farm Animal Protection FAQ*, THE HUMANE SOC'Y OF THE UNITED STATES, <https://www.humanesociety.org/resources/farm-animal-protection-faq> (last visited May 9, 2021).

38. See *State v. Freund*, 245 P.3d 12 (Kan. Ct. App. 2011); see also *State v. Hafle*, 52 Ohio App. 2d 9, 367 N.E.2d 1226 (Ohio Ct. App. 1977).

39. *Farm Animal Protection FAQ*, *supra* note 47.

40. N.M. Stat. Ann. § 30-18-1 (West 2007).

41. *Id.*

42. *Id.*

43. *Id.*

44. See *id.*

45. N.M. Stat. Ann. § 77-2-3 (West).

46. *Id.*

A. Rodeos

Rodeos are central to the culture and heritage of the American Southwest. However, they have evolved from a showcase of practical skill into a sporting practice that routinely legally exploits, injures, and sometimes kills cattle for human entertainment. There are no federal laws addressing rodeos, complemented by a sparse patchwork of state, county, and local law, as well as lax rodeo organization regulations.

The origins of rodeos date back to the early 14th century, when Mexican *vaqueros* were experts in dealing with cattle imported by the Spanish.⁴⁷ Many of the necessary skills of *vaqueros*, such as cattle herding, became the origin of modern rodeos, with the Spanish word *rodeo* meaning to “round up” or “surround.”⁴⁸ However, as the cattle industry boomed in the late 1800s in the US, countless American cowboys were needed to round up the booming US cattle population.⁴⁹ The cultures of American cowboys and Mexican *vaqueros* merged as fellow cattle managers competed with each other for fun to see who possessed superior livestock-wrangling skills.⁵⁰ These informal competitions soon grew into more formal, widely-attended events where people would show off their livestock-wrangling abilities.⁵¹ As the actual need to wrangle cattle waned, the popularity of the rodeo grew, evolving into a spectacle of human beings’ domination of nature.⁵² Today, dozens of publicly-attended rodeos take place in the U.S. every year.⁵³ In 2019, over 1.3 million people attended the Houston Rodeo alone.⁵⁴ These rodeos also draw popular performers, such as Cardi B, Ariana Grande, and George Strait, highlighting their ongoing mainstream role in U.S. culture.⁵⁵

Rodeos in the United States are largely managed by the Professional Rodeo Cowboys Association (PRCA), which sets the oft-insufficient standards that many U.S. rodeos follow.⁵⁶ Animals used in rodeos are exempt from the Animal Welfare Act, as these animals are considered to be for use by “exhibitors,” which exempts them from protection by this law.⁵⁷

47. Sylvia Gann Mahoney, *Rodeos*, TEX. STATE HIST. ASS’N, <https://www.tshaonline.org/handbook/entries/rodeos> (last visited May 9, 2021).

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. Madison Steffey, *Detailed Discussion of Rodeos*, ANIMAL L. LEGAL & HIST. CTR. (2018), <https://www.animallaw.info/article/detailed-discussion-rodeos>.

53. *Id.*

54. *Who We Are: Attendance*, HOUSTON LIVESTOCK SHOW & RODEO, <https://www.rodeohouston.com/About-Us/Who-We-Are/Attendance> (last visited May 9, 2021).

55. *Id.*

56. David S. Turk, *Detailed Discussion of Cattle Laws*, ANIMAL L. LEGAL & HIST. CTR. (2007), <https://www.animallaw.info/article/detailed-discussion-cattle-laws>; see PRO. RODEO COWBOYS ASS’N, PRO. RODEO COWBOYS ASS’N 2019 RULEBOOK (2018), available at <https://prorodeo.cld.bz/2019-PRCA-Rule-Book> (the 296-page-manual dedicating less than three pages to the humane treatment of rodeo animals).

57. 7 U.S.C. § 2132(h).

Many states, counties, and municipalities have their own versions of rodeo laws. Fourteen states generally exempt rodeos from most or all of their animal cruelty statutes.⁵⁸ Seven states eliminate animals used in rodeos from their definition of “animal” and/or exempt the practices of rodeos from the definition of “cruelty.”⁵⁹ Seven states impliedly exempt rodeos from their animal cruelty statutes.⁶⁰ Four states allow rodeos if they comply with PRCA guidelines.⁶¹ Eighteen states and Washington, D.C. do not have any mention of rodeos or rodeo-related activities in their laws.⁶² Rhode Island, the lone exception, has a whole chapter of laws regulating the welfare of rodeo animals.⁶³

There are four events involving cattle that commonly take place at rodeos: calf roping (also known as tie-down roping), steer tripping (also known as steer busting, steer roping, and team roping), steer wrestling, and bull riding.⁶⁴

The first, calf roping, involves exactly what the event’s title suggests: humans on horses trying to tie up four- to six-month-old calves. Humans often twist the calves’ tails and shock the calves with electric prods (commonly around 5000 volts) in order to coerce them to run at speeds in excess of twenty-five miles per hour.⁶⁵ The PRCA allows contestants to rope any part of the calf, with the head being the most common.⁶⁶ The human will then stop their horse, yanking the calf to the ground, then tie up three of its legs.⁶⁷ Human proficiency in calf roping takes a considerable amount of training, and two to three calves are usually injured per practice session and must be “replaced.”⁶⁸ The PRCA offers scant protections for the calves made to participate in this event.⁶⁹

The second event, steer tripping, has two versions of its events. The first (and more publicly-acceptable version) is team roping, where one human ropes the 600-pound-steer by the horns, the other ropes him by the legs, and the two stand on opposite sides of the steer and pull the ropes taut, stretching him out.⁷⁰ The second, single-contestant steer tripping, involves a human roping a steer by

58. Steffey, *supra* note 52.

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.*

63. R.I. Gen. Laws. § 4-20-4 (2012).

64. Turk, *supra* note 56.

65. Peggy W. Larson, *Rodeos: Inherent Cruelty to Animals*, THE HUMANE SOC’Y VETERINARY MED. ASS’N (Jan. 15, 2015), https://www.hsvma.org/rodeos_inherent_cruelty_to_animals.

66. *Id.* [65]

67. Turk, *supra* note 56.

68. Larson, *supra* note 65.

69. The PRCA designates that in order to prepare calves for tie-down roping events, a calf must be roped and tied an additional three times within 48 hours prior to the rodeo event. Professional Rodeo Cowboys Association, *supra* note 66, at 194. Humans are also not allowed to pull the calf down backwards “between 10 and 2” and onto its head or back. *Id.* at 224. In its “Humane Treatment of Rodeo Animals” section, the PRCA rulebook adds that calves in tie-down roping should be “strong and healthy.” *Id.* at 202. It is also worth noting the word “calf” is only used four times in the entire 296-page PRCA manual (and the word “calves” is only used three times), as the calf roping event is exclusively referred to as “tie-down roping” and the calves used in such events are usually referred to as “animals.” *See generally id.*

70. Steffey, *supra* note 52.

the horns, then “tripping” the steer by jerking its head and neck 180 degrees, which throws the steer onto its back as he is rolled and dragged around thirty feet.⁷¹ The goal of this event is to stun the steer enough so that the human may tie its legs and repeat the tripping and dragging process repeatedly until the steer is considered sufficiently stunned.⁷² Once again, the PRCA rules are lackluster surrounding the practice,⁷³ are most local and state laws remain silent.⁷⁴

Steer wrestling, the third event, was invented specifically for rodeos, and has no connection to traditional ranching. The event involves a human riding on a horse up next to a running steer, grabbing the steer by its horns, jumping off the horse, and using all their weight to pull the steer to the ground. The event applies great force to a steer’s neck, sometimes breaking it and killing him.⁷⁵ However, there are no known laws in the U.S. addressing the well-being of steers in steer wrestling events. The PRCA similarly has few protections for steers used in steer wrestling (although steers used in steer wrestling must not be used in any other event).⁷⁶

Bull riding, the final event, is perhaps the most well-known rodeo sport. Bull riding is also one of the most dangerous rodeo events for humans, and one of the least dangerous for cattle.⁷⁷ Humans gain points based on how long they stay on the bull, as well as for “style” (i.e. raking their spurs into the bull).⁷⁸ The PRCA has a handful of rules in place to marginally protect the safety of the bulls.⁷⁹

Taken together, this lack of rodeo laws shows a lack of empathy or regard for the well-being of cattle. Many states may refer to ‘traditional rodeo practices’ when determining standards for rodeos, but these traditional practices are exceedingly harmful to cattle, especially given the volume of rodeos today. Furthermore, states that refer to the PRCA’s rules are imbuing much trust in the PRCA’s official rules, which deal little with the humane treatment of cattle. Even those rules that do address the humane treatment of cattle are only applicable in the few states that defer to the PRCA and at rodeos that are sponsored by the PRCA, which only includes a portion of all rodeos in the U.S.

While many rodeo events evolved from common ranching practices that were intended to help cattle when they were injured or ill, the practice has evolved into a popular, large-scale spectacle that legally harms cattle solely for the entertainment of humans. This practice is recognized as inhumane in a small patchwork of jurisdictions, but largely goes unaddressed by U.S. law.

71. Larson, *supra* note 65.

72. *Id.*

73. See Pro. Rodeo Cowboys Ass’n, *supra* note 56, at 201-03.

74. See Larson, *supra* note 71 (Alameda County, California, Contra Costa County, California, Sedgwick County, Kansas, and Omaha, Nebraska all also outlaw steer tripping. However, at least thirteen states have outlawed horse tripping, which is virtually the same practice, except with horses).

75. *Id.*

76. Pro. Rodeo Cowboys Ass’n, *supra* note 56, at 225.

77. Steffey, *supra* note 52.

78. Turk, *supra* note 56.

79. See *id.*

B. Milk Production

About 68 percent of humans are lactose intolerant.⁸⁰ Yet the United States produced 223.1 billion pounds of milk in 2020.⁸¹ Why are we producing so much milk? One answer to this question is U.S. federal law and policy, which artificially pumps the market with milk, and subsidies that result in the unnecessary exploitation of cows.⁸²

During the drastic increase in U.S. cattle populations in the late 19th century,⁸³ there was a related drastic increase in the amount of cow's milk available for human consumption.⁸⁴ During World War I (1914-1918), the U.S. Government transformed a plethora of this milk into canned, condensed, and powdered forms and shipped it to soldiers overseas.⁸⁵ Due to this increased demand, dairy farmers ramped up supply; U.S. canned milk production increased from 660 million pounds in 1914 to 1.5 billion pounds in 1918.⁸⁶ This led to a surplus of milk after the end of the war, leading to low milk prices, thousands of angry dairy farmers, and the creation of the National Dairy Council to help convince people to drink more milk.⁸⁷

Government support of dairy production continued into the middle of the century. In 1940, public schools began serving milk to their students for one penny per serving, and the U.S. government compensated dairy farms for the difference (including profit).⁸⁸ The 1946 School Lunch Act required the addition of milk to the National School Lunch Program, and schools were not allowed to discourage milk consumption on school property.⁸⁹ This remains good law today.⁹⁰ In addition, all Child Nutritional Programs currently funded by the U.S. Government must offer fluid milk at each breakfast, lunch, or supper meal service.⁹¹

During the 1970s, the U.S. Government once again flooded the market with cow's milk, this time via subsidies that dumped \$2 billion into the dairy industry

80. *Definition & Facts for Lactose Intolerance*, NAT'L INST. OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES, <https://www.niddk.nih.gov/health-information/digestive-diseases/lactose-intolerance/definition-facts> (last visited May 9, 2021).

81. M. Shahbandeh, *Total U.S. Milk Production 1999-2020*, STATISTA (Jul. 27, 2022), <https://www.statista.com/statistics/194937/total-us-milk-production-since-1999/>.

82. MARK BITTMAN, *ANIMAL, VEGETABLE, JUNK: A HISTORY OF FOOD, FROM SUSTAINABLE TO SUICIDAL* 133-34 (Houghton, Mifflin, Harcourt 2021).

83. *1954 Census Publications: Volume 2, Part 6: Livestock and Livestock Products*, USDA CENSUS OF AGRIC. HIST. ARCHIVE (1954), https://agcensus.mannlib.cornell.edu/AgCensus/getVolumeTwoPart.do?volnum=2&year=1954&part_id=561&number=6&title=Livestock+and+Livestock+Products (last visited May 9, 2021).

84. Bittman, *supra* note 82, at 133.

85. *Id.*

86. *Id.*

87. *Id.*

88. *Id.* at 134.

89. 42 U.S.C. §1758.

90. *Id.*

91. *Food Buying Guide for Child Nutrition Programs: Milk*, U.S. DEP'T OF AGRIC (Jul. 11, 2022), <https://www.fns.usda.gov/tn/food-buying-guide-for-child-nutrition-programs>.

over four years.⁹² Dairy farmers started to produce more milk than they knew what to do with, and began to convert it into cheese, butter, and powdered milk.⁹³ The U.S. Government bought this cheese, and by 1981 was stuck with 60 million 5-pound blocks of cheese stored in underground warehouses across the country.⁹⁴

To get rid of this cheese, the U.S. Government came up with two solutions. First, the country provided the nearly-moldy cheese to low-income families.⁹⁵ Second, Congress created the National Dairy Promotion and Research Board in 1983, whose sole purpose was to market dairy products.⁹⁶ The Board continues to operate today and works with corporations to increase their sales of dairy products; thanks to the Board, the U.S. populace was graced with such innovations as Taco Bell's "Quesalupa," Pizza Hut's Stuffed Crust Pizza, and Domino's pizza with 40 percent more cheese.⁹⁷

Due in part to the aggressive dairy marketing and production enabled by U.S. law and policy, U.S. dairy farmers interacted with their cattle in ways that would best increase monetary profit and efficiency. In 1938, dairy farmers began to forcibly impregnate cattle to create more milk.⁹⁸ This practice was dubbed with the more neutral term "artificial insemination," and is still alive and well today.⁹⁹ Artificial insemination of cattle both increases the length of time a cow produces milk and further enables selective breeding that creates cows that produce higher volumes of milk.¹⁰⁰ In 1940, the average dairy cow produced around 2000kg of milk per year; by 2000, the average dairy cow produced over 8000kg of milk per year.¹⁰¹ After four–five years of producing milk, many dairy cows are slaughtered, despite most cattle having a natural lifespan of twenty–twenty five years.¹⁰² This is partially because most dairy cows are considered "lame" after their stints at producing milk due to the squalid living conditions imposed upon them.¹⁰³

92. Erin Blakemore, *How the US Ended Up With Warehouses Full of 'Government Cheese'*, HISTORY (Jul. 26, 2018), <https://www.history.com/news/government-cheese-dairy-farmers-reagan>.

93. *Id.*

94. *Id.*

95. *Id.*

96. *National Dairy Promotion & Research Board*, U.S. DEP'T OF AGRIC., <https://www.ams.usda.gov/rules-regulations/research-promotion/dairy> (last visited May 10, 2021).

97. Tom Philpott, *The real reason Pizza Hut just rolled out the extra-cheesy*, MOTHER JONES (Mar. 8, 2018), <https://www.motherjones.com/food/2018/03/dairy-glut-pizza-hut-trump-dominos-checkoff-taco-bell/>.

98. Claudia Reinhardt & Bill Ganzel, *Selective Breeding*, WESSELS LIVING HISTORY FARM (2003), https://livinghistoryfarm.org/farminginthe30s/crops_14.html.

99. *Id.*

100. *Id.*

101. M. J. VandeHaar & N. St-Pierre, *Major Advances in Nutrition: Relevance to the Sustainability of the Dairy Industry*, JOURNAL OF DAIRY SCIENCE 1280–91 (2006).

102. Ashley Capps, *10 Dairy Facts the Industry Doesn't Want You to Know*, FREE FROM HARM, <https://freefromharm.org/dairyfacts/> (last visited May 9, 2021).

103. David S. Turk, *Overview of Cattle Laws*, ANIMAL L. LEGAL & HIST. CTR. (2007), <https://www.animallaw.info/article/overview-cattle-laws>.

After the typical nine months of gestation, 97 percent of newborn dairy calves are forcibly removed from their mothers within the first twenty-four hours of their births.¹⁰⁴ Some female calves are raised to be dairy cows, and are often fed dietary replacements, as their mother's milk is instead dedicated to human consumption.¹⁰⁵ Many remaining female calves and most male calves are slaughtered while young in order to produce veal.¹⁰⁶ These veal calves have their movement restricted and are fed an iron-deficient diet to prevent muscle growth, which produces the veal most desirable to consumers.¹⁰⁷ Some reports suggest that about 10 percent of veal calves die prior to slaughter due to this nutrient-deficient diet.¹⁰⁸

All practices listed in this part are completely legal. There are no federal laws surrounding the production of milk until after it has left the cow. There are also no federal laws regarding what can or should be done with the calves that are birthed to produce milk and veal.

State laws provide even fewer protections for cattle involved in dairy production. Most states have exceptions for agricultural or animal husbandry practices. Texas has a law that protects livestock animals from being "seriously overworked," but that statute has never been applied to dairy cows in a court of law.¹⁰⁹

Despite the U.S. Government's clear incentivization of production of cow's milk through law and policy, federal and state governments have woefully few legal protections for the very cattle involved in the production of this milk.

IV. THE FUTURE OF CATTLE LAW

Despite the deeply entwined relationship humans and cattle share, cattle are largely unprotected under U.S. law. U.S. culture and policy regarding cannulation, dairy farming and rodeos show the apathy humans have for cattle, and the lengths to which the law overlooks human exploitation of cattle. The most thorough solution would be to ban dairy farming, cow cannulation, and rodeos altogether. However, making such sweeping changes to the law would require massive cultural change to support it. Thus, the following legal and policy recommendations take a more incremental and measured approach than the aforementioned solutions, with the goal of influencing public opinions and perceptions of cattle treatment in the United States.

The first way the United States can improve its legal landscape toward cattle is by altering its policies around the visualization of violence against cattle, allowing the public to more clearly understand where their cattle-sourced products come from and fostering greater investment in cattle welfare. Installing

104. Capps, *supra* note 102.

105. *Id.*

106. *Id.*

107. Turk, *supra* note 56.

108. *Id.*

109. Tex. Penal Code § 42.09(a)(9).

cameras in dairy production facilities that show the brutalization of cows and calves may increase human empathy for cattle, and drive demand for dairy products that do not hurt cattle nearly as much in the process. Rodeos have the opposite problem: the violence against cattle is normalized through the spectacle of rodeo festivals. Even the PRCA guidebook tries to separate itself from the animals by using language that obscures its activities and normalizes its practices.¹¹⁰ If events that harmed cattle were eliminated from rodeos, there could still exist gargantuan festivals celebrating farming and ranching culture, but these festivals would cause much less violence than traditional rodeos and would cease to normalize violence to their attendees.

The second way the U.S. can improve its legal attitude toward cattle is by better regulating how children and youth are exposed to cattle which would reduce the cultural normalization of violence against cattle. When children see rodeos, violence against cattle is normalized at a young age. Similarly, when children are encouraged to stick their hands into cows' rumens during field trips, it teaches them that cattle are mere objects that will bend to the whims of humans. If rodeos were only allowed to be attended by adults, and cannulated cows had their stomachs violated only by researchers doing so for the purposes of research, then perhaps children would not be exposed to violence and cruelty against cattle at a young age. This violence and cruelty would not be considered normal or traditional to them. Alternative programs that allow children to bond and play with calves and cattle may help children see cattle as peer creatures, not objects to be dominated.

Similarly, the U.S. should implement more programs that increase human empathy for animals, helping to influence public desire for stronger cattle welfare laws. Many of the views humans take regarding animals date back to the Protestant ideology of humankind's domination over nature.¹¹¹ While the Protestant origin of this philosophy has been somewhat separated from this attitude in the modern day, the attitude persists nonetheless, but in the form of language regarding how humans appear smarter than other animals, such as cattle. Intelligence is not justification for cruelty. Teaching humans of all ages to respect cattle instead of viewing them as imbeciles could greatly aid the welfare of cattle.

Finally, the U.S. can also improve cattle welfare by waning its deep-rooted support of the dairy industry, removing artificial dairy demand, and requiring less milk extraction from cattle. If the U.S. did not actively market dairy products and require dairy to be served in schools and other government programs, the demand for dairy would be much lower, leading to fewer cows and calves being subjected to the cruel practices that take place in dairy production and processing plants.

110. Pro. Rodeo Cowboys Ass'n, *supra* note 56.

111. *Great Chain of Being*, ENCYCLOPÆDIA BRITANNICA, <https://www.britannica.com/topic/Great-Chain-of-Being> (last visited May 9, 2021).

CONCLUSION

Humans have the potential to resume a more healthy, mutualistic symbiosis with cattle. However, at stage four of this scale, our desires for what cattle can give us far eclipse what provides cattle with basic welfare. With a dramatic scaling back of general national focus on the productivity and human benefits derived from cattle, and a reflection of this scaling back in U.S. law, the U.S. may be able to create a nation where humans and cattle can one day live together with a shared sense of dignity and respect.