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# “WARNING! GRAPHIC CONTENT AHEAD”: ADVOCATING FOR GRAPHIC VIDEO IN THE TEACHING OF ANIMAL LAW

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AARON C TIMOSHANKO\*

## I INTRODUCTION

Animal law, as an elective subject, is a recent addition to the Australian law degree curriculum.<sup>1</sup> The topic was first offered in 2005 as a post-graduate course at the University of New South Wales.<sup>2</sup> Since then, the number of Australian universities offering the subject has risen dramatically.<sup>3</sup> Animal law has a much longer history in the United States of America, where it was first taught in 1977.<sup>4</sup> Now, more than 116 law schools offer animal law in the USA, including Harvard, Cornell and Stanford.<sup>5</sup> If this is any indication of the expected level of student interest in the subject in Australia, then the number of educators teaching the topic will continue to rise.

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<sup>1</sup> Some academics prefer the topic title ‘Animals and the Law’, to better reflect the true relationship between animals and the legal system: see, eg, Peter Sankoff, ‘Learning by Doing: The Benefits of Experiential Learning in Animals and the Law’ (Scholarly Paper ID 2719240, Social Science Research Network, 20 January 2016) 1 <<http://papers.ssrn.com/abstract=2719240>>. The current author prefers the term ‘animal law’ due to its prolific usage.

<sup>2</sup> Steven White, ‘Animals and the Law: A New Legal Frontier’ (2005) 29 *Melbourne University Law Review* 298, 299; Voiceless, *Study Animal Law* <<https://www.voiceless.org.au/animal-law/study-animal-law>>; see also Katrina Sharman, ‘An Emerging Field’ (2006) 31 *Alternative Law Journal* 227, 229.

<sup>3</sup> As of June 2016, 14 universities offer an Animal Law subject: Voiceless, above n 2; see also Sophie Riley, ‘Developing an Animal Law Case Book: Knowledge Transfer and Service Learning from Student-Generated Materials’ (2015) 25 *Legal Education Review* 251, 259.

<sup>4</sup> Megan A Senatori and Pamela D Frasch, ‘The Future of Animal Law: Moving Beyond Preaching to the Choir’ (2010) 60 *Journal of Legal Education* 209, 211.

<sup>5</sup> Ibid estimates over 116 law schools teach Animal Law across the United States as at 2010, although an accurate count is ‘virtually impossible’; Taimie L Bryant, ‘The Bob Barker Gifts to Support Animal Rights Law’ (2010) 60 *Journal of Legal Education* 237, 249; see also White, above n 2, 299; David Glasgow, ‘The Law of the Jungle: Advocating for Animals in Australia’ (2008) 13(1) *Deakin Law Review* 181, 195.

One question that all animal law educators should consider when preparing for the topic is whether to show graphic video during their lectures. The term ‘graphic video’ here refers to video (moving images often accompanied by sound) that the average person would find confronting, distressing or difficult to watch. Graphic video contains content that most people would avoid watching if they knew what they were about to see. This means that much of the video that could be relevant to animal law would be classified as graphic, as most people want to avoid seeing how their meat, dairy, eggs, leather, cosmetics and animal entertainment are produced. Graphic video therefore spans the full spectrum of animal treatment in society, from scenes of gratuitous cruelty to lawful husbandry practices.

In deciding whether to show graphic video, the animal law educator will want to know what educational benefits, if any, there are in doing so. There is a plethora of research that supports the use of non-graphic video as a teaching aid.<sup>6</sup> Whether these benefits are transferrable to videos that contain graphic content is largely unknown. This article takes a modest step towards addressing this gap.

This article argues that the educational benefits of non-graphic video do apply to graphic video, so animal law educators should be encouraged to use graphic video as a teaching aid. It does so by outlining the educational benefits of non-graphic video in Part III. This Part then relies on inductive reasoning to make the case that these benefits still apply where the content is graphic in nature. From the outset, it is acknowledged that there is one important distinction between non-graphic and graphic video; graphic videos can cause some students to experience a negative affective state. For the purposes of this article, this adverse reaction causes the viewer to become so upset or distressed that it undermines the educational benefits of using video and thus must be avoided.<sup>7</sup> The potential for such an effect may be why some animal law educators choose not to use video as a teaching aid. However, risks to student wellbeing exist in other academic disciplines and are effectively managed. Just as educators in the faculty of science take precautions to protect students when engaging in a practical

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<sup>6</sup> See, eg, Charles Joseph Eick and David T King, ‘Nonscience Majors’ Perceptions on the Use of YouTube Video to Support Learning in an Integrated Science Lecture’ (2012) 42(1) *Journal of College Science Teaching* 26; Hee Jun Choi and Minwha Yang, ‘The Effect of Problem-Based Video Instruction on Student Satisfaction, Empathy, and Learning Achievement in the Korean Teacher Education Context’ (2011) 62 *Higher Education* 551; Cheryl Bluestone, ‘Feature Films as a Teaching Tool’ (2000) 48 *College Teaching* 141; Joseph E Champoux, ‘Film as a Teaching Resource’ (1999) 8 *Journal of Management Inquiry* 206; Vincent Robert Johnson, ‘Audiovisual Enhancement of Classroom Teaching: A Primer for Law Professors’ (1987) 37 *Journal of Legal Education* 97; Aditi Pai, ‘A Picture Worth a Thousand Words? Making a Case for Video Case Studies’ (2014) 43(4) *Journal of College Science Teaching* 63.

<sup>7</sup> See Dana D Anderson, ‘Using Feature Films as Tools for Analysis in a Psychology and Law Course’ (1992) 19 *Teaching of Psychology* 155, 157, which reports that some students found the graphic scene of violence and sexual exploitation in the ‘Taxi Driver’ ‘so disturbing that they could not benefit from the film’; Mary Heath and Sal Humphreys, ‘Engagement, Authenticity and Resistance: Using Game of Thrones in Teaching Law’ (2015) 20 *Media and Arts Law Review* 94, 95, 98.

exercise, so too can the animal law educator. In both instances, on balance, the potential benefits to student learning are seen to outweigh the risks. To assist the animal law educator in reducing the likelihood of a student experiencing a negative affective state, Part IV offers five principles which can be used to evaluate and identify appropriate graphic videos. Part V demonstrates the utility of these principles by applying them to a video showing the surgical castration and tail-docking of a three-day-old piglet.

Although this article is aimed at the animal law educator, the principles are relevant to other law subjects that raise analogous issues regarding the use of graphic video. For instance, educators teaching human rights or the law of armed conflict (war law) may find the discussion particularly instructive if they use (or are considering using) video as a teaching aid.

## II THE NATURE OF GRAPHIC VIDEO IN ANIMAL LAW

The central argument of this article is based on two major premises. The first is that graphic video is functionally the same as non-graphic video. That is, there is no meaningful difference in how information is communicated through the medium of video. Whether the content is graphic or not does not affect the qualities of the medium that make it effective in non-graphic contexts. For example, the visual component of video that makes learning more accessible and improves later recall is the same for graphic and non-graphic videos alike.<sup>8</sup>

The second premise is that video conveys something extra that cannot be replicated in verbal-based media (spoken or written). With video, students see with their own eyes and evaluate what they have seen, rather than accept being told what is noteworthy. This quality is particularly useful in animal law where the subjects of study (the animals) are not able to articulate their pain, fear or pleasure. This is relevant to the study of animal law if one considers the subject to be a part of 'the next great social justice movement'.<sup>9</sup> Although defining social justice can be as difficult as defining 'beauty',<sup>10</sup> if being a topic of social justice means its educators are working to 'improve the lives of their subject of study outside the classroom' then animal law is no different to 'women's rights, racial inequality, disability rights, or environmentalism'.<sup>11</sup> Animal law (and environmental law) is, however, different from other areas of social justice study where the subjects of study, although marginalised and oppressed, are able to articulate and share their experiences - even if not formally within the legal or political

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<sup>8</sup> Champoux, above n 6, 209; Eick and King, above n 6, 28.

<sup>9</sup> David Weisbrot, 'Comment' (2007) 91 *Australian Law Reform Commission Reform Journal* 2, 2.

<sup>10</sup> Robert Rueda, 'Cultivating Compassion: Lessons Learned from Classrooms to Educational Researchers' in Louis G Denti and Patricia A Whang (eds), *Rattling Chains: Exploring Social Justice in Education* (Sense Publishers, 2012) 59, 59.

<sup>11</sup> Senatori and Frasch, above n 4, 213.

system.<sup>12</sup> Video can help bridge this gap by conveying the experiences of animals. Students can then decide for themselves whether or not current regulation adequately protects the interests of animals.

Before moving on to discuss the potential educational benefits of video, it is necessary to provide an important caveat. Differences in approaches to teaching, student cohorts and individual academics means that what works in one setting may not be effective in another, and may even be counter-productive.<sup>13</sup> The decision to show graphic video in animal law lectures rests with each individual educator on a class-by-class basis. This decision must be based on a weighting of ethical, pedagogical and practical considerations, as well as an evaluation of each student cohort. This article aims to inform these considerations, rather than supplant them.

### III THE EDUCATIONAL BENEFITS OF VIDEO

This section discusses the major educational benefits of using non-graphic video in learning environments.<sup>14</sup> In each instance, it is argued that these benefits extend to graphic video in animal law. This is not a full review of all of the benefits that video offers to student learning. Rather, key educational benefits have been selected based on their relevance to animal law educators. In total, six benefits are discussed. It is reasoned that student engagement, comprehension and knowledge acquisition, critical thinking skills, information retention and recall, and student interest can all be improved with the use of graphic video. This section concludes by examining the effect that graphic video can have on shaping the values and opinions of students, which is a normative role of educators.

#### *A Student Engagement*

Student engagement is the amount of time, effort and resources a student commits to their learning.<sup>15</sup> Student engagement is ‘a crucial cornerstone of quality teaching and learning’ and so is ‘increasingly becom[ing] a matter of concern’ in higher education.<sup>16</sup> This is because

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<sup>12</sup> See, eg. Elizabeth L DeCoux, ‘Speaking for the Modern Prometheus: The Significance of Animal Suffering to the Abolition Movement’ (2009) 16 *Animal Law* 9, 50 in relation to the suffering of slaves and the abolition movement.

<sup>13</sup> Vicki Trowler and Paul Trowler, ‘Student Engagement Evidence Summary’ (Report, University of Lancaster, November 2010) 6 <[https://www.heacademy.ac.uk/system/files/studentengagementevidencesummary\\_1.pdf](https://www.heacademy.ac.uk/system/files/studentengagementevidencesummary_1.pdf)>.

<sup>14</sup> The term ‘learning environment’ is used to describe all levels of education, including primary, secondary and tertiary, and is designed to reflect the breadth of research spanning these levels.

<sup>15</sup> Peter E Kahn, ‘Theorising Student Engagement in Higher Education’ (2014) 40 *British Educational Research Journal* 1005, 1005; Trowler and Trowler, above n 13, 7; see also Heath and Humphreys, above n 7, 96.

<sup>16</sup> Heath and Humphreys, above n 7, 95; Kahn, above n 15, 1005; see Trowler and Trowler, above n 13, 9; see Katherine Wimpenny and Maggi Savin-Baden, ‘Alienation, Agency and Authenticity: A Synthesis of the Literature on Student

students with higher levels of engagement perform better than others, and are more likely to complete their studies.<sup>17</sup> In fact, student engagement is a better indicator of success than ‘students’ prior educational preparation or social capital’.<sup>18</sup>

How to engage students is a ‘complex and multifaceted phenomena’,<sup>19</sup> which extends to the actions of the educational institution, the market, and the state.<sup>20</sup> Within educational institutions, an educator’s decisions regarding course content and delivery play a significant role in effecting student engagement.<sup>21</sup> Video can help deliver course content in a way that increases students’ engagement.

There are four broad forms of student engagement: cognitive, affective, conative and relational.<sup>22</sup> Cognitive engagement is the students’ intellectual and physical preparation of their work.<sup>23</sup> Affective engagement is the emotional aspects related to learning, including students’ interest, enjoyment, motivation and willingness to persevere.<sup>24</sup> Conative engagement is evidenced by students’ allocating enough time and energy to their studies.<sup>25</sup> Relational engagement relates to the quality of students’ interactions at university.<sup>26</sup> Qualitative studies have found that most academics view student engagement as primarily a cognitive issue.<sup>27</sup> Students, on the other hand, report that engagement is experienced affectively.<sup>28</sup>

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Engagement’ (2013) 18 *Teaching in Higher Education* 311, 325; on the need for research on learning to be conducted from the perspective of the student, rather than the educator, see John B Biggs, ‘Approaches to the Enhancement of Tertiary Teaching’ (1989) 8 *Higher Education Research & Development* 7, 7; Heather A Davis, Jessica J Summers and Lauren M Miller, *An Interpersonal Approach to Classroom Management: Strategies for Improving Student Engagement* (Corwin Press, 2012) 21.

<sup>17</sup> Kahn, above n 15, 1005; Trowler and Trowler, above n 13, 8, 9; see also Heath and Humphreys, above n 7, 96.

<sup>18</sup> Heath and Humphreys, above n 7, 97; Trowler and Trowler, above n 13, 2.

<sup>19</sup> Heath and Humphreys, above n 7, 96; see, eg, Kahn, above n 15, 1006; see also Davis, Summers and Miller, above n 16, 21.

<sup>20</sup> Kahn, above n 15, 1005, 1013, 1015.

<sup>21</sup> See Biggs, above n 16, 12.

<sup>22</sup> Rachel Harris et al, ‘Linking Perceptions of Control and Signs of Engagement in the Process and Content of Collaborative E-Learning’ (Paper presented at the Networked Learning Conference, Symposium 10, Lancaster University, 5 April 2004); Heath and Humphreys, above n 7, 96; cf Davis, Summers and Miller, above n 16, 21, which states there may be two (behavioural and emotional) or three (behavioural, cognitive and conative) dimensions to student engagement.

<sup>23</sup> Harris et al, above n 22; Heath and Humphreys, above n 7, 96; but see Davis, Summers and Miller, above n 16, 23, which defines cognitive engagement as “‘a matter of students will’ — that is, how students feel about themselves and their work, their skills, and the strategies they employ to master their work’.

<sup>24</sup> Harris et al, above n 22; Heath and Humphreys, above n 7, 96; see also Biggs, above n 16, 12.

<sup>25</sup> Harris et al, above n 22; Heath and Humphreys, above n 7, 96.

<sup>26</sup> Davis, Summers and Miller, above n 16, 22; see Harris et al, above n 22; Heath and Humphreys, above n 7, 96.

<sup>27</sup> Heath and Humphreys, above n 7, 97; but see Davis, Summers and Miller, above n 16, 23, which states that ‘we believe relational engagement is [the] most relevant to classroom management that promotes optimal engagement in school’.

<sup>28</sup> Heath and Humphreys, above n 7, 97; Wimpenny and Savin-Baden, above n 16, 320, 324.

Video can improve student engagement as it offers ‘both cognitive and affective experiences’.<sup>29</sup> Graphic video, due to its sober content, may even heighten these cognitive and affective experiences. To demonstrate how these experiences can translate into cognitive and affective engagement, consider the likely effect footage from inside a caged-egg facility would have on students.<sup>30</sup> This footage will show rows and rows of battery cages, many levels high, with hens unable to stand up or move around inside their cage. Such images, typical of intensive egg production, will evoke a range of emotions among most students. Some students may feel angry. Others may feel disgust or pity. Regardless of the type of emotion felt, this connection with the subject material is likely to provoke student interest in the topic and motivate them to commit more time and resources into their learning.<sup>31</sup> These are indications of cognitive, affective and conative engagement.

It is acknowledged that evoking such emotions in students could trigger a negative affective state.<sup>32</sup> However, this should not deter educators from using graphic video. Avoiding graphic video to prevent students potentially experiencing a negative affective state ignores the risk of students not engaging with the topic in the first place. Furthermore, by employing the principles in Part IV of this article, the chances that a student will experience this state can be minimised.

Videos can also enhance student engagement by providing opportunities for active learning.<sup>33</sup> Videos have been demonstrated to actively engage students cognitively in a way analogous to a practical or ‘hands on’ learning exercise.<sup>34</sup> In this way, videos may provide a ‘vicarious concrete experience’.<sup>35</sup> When students are actively engaged at this level, their involvement in learning increases.<sup>36</sup> Graphic video can have the same effect. This is especially the case when graphic video is used to support an experiential learning exercise, such as the one discussed in Part IV(D) below. When this exercise is undertaken in small-groups, students are engaged cognitively and relationally. Therefore, using graphic video judiciously appears to be an effective way of keeping students engaged across all indicators.

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<sup>29</sup> Champoux, above n 6, 213.

<sup>30</sup> See, eg, Aussie Farms, *Australian Egg Farming: The Inside Story* (2016) <<http://www.aussieeggs.com/>>.

<sup>31</sup> See Heath and Humphreys, above n 7, 97 who used clips from the popular TV show *Game of Thrones* to successfully engage with students cognitively and affectively.

<sup>32</sup> *Ibid* 95, 98, 99; Kahn, above n 15, 1013 discusses the distinction between facilitating anxiety, which motivates the learner, versus debilitating anxiety, which causes the learner to avoid the learning project.

<sup>33</sup> Bluestone, above n 6, 141.

<sup>34</sup> *Ibid* 141; see also Jason Lee et al, ‘Seeing Is Believing: Using Film for Teaching Issues of Diversity in Sport’ (2009) 8(1) *Journal of Hospitality, Leisure, Sports and Tourism Education* 97, 98–9.

<sup>35</sup> Eick and King, above n 6, 26; see also Choi and Yang, above n 6, 553.

<sup>36</sup> Bluestone, above n 6, 141; Sankoff, above n 1, 7, in respect of experiential learning techniques.

## B *Comprehension and Knowledge Acquisition*

Video also improves student comprehension.<sup>37</sup> According to a study on problem-based instruction by Choi and Young, presenting authentic situations through video is more effective than text-based instruction.<sup>38</sup> The authors note that this finding is consistent with previous findings, which led the authors to conclude that ‘the use of video can have a more positive impact on learner comprehension than the use of text in problem-based instruction’.<sup>39</sup> Video may also improve student comprehension when it allows students to see abstract concepts.<sup>40</sup> For example, video animation of DNA replication and protein synthesis is ‘likely [to] help students understand this complex process’.<sup>41</sup>

Law contains its own abstractions that video can help students overcome. Animal welfare, although straightforward, is nevertheless abstract until one sees how it is implemented. According to the theory of animal welfare, animals are to receive food, water, freedom from discomfort, fear, distress, pain, injury and disease, and the ability to express normal behaviours in exchange for their flesh, fibre or labour, providing it is done without unnecessary pain and suffering.<sup>42</sup> Without seeing how animal welfare is practiced, students do not have sufficient information to critically evaluate this approach. Video of legally compliant intensive animal production facilities will help provide some of this information without students having to leave the lecture theatre. In many instances, students will find this confronting, distressing and difficult to watch, hence its designation as graphic video. After seeing the husbandry practices in intensive animal industries, students will have a better understanding of animal welfare. Animal welfare has been singled out as it is the current legal paradigm for the regulation of animals, but graphic video can aid comprehension and knowledge acquisition in other aspects of animal law.

<sup>37</sup> Choi and Yang, above n 6, 558; Eick and King, above n 6, 29; Champoux, above n 6, 209; see Johnson, above n 6, 101.

<sup>38</sup> Choi and Yang, above n 6, 558.

<sup>39</sup> Ibid.

<sup>40</sup> See Kimberlee K Kovach, ‘Virtual Reality Testing: The Use of Video for Evaluation in Legal Education’ (1996) 46 *Journal of Legal Education* 233, 235–6; Eick and King, above n 6, 28, 29, which found that the use of video helped students better process new material versus hearing the lecture and viewing PowerPoint slides; see also Champoux, above n 6, 209; Johnson, above n 6, 101, reporting on the use visual media (not just video), stated that ‘student’s comprehension and retention of information is likely to be better than it would otherwise be’.

<sup>41</sup> Eick and King, above n 6, 27.

<sup>42</sup> World Organisation for Animal Health, *Animal Welfare at a Glance* <<http://www.oie.int/en/animal-welfare/animal-welfare-at-a-glance/>>, which is based on the ‘the universally recognised “Five Freedoms”’; this definition has been accepted in Australia, as per Commonwealth of Australia, ‘Australian Animal Welfare Strategy and National Implementation Plan 2010–14’ (Strategy Statement, Department of Agriculture, Fisheries and Forestry, April 2011) 10 <[http://www.australiananimalwelfare.com.au/app/webroot/files/upload/files/aaws\\_implementation\\_plan\\_updated\\_2.pdf](http://www.australiananimalwelfare.com.au/app/webroot/files/upload/files/aaws_implementation_plan_updated_2.pdf)>; see also Deborah Cao, *Animal Law in Australia* (Lawbook Co, 2<sup>nd</sup> ed, 2015) 129–30; Ian A Robertson, *Animals, Welfare and the Law* (Routledge, 2015) 19.



Video can also improve comprehension as it offers students a different modality to the standard delivery of content via lecture.<sup>43</sup> This benefits students who prefer visual modes of learning.<sup>44</sup> Video aids comprehension as it adds an additional sensory modality that can create stronger interconnections between information.<sup>45</sup> According to a meta-analysis conducted by Fadel, students who were taught using multiple modalities enjoyed significantly higher learning in basic and higher order skills.<sup>46</sup> There is no reason that this benefit would not apply where the content of the video is graphic. The graphicness of the content does not diminish video's visual quality, which provides a new sensory modality for students. Thus, graphic video can improve learning outcomes for visual learners while embedding knowledge for the rest of the student cohort.

### C Critical Thinking Skills

The use of video in teaching has been shown to improve critical thinking skills among students.<sup>47</sup> This is because critical thinking requires students to consider an issue from multiple perspectives. Video can put a 'face' to these perspectives and therefore strengthen critical thinking.<sup>48</sup>

Bluestone examines the use of feature films in teaching and finds that students are better able to critically analyse from multiple perspectives when the film contains themes of conflict and drama.<sup>49</sup> The themes encourage students to engage more deeply with the content and go beyond merely identifying conceptual material.<sup>50</sup> In another study, Pai states that her students 'learned a lot more from seeing and hearing the suffering and the emotional toll of XDR TB (extremely drug-resistant tuberculosis) on a young mother than from seeing/reading text on it'.<sup>51</sup> The use of video in both instances encourages students to appreciate the situation from another's perspective. In doing so, students are better able to evaluate the situation or information from different outlooks and thus engage critically in the material.

<sup>43</sup> Eick and King, above n 6, 28, 29; Terence Cavanaugh, *The Effect of Using Repurposed Science Rich Feature Films with Varying Levels of Student Activity in Middle Grades Science Instruction* (PhD Thesis, University of South Florida, 1998) 9; see Kovach, above n 40, 235–6; Anderson, above n 7, 157; see also Lee et al, above n 34, 98.

<sup>44</sup> Eick and King, above n 6, 28; Pai, above n 6, 65; Cavanaugh, above n 43, 9; see also Lee et al, above n 34, 98.

<sup>45</sup> Biggs, above n 16, 18; Cavanaugh, above n 43, 9.

<sup>46</sup> Charles Fadel, 'Multimodal Learning Through Media: What the Research Says' (Report, Cisco, 2008) 13–14 <[http://www.cisco.com/c/dam/en\\_us/solutions/industries/docs/education/Multimodal-Learning-Through-Media.pdf](http://www.cisco.com/c/dam/en_us/solutions/industries/docs/education/Multimodal-Learning-Through-Media.pdf)>; see also Pai, above n 6, 65.

<sup>47</sup> Anderson, above n 7, 157; Bluestone, above n 6, 141.

<sup>48</sup> See Pai, above n 6, 66.

<sup>49</sup> Anderson, above n 7, 157; Bluestone, above n 6, 141.

<sup>50</sup> Anderson, above n 7, 157; Bluestone, above n 6, 141.

<sup>51</sup> Pai, above n 6, 66.

Showing graphic video to students of animal law can similarly put a ‘face’ to animal suffering more effectively than any spoken or written description. This is particularly valuable in animal law as the species divide between human and non-human animals can make it hard for some to give due consideration to the interests of animals. This lies at the heart of speciesism; a failure to give equal consideration to the suffering of sentient beings because they belong to a different species.<sup>52</sup> Putting a ‘face’ to an animal’s suffering through video helps to redress this imbalance. Graphic video gives students direct observation of an animal’s experience. In doing so, graphic video encourages students to consider what the animal is likely to be feeling and whether alternative forms of treatment would be appropriate or preferable. Graphic video can therefore promote students to think critically about the current animal welfare paradigm.

#### D *Information Retention and Recall*

Students may enjoy a ‘dramatic increase in retention’ of information when lecture material is seen as well as heard.<sup>53</sup> For some students, this may be due to the visual nature of video.<sup>54</sup> For other students, videos may make information memorable because of the real-world context video often provides.<sup>55</sup> Eick and King found that video makes scientific concepts more relatable and thus easier to recall.<sup>56</sup> Video may also improve students’ memory by acting as a ‘psychological memory cue’.<sup>57</sup>

Student recall could be even stronger where the video is graphic in nature. Most animal law educators can call to mind a graphic video they have seen as a part of their research, as preparation for teaching, or due to their general interest in the field. This is where the strength of graphic video lies. It is often deeply affective, with students likely to recall the video and the surrounding discussion long after the final assessment.

#### E *Student Interest*

Student interest is a subset of affective engagement but warrants separate discussion as it is often measured in students’ assessment of

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<sup>52</sup> Richard D Ryder, *Victims of Science* (Davis-Poynter, 1975) 16; Peter Singer, *Animal Liberation* (Ecco, 2002) 9; see also Steven White, ‘Exploring Different Philosophical Approaches to Animal Protection in Law’ in Peter Sankoff, Steven White and Celeste Black (eds), *Animal Law in Australasia: Continuing the Dialogue* (Federation Press, 2<sup>nd</sup> ed, 2013) 31, 34.

<sup>53</sup> Kovach, above n 40, 236; see also Johnson, above n 6, 102 who stated that videos and audio recordings are able to convey information more ‘pointedly and memorably’ than a verbal description by the professor.

<sup>54</sup> Eick and King, above n 6, 29, approximately 10 per cent of respondents stated that the visual depictions in video helped them remember the concept in an exam; Champoux, above n 6, 209; see also Lee et al, above n 34, 99.

<sup>55</sup> Eick and King, above n 6, 29; Champoux, above n 6, 209; see also Lee et al, above n 34, 99.

<sup>56</sup> Eick and King, above n 6, 29.

<sup>57</sup> *Ibid.*

teaching, which is one metric of success for educators. In addition, student interest is important because, as noted by Johnson, ‘sustained interest, of course, is the first prerequisite to learning’.<sup>58</sup>

It will come as no surprise that students enjoy watching videos during lectures. According to one study, approximately 94 per cent of students responded favourably or very favourably to the use of videos during class.<sup>59</sup> This finding is consistent with other research, which finds that students’ evaluations of the use of film in class are typically positive.<sup>60</sup> The reasons for this are multifaceted. Students are of course comfortable and familiar with the medium.<sup>61</sup> The use of video in lectures also means a change of pace and possibly a different voice, which can also help maintain students’ attention and interest.<sup>62</sup> This was measured by Eick and King, who found that 14 per cent of students stated that video helped them maintain their attention during a 75-minute lecture.<sup>63</sup> In the same study, nine per cent of students reported that video helped make the class and materials more interesting.<sup>64</sup> Although these percentages are low, this appears to reflect the method of data analysis rather than an accurate reflection of student sentiment.<sup>65</sup> Applying a statistical mode to this data, the emergent theme that ‘videos keep attention’ received the most responses.<sup>66</sup> The emergent theme that videos ‘make class and material more interesting’ was equal third.<sup>67</sup>

According to Dalton, reporting on his personal experience in teaching highly sensitive material to students in the subject ‘Crime, Law and Trauma’, the sensitive nature of the material actually stimulates students’ desire to learn.<sup>68</sup> This accords with the present author’s own experience.<sup>69</sup> This is further supported by the qualitative research conducted by Choi, who found that students exposed to problem-based video instruction (as opposed to the traditional text-based approach) were more attentive, had a ‘vicarious emotional experience’ and were motivated to learn more.<sup>70</sup> Although the content of Choi’s problem-

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<sup>58</sup> Johnson, above n 6, 101–2.

<sup>59</sup> Bluestone, above n 6, 145.

<sup>60</sup> Champoux, above n 6, 214.

<sup>61</sup> Ibid 213; Pai, above n 6, 65.

<sup>62</sup> Johnson, above n 6, 101–2; Kovach, above n 40, 235.

<sup>63</sup> Eick and King, above n 6, 28.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid states that ‘Percentages do not add up to 100% in a category because of dropped codes that appeared infrequently, responses that did not address the research question, and choice of how students responded to the open-ended question — addressing one theme over another’.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> Derek Dalton, ‘“Crime, Law and Trauma”: A Personal Reflection on the Challenges and Rewards of Teaching Sensitive Topics to Criminology Students’ (2010) 2(3) *Enhancing Learning in the Social Sciences* 1, 3.

<sup>69</sup> The author taught LLAW3268 Animal Law as a summer intensive in January 2015 at Flinders University Law School, South Australia. The author has also guest lectured at Monash University (2015) and the University of Melbourne (2017) as a part of their animal law courses.

<sup>70</sup> Hee Jun Choi, ‘College Students’ Perceptions of Learning and Knowledge Transfer in Problem-Based Video Instruction: A Case Study’ (2007) 2(2) *Journal of Learning Design* 105, 108; see also Choi and Yang, above n 6, 553.

based video instruction was not graphic, it was sensitive in nature. The video was a nonfiction documentary about an individual with mental incapacity and the issues that family members face in trying to assist their loved one.<sup>71</sup> Choi’s findings, based on a sensitive topic, affirm the ability of video to contextualise learning and thus keep students interested.<sup>72</sup>

Graphic video can work in a similar way to stimulate student interest in learning. When students see how animals can be lawfully treated and their complicity in the process, many students are deeply affected, and educators need to proceed with sensitivity. Given the sensitive nature of some animal industries, especially food, it is reasonable to extend the findings of Dalton and Choi to graphic video. Doing so would strongly suggest that using graphic video will stimulate students’ interest in animal law. Student interest, as an indicator of engagement, will also help to improve the learning outcomes of students.<sup>73</sup>

### F *Shaping Students’ Values and Opinions*

One of the normative roles of education is to help shape students’ values and opinions,<sup>74</sup> and in doing so, define our society.<sup>75</sup> Education can shape society by causing students to examine the basis of their values and opinions. This role is particularly important if, as previously argued, animal law is ‘the next great social justice movement’.<sup>76</sup> The purpose here is not to ‘indoctrinate students into a particular way of thinking’ but rather to challenge students’ values and opinions by exposing them to information they would otherwise avoid.<sup>77</sup> In doing so, students may reconceive of their own, and society’s, relationship with animals based on a more complete knowledge of the issues.

Having established the role of the animal law educator in challenging students’ values and opinions, it is necessary to consider the role that video, and especially graphic video, can play in changing those values and opinions.<sup>78</sup> One of the benefits of video is its ability to

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<sup>71</sup> Choi, above n 70, 107.

<sup>72</sup> Ibid 105.

<sup>73</sup> See section III ‘A *Student Engagement*’ above.

<sup>74</sup> According to Manfred Max Bergman, ‘A Theoretical Note on the Differences between Attitudes, Opinions, and Values’ (1998) 4(2) *Swiss Political Science Review* 81, 83, 86 opinions are ‘unemotional statements about an object’ whereas values are more inert and enduring and include ‘past and future aspirations and motives, selectively channeling attitudes, perceptions and experiences, and suggest appropriate behaviour’.

<sup>75</sup> Nick Tate, ‘What Is Education For?’ (1999) 33(2) *English in Education* 5, 11, 16; United Nations Educational, Scientific and Cultural Organization, *Role of Education* (2016) <<http://www.unesco.org/new/en/social-and-human-sciences/themes/fight-against-discrimination/role-of-education/>>; see, eg, Commonwealth of Australia, *National Framework for Values Education in Australian Schools* (Department of Education, Science and Training, 2005).

<sup>76</sup> Weisbrot, above n 9, 91.

<sup>77</sup> Senatori and Frasch, above n 4, 213; see also Tate, above n 75, 16.

<sup>78</sup> Kenney Hegland, ‘Thanking Lester Smith and Rethinking William Faulkner’ (2010) 60 *Journal of Legal Education* 314, 317.

capture scenes with realism and accuracy not replicable in written or spoken descriptions.<sup>79</sup> It is this unique quality that makes video particularly adept at challenging values. One study found that 73 per cent of students ‘felt that the films made them think more realistically about the issues discussed in class, and about 40 per cent reported that the emotional involvement they felt for the characters influenced their positive responses’.<sup>80</sup> This may be why organisations such as Human Rights Watch believe that video is ‘one of the best mediums to educate and activate people on human rights issues’.<sup>81</sup>

Video can, however, be manipulated to exploit these powerful qualities. Film techniques such as focussing and decisions made during the editing process may manipulate viewers’ perceptions.<sup>82</sup> This may occur in both graphic and non-graphic videos alike.

Most of the videos relevant to animal law will be produced by either animal protection groups or, less frequently, producer or industry groups. Clearly both sides have an ‘agenda’, although how that may influence the content of the video differs. Some video techniques used by animal protection groups of which educators should be conscious include: frequent use of gore, editing to make a practice appear more widespread than it is, selective close-ups, emotive soundtracks and anthropomorphising animals’ experiences. On the other hand, industry videos may portray animal conditions as idyllic, music may be used to mask the raw audio, and procedures may be performed with extra care, attention and/or as quickly as possible to limit any empathetic response. Industry videos may also rely on a verbal description of the procedure or issue of concern, rather than show it. The use of one or more of these techniques should not necessarily preclude the videos use in the topic. Rather, students should be encouraged to engage critically with the graphic video and identify the use of such techniques in their subsequent analysis or discussion. In some instances, however, the techniques may be unacceptable in an educational setting, such as the frequent use of gore. The next section discusses several principles that may assist the educator in harnessing the benefits of graphic video while minimising the likelihood of students experiencing a negative affective state.

#### IV PRINCIPLES IN USING GRAPHIC VIDEO

The following five principles result from a combination of research and the author’s experience in teaching animal law. The aim of these

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<sup>79</sup> Kovach, above n 40, 235; Bluestone, above n 6, 142; Lee et al, above n 34, 99; see Johnson, above n 6, 102.

<sup>80</sup> Bluestone, above n 6, 145.

<sup>81</sup> Safia Swimelar, ‘Human Rights through Film: An Essay and Review of Selected Films from the Human Rights Watch 2009 Film Festival’ (2010) 32 *Human Rights Quarterly* 1069, 1069.

<sup>82</sup> Champoux, above n 6, 207.

principles is to assist animal law educators in selecting graphic video that delivers the educational benefits discussed in Part III, while effectively managing the risks associated with its use. The utility of these principles will then be demonstrated in Part V by applying them to a graphic video that the author used in his teaching of the topic in 2015.

Before discussing the five principles, it is important to acknowledge that all videos receive automatic protection under copyright law.<sup>83</sup> Copyright grants the copyright holder exclusive economic rights over the material.<sup>84</sup> If a person wants to use the material in a way that is protected under the *Copyright Act 1968* (Cth) or its regulations, the copyright holder must grant permission.<sup>85</sup> There are, however, a number of exceptions to this requirement, including the use of copyright material for educational purposes.<sup>86</sup> Use for educational purposes is provided through voluntary and statutory educational licences and exceptions in the *Copyright Act 1968* (Cth).<sup>87</sup> The type of licence and exception applicable will depend on the material and how it is to be used.<sup>88</sup> Broadly speaking, the use of videos (including YouTube videos, DVDs and Blu-rays) without permission is generally permissible in the classroom under the educational purposes exception.<sup>89</sup> It is recommended that educators give proper acknowledgment to the copyright holder by providing the name of the author and/or owner, the title of the material, the date the copy was made (if applicable), and the URL (if from an online source).<sup>90</sup>

### *A Wellbeing of Student and Educator*

At all times, the paramount consideration must be the wellbeing of the students and the educator. Some students will be more susceptible than others to graphic content. For example, students who have experienced trauma in their lives may be triggered by scenes involving blood.<sup>91</sup> For this reason, educators ought to provide a graphic content warning before each screening and a general warning at the

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<sup>83</sup> LexisNexis, *Halsbury's Laws of Australia*, (at 25 April 2013) 240 Intellectual Property, '1 Introduction — Copyright' [240-1500]; University of Sydney, *What is copyright?* <<https://library.sydney.edu.au/help/copyright/what-is-copyright.html>>.

<sup>84</sup> University of Sydney, above n 83.

<sup>85</sup> *Ibid.*

<sup>86</sup> *Ibid.*

<sup>87</sup> University of Sydney, *Overview for educators* <<https://library.sydney.edu.au/help/copyright/overview-for-educators.html>>.

<sup>88</sup> *Ibid.*

<sup>89</sup> University of Sydney, *Videos* <<https://library.sydney.edu.au/help/copyright/videos.html>>.

<sup>90</sup> This may be required if the material was copied under s 200AB of the *Copyright Act 1968* (Cth): *Ibid.*

<sup>91</sup> See Mary Heath, 'Encounters with the Volcano: Strategies for Emotional Management in Teaching the Law of Rape' (2005) 39 *Law Teacher* 129, 130 who notes that in any substantial sized class there will be victims and perpetrators of crime.

commencement of the topic. This may seem excessive to some.<sup>92</sup> But the general and specific warnings (colloquially referred to as ‘trigger warnings’) serve different purposes. For those students who are particularly susceptible to graphic content, the general warning lets them know that the topic contains material that they may choose to avoid. Students should also be informed whether any of the assessment will be tied to the use of graphic videos. The specific warning before each video allows students to either prepare themselves psychologically for what they are about to see or to leave the room. When giving the specific warning, a brief description of the video should be provided along with the duration and the reasons why this video is being shown.

In combination, the warnings help to construct ‘an ethic of care’ learning environment that promotes the learning and wellbeing of students.<sup>93</sup> The warnings provide the student with as much information as possible so that they are in control and can make an informed choice as to what they see. This is the most important principle to minimise the chances of a student experiencing a negative affective state.

Students are not the only ones who may be adversely affected through the use of graphic video. Educators will be repeatedly exposed to graphic content both in the short-term (sourcing and possibly editing videos for use) and the long-term (assuming the educator teaches the topic over several years). Although unlikely, a high level of exposure to graphic video is a predictor of post-traumatic stress symptoms even years after exposure, including acute stress symptomology.<sup>94</sup> Educators should therefore be mindful of the risks and avoid high-levels of exposure. Educators should also employ self-care strategies, such as pursuing a productive work/life balance and connecting with others, during periods of lengthy exposure.<sup>95</sup>

### B *Gore and Very Graphic Content*

Very graphic or gory videos should generally be avoided in teaching. Examples of very graphic or gory videos include most slaughter footage or scenes involving acute animal suffering. The risks of negatively affecting some students are obviously much higher with gory videos, which threaten to undermine any educational benefit in showing the graphic video. This is due, in part, to the social forces that operate in the class.<sup>96</sup> Despite the specific warnings given, which

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<sup>92</sup> See Dalton, above n 68, 7, 8 who prefers to provide a general warning at the beginning of the topic and allows students to ‘opt out’ of attending particular lectures or seminars they may find difficult. According to Dalton at 8, issuing specific warnings before graphic content ‘would lead to warnings (and invitations to leave) being issued regularly’.

<sup>93</sup> Heath, above n 91, 131; see generally Dalton, above n 68, 5–9.

<sup>94</sup> Taimie L Bryant, ‘Trauma, Law, and Advocacy for Animals’ (2006) 1 *Journal of Animal Law and Ethics* 63, 95–6; Roxanne Cohen Silver et al, ‘Mental- and Physical-Health Effects of Acute Exposure to Media Images of the September 11, 2001, Attacks and the Iraq War’ (2013) 24 *Psychological Science* 1623, 1628, 1629.

<sup>95</sup> Heath, above n 91, 144–5.

<sup>96</sup> Dalton, above n 68, 15.

encourage students to step out of the room if they would prefer not to view the video, some students will feel pressured to stay in the lecture theatre. Knowing this, educators should be reluctant to use gory videos. However, some areas of animal regulation are inherently gory or very graphic, such as the religious slaughter of animals, which generally occurs without stunning the animal beforehand.<sup>97</sup> The use of animals in science and education is another area where relevant videos are likely to contain very graphic content.<sup>98</sup> The educator may decide not to use video for this part of the topic, although for the reasons outlined above this may not be desirable. The educator may choose to screen the video after providing an appropriately strong warning. Where an otherwise useful graphic video contains a very graphic or gory scene, it may still be possible to use the video after some basic editing.

When editing a video, educators must be mindful of their obligations under copyright law.<sup>99</sup> Assuming the copyright licence permits editing for educational purposes, or permission has been expressly granted by the copyright holder, gory scenes could be deleted or obscured with a text placeholder. If the educator does not possess the skills or the time to make the necessary edits, there are contractors who may be willing to do this for as little as US\$5.<sup>100</sup> Obscuring the image with a text placeholder is particularly valuable if the educator wishes to retain the audio or narration.

Removing or obscuring very graphic images may appear to weaken the arguments in support of graphic video made in Part III of this article. However, as stated in the previous section, these benefits are secondary to the wellbeing of the students and educator. In fact, obscuring very graphic content may increase some of the educational benefits previously identified. For instance, shielding students from gory images may prove to be more effective at shaping students' values and opinions than showing overtly persuasive or confrontational material.<sup>101</sup> The key to successfully using graphic video is balance, which is reflected throughout these principles.

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<sup>97</sup> Alex Bruce, 'Labelling Illogic? Food Animal Welfare & the Australian Consumer Law Part 2' (2012) 8 *Australian Animal Protection Law Journal* 5, 10–11; Steven White, 'Legislating for Animal Welfare: Making the Interests of Animals Count' (2003) 28 *Alternative Law Journal* 277, 279–80; see also John Webster, *Animal Welfare: Limping Towards Eden — A Practical Approach to Redressing the Problem of Our Dominion Over the Animals* (Blackwell Publishing, 2005) 257; Mike Radford, *Animal Welfare Law in Britain: Regulation and Responsibility* (Oxford University Press, 2001) 117.

<sup>98</sup> For an overview of the regulatory framework in Australia, see Aaron Christopher Timoshanko, Helen Marston and Brett A Lidbury, 'Australian Regulation of Animal Use in Science and Education: A Critical Appraisal' (2016) *ILAR Journal* (forthcoming).

<sup>99</sup> University of Sydney, *DVDs and Movies* (2 June 2014) <[http://sydney.edu.au/copyright/staff/multimedia/dvd\\_movies.shtml](http://sydney.edu.au/copyright/staff/multimedia/dvd_movies.shtml)> provides a useful discussion on the permissible uses of video in the classroom.

<sup>100</sup> As of 18 June 2016, there were 677 contractors on [www.fiverr.com](http://www.fiverr.com) who offer their skills in video editing and post-production for US\$5. An appropriate warning will need to be given to the contractor to ensure, as best as possible, the contractor is not negatively affected by viewing and editing the video.

<sup>101</sup> Heath, above n 91, 142; see Swimelar, above n 81, 1070.



### *C Keep it Brief*

Exposure to graphic video should be kept as brief as possible. According to empirical research, students are most interested, better understand abstract concepts and perform better academically when videos are no more than a minute or two in duration.<sup>102</sup> This suggests that lengthy videos are not necessary (or appropriate) to achieve the educational benefits described in Part III. Further, the longer graphic video is shown, the greater the likelihood that students will disengage due to content fatigue, apathy or a negative affective state.<sup>103</sup> If a student does experience one of these states, using shorter videos means that this experience is not prolonged.

In addition to the copyright issues raised above, editing videos for content or duration can be time consuming.<sup>104</sup> Editing requires a degree of 'commitment and critical intelligence' from the educator,<sup>105</sup> which some educators will be unwilling or unable to provide due to personal or professional circumstances. If this is the case, an alternative video (or videos) should be sourced, or the use of graphic video abandoned.

### *D Is the Video Depicting Lawful Practice?*

Although animal welfare legislation shares many common features throughout the common law jurisdictions, differences remain. Even within the same jurisdiction, the lawful treatment of the same species of animal can differ depending on the animal's intended use.<sup>106</sup> As such, educators must pay careful attention when using graphic video to ensure that the practice depicted is relevant to the students' own jurisdiction. There may be good reasons to show students how animals are lawfully treated in other jurisdictions. However, these reasons should be clearly articulated to avoid confusion and misinformation.

There is also little educational benefit in showing students scenes of gratuitous cruelty. Such behaviour is clearly unlawful and departs from the standards expected by animal use industries and civil society. Such scenes are also more likely to negatively effect the students for little educational gain. One exception to this may be using the footage for an experiential learning exercise. For example, students could adopt the role of an RSPCA Inspector or Prosecutor and be asked to review the footage, identify potential offences and articulate the prospects of success based on this evidence. Here, the real-life scenes of cruelty could be useful in providing an authentic learning experience to

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<sup>102</sup> Eick and King, above n 6, 27, 29, 30.

<sup>103</sup> Dalton, above n 68, 11; Johnson, above n 6, 117; see, eg, Champoux, above n 6, 213 uses scenes from video no longer than 10 minutes; see also Swimelar, above n 81, 1070.

<sup>104</sup> Kovach, above n 40, 245; Hegland, above n 78, 316; Johnson, above n 6, 104; Pai, above n 6, 63, 64.

<sup>105</sup> Rhonda Hammer and Douglas Kellner, 'Multimedia Pedagogy for the New Millennium' (1999) 42 *Journal of Adolescent and Adult Literacy* 522, 524.

<sup>106</sup> See generally Siobhan O'Sullivan, *Animals, Equality and Democracy* (Palgrave Macmillan, 2011).

promote student engagement.<sup>107</sup> The exercise could also highlight the evidentiary hurdles a prosecutor must overcome to gain a conviction, including the admissibility of covertly obtained video evidence. Whether this is an appropriate use of the video will be for the educator to decide. However, for the reasons previously discussed, very graphic or gory videos should generally be avoided, which would preclude some scenes of cruelty.<sup>108</sup>

### E *Test the Waters Early*

After providing the general warning about graphic content at the introductory lecture, it is advisable to show some mild graphic footage at the next most appropriate lecture. Mild graphic video for this purpose could include footage of sows in sow-stalls and gestation crates. It is important to give students this exposure before the university’s census date (after which students will incur a financial and/or academic penalty if they withdraw) so they can decide whether they want to continue with the subject. This reduces the pressure on vulnerable students to complete the subject if they suffer (or are concerned that they will suffer) an adverse reaction from the graphic video and wish to withdraw.<sup>109</sup> Early exposure to mild graphic content also gives students the opportunity to decide whether they will stay in the lecture theatre for future videos or leave for subsequent screenings. For the educator, this also provides a valuable opportunity to gauge the students’ reactions. If the educator’s reading of the situation is that the students seem to disengage when graphic video is shown, or the educator has one or more students’ raising concerns about the content, then the educator should consider abandoning future videos.

This Part has offered five principles to assist the educator in using graphic video in the teaching of animal law. Employing these principles will help to maintain student engagement and interest throughout the topic, as well as improve student learning outcomes. The graphic videos selected through this process are more likely to effectively shape student values and opinions, as well as develop students’ critical thinking skills. These principles also serve to reduce the likelihood of a student being negatively affected by the graphic content, to the point that it impedes their performance in the subject. How these principles apply in practice will now be demonstrated.

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<sup>107</sup> Heath and Humphreys, above n 7, 95; Choi and Yang, above n 6, 558.

<sup>108</sup> See section IV B Gore and Very Graphic Content.

<sup>109</sup> See Heath and Humphreys, above n 7, 95, 98; Gary L Francione, 'A Comment on 'Blood and Guts' Advocacy' on *Animal Rights: The Abolitionist Approach* (29 July 2009) <<http://www.abolitionistapproach.com/a-comment-on-blood-and-guts-advocacy/>>; according to Bryant, above n 5, 252 some students may even be reluctant to take a subject due to concerns that they will be exposed to graphic footage.

## V EXAMPLE: SURGICAL CASTRATION AND TAIL DOCKING OF A PIGLET

This Part of the article sets out an evaluation of the suitability of a graphic video for use in an Australian animal law lecture by applying the five principles introduced in Part IV. A similar evaluation should be undertaken for all graphic videos that the educator is considering using during lectures.

The selected video, available on YouTube,<sup>110</sup> depicts the surgical castration and tail docking (without the use of pain relief) of a three-day-old piglet. Due to its graphic content, the video is subject to an age-restricted warning on YouTube. The video features a pork producer, Mr Todd Wiley in Iowa, USA. It was uploaded by 'PorkCheckoff' on 31 January 2012. PorkCheckoff is the username for the National Pork Authority, acting in its capacity as funder of 'national and state programs in advertising, consumer information, retail and foodservice marketing, export market promotion, production improvement, technology, swine health, pork safety and environmental management'.<sup>111</sup>

The present author uses this video as part of an exercise to take students through the various levels of farm animal regulation. After watching the video, a question is posed to the students: 'Can Australian producers castrate and dock the tails of piglets without anaesthetic?' To answer this question, students review the relevant legislation and its subordinate regulations before considering any applicable code of practice. The exercise also gives students the opportunity to evaluate the utilitarian balancing of the piglets' pain against consumer demand for meat without an unpalatable odour.<sup>112</sup> In the video, Mr Wiley states regarding pain management that 'we don't know to what degree they are in pain', but later concedes that the pain 'dissipates pretty quickly'.<sup>113</sup> Students can evaluate these claims for themselves after seeing the piglets squealing during the procedure and shaking immediately thereafter. After witnessing the procedures firsthand, students are better informed when discussing the ethics of the procedures and whether pain relief should be required. This makes for a lively discussion about the ethics of pork production, made even more engaging because of the graphic video.

In addressing the first and second principles (wellbeing and gore), the wellbeing of the student and educator is fairly assured as the content of the video is relatively mild. Although the audio of the piglet squealing is uncomfortable to hear, there is no blood and the procedure is performed with clinical efficiency. As an industry sponsored video,

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<sup>110</sup> PorkCheckoff, *Castration and Tail Docking of Piglets* (31 January 2012) Youtube <[https://www.youtube.com/watch?v=uLhy\\_XMMu0I&feature=youtu.be](https://www.youtube.com/watch?v=uLhy_XMMu0I&feature=youtu.be)>.

<sup>111</sup> PorkCheckoff, *About* YouTube <<https://www.youtube.com/user/PorkCheckoff/about>>.

<sup>112</sup> PorkCheckoff, above n 110, 1:00.

<sup>113</sup> Ibid 2:48.

the procedures are portrayed in their most favourable light and therefore are unlikely to negatively impact the students’ or educator’s wellbeing.

In terms of the third principle (duration), the video goes for three minutes and fifteen seconds. This satisfies the requirement of brevity,<sup>114</sup> thus minimising the chances of students disengaging due to a negative affective state. The actual graphic content lasts a little more than one minute, so the potential for an adverse reaction is fleeting.

As noted earlier, this video was recorded in Iowa, USA. This raises the issue identified in the fourth principle: is the video legally relevant in the students’ jurisdiction? As described above, students can be encouraged to answer this question for themselves by working through the various levels of farm animal regulation. The answer will obviously vary from jurisdiction to jurisdiction. In the majority of Australian States and Territories, the Model Code of Practice for the Welfare of Animals Pigs (3<sup>rd</sup> ed) (‘Model Code’) has either been incorporated or prescribed.<sup>115</sup> Under the Model Code, castration is permitted if it is considered necessary to meet consumer and market demands.<sup>116</sup> The procedure must be performed by a trained and competent operator using a sterile knife or scalpel with the animal adequately restrained.<sup>117</sup> It is

<sup>114</sup> Eick and King, above n 6, 30 found that ‘students prefer the shorter video segments that targeted specific science concepts to better keep their attention and enhance their learning in lecture’. Eick and King’s study utilised videos from one to thirteen minutes in duration, with the vast majority of videos lasting approximately four minutes, at 27; see also Champoux, above n 6, 213.

<sup>115</sup> In South Australia, the substantive provisions of the Model Code are replicated in *Animal Welfare Regulations 2012* (SA) pt 6. The *Animal Welfare (Pigs) Regulations 2013* (Tas) legislates most of the standards contained in the Model Code; see Tasmanian Government, *Animal Welfare Standards — Pigs* (1 September 2014) Biosecurity Tasmania <<http://dpiwwe.tas.gov.au/biosecurity-tasmania/animal-biosecurity/animal-welfare/legislation-standards-guidelines/animal-welfare-standards-guidelines/animal-welfare-standards/pigs-welfare>>. The Victoria Department of Environment and Primary Industries, ‘Welfare of Pigs: Victorian Standards and Guidelines’ (Standards and Guidelines, Agriculture Victoria, 2012) <<http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/animal-welfare-legislation/livestock-management-legislation-and-regulations/pig-welfare-standards-and-guidelines>> is substantively based on the Model Code. New South Wales has adopted its own code of practice, although the Model Code is ‘still regarded as a minimum standard by which livestock should be kept’: see New South Wales Government, *National Model Codes of Practice for the Welfare of Livestock* Department of Primary Industries <<http://www.dpi.nsw.gov.au/content/agriculture/livestock/animal-welfare/codes/national>>. In the Australian Capital Territory, the Model Code is not an approved or mandatory code of practice (disallowable instrument): see Australian Capital Territory Government, *Animal Welfare Act 1992 — Disallowable Instruments* ACT Legislation Register <<http://www.legislation.act.gov.au/a/1992-45/di.asp>>. In Queensland, the key standards from the Model Code have been incorporated in the *Animal Care and Protection Regulation 2012* (Qld) sch 2. According to *Animal Care and Protection Regulation 2012* (Qld) sch 4 pt 2, the Model Code is a voluntary code of practice. In Western Australia, the Model Code has been prescribed under the *Animal Welfare (General) Regulations 2003* (WA) sch 1. In the Northern Territory, the Model Code was adopted in Northern Territory of Australia, *Northern Territory Government Gazette*, No G33, 20 August 2008, 2.

<sup>116</sup> Primary Industries Standing Committee, ‘Model Code of Practice for the Welfare of Animals Pigs (3rd ed)’ (Model Code of Practice, Primary Industries Standing Committee, 2008) [5.6.5].

<sup>117</sup> *Ibid* [5.6.5], [5.6.6].

recommended that piglets be castrated when they are at least two days old (when suckling order has been established) but before they are seven days old.<sup>118</sup> These provisions are expressly addressed in the video. As the practices depicted in the video conform with the Model Code, the video therefore shows the lawful castration of a piglet wherever the Model Code applies, thus satisfying the fourth principle.

The issue of tail docking is not as straightforward but usefully highlights for students the difference between standards and recommendations under the Model Code. The Model Code states that '[t]ail docking should be avoided wherever possible'.<sup>119</sup> However, this provision appears under the heading 'recommended practice' and thus is advisory only.<sup>120</sup> The effect of this is clear when two provisions later, the Model Code states that '[w]here tail docking is practiced as a preventative measure, it should be carried out before pigs are seven days of age'.<sup>121</sup> In the video, Mr Wiley states that 'we don't understand or know why' pigs chew on each other's tails.<sup>122</sup> Under the Model Code, it is recommended that environment, feeding and management factors be explored first in an attempt to address the issue of tail biting before resorting to tail docking.<sup>123</sup> It is not shown in the video whether these factors were previously explored and found to be ineffectual by Mr Wiley. However, assuming these factors were not explored, the docking of the piglet's tail is still permissible under the Model Code if it is performed or supervised by someone who is 'competent' to perform the procedure.<sup>124</sup> Competency is defined in standards 2.1 and 2.2 of the Model Code. It is not shown in the video who performed the castration and tail docking in the video: the Site Manager, the Farrowing Manager or some other member of staff. However, based on Mr Wiley's statement that 'a lot of our employees have come to us with prior training', it is reasonable to conclude that the person performing the procedures is competent according to the Model Code or is, at the very least, being supervised by such a person.<sup>125</sup> Thus, in relation to tail docking, the video also depicts lawful practice in the Australian States and Territories that have incorporated or prescribed the Model Code.

The fifth principle ('test the waters early') recommends gauging the reactions of the student cohort to mild graphic content early in the course. This video would be suitable for this purpose, assuming the structure of the topic would allow for it to be shown shortly after the introductory lecture (where the general warning is provided). The absence of blood makes it particularly useful for this purpose. The most graphic content (starting from 1:36 when the person performing the procedures talks through the process while the piglet can be heard

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<sup>118</sup> Ibid [5.6.7].

<sup>119</sup> Ibid [5.6.8].

<sup>120</sup> Ibid [1.3], 14.

<sup>121</sup> Ibid [5.6.10].

<sup>122</sup> PorkCheckoff, above n 110, 1:19.

<sup>123</sup> Primary Industries Standing Committee, above n 116, [5.6.9].

<sup>124</sup> Ibid [5.6.1].

<sup>125</sup> PorkCheckoff, above n 110, 0:29; Primary Industries Standing Committee, above n 116, [5.6.1].

squealing) lasts just over one minute. This should be sufficient to gauge the students’ reactions. This assessment is based largely on intuition, experience and feedback from the students. This ‘reading’ of the audience should determine whether any further graphic videos will be shown, and the intensity of their content.

The above discussion has demonstrated how the principles in Part IV can be used to assist the educator in selecting graphic video that harnesses the educational benefits of video. Employing these principles will also help to minimise the likelihood of students experiencing a negative affective state.

## VI CONCLUSION

With the growth of animal law in Australia, an increasing number of tertiary educators will be teaching this topic for the first time. One issue educators ought to consider is whether to use graphic videos when teaching the topic. The educational benefits associated with the use of non-graphic videos are well established. However, it was largely unknown whether these benefits continue to apply when the video contains content that is graphic in nature. In seeking to address this knowledge gap, this article has argued that graphic video can improve student engagement, comprehension and knowledge acquisition, critical thinking skills, information retention and recall, and student interest, and can shape students’ values and opinions. It has done so using non-scientific methodology; specifically, analogical inference and personal experience. Although this methodology is sufficient for the narrow aims of this article, it is an acknowledged weakness. Empirical research may discover important differences between graphic and non-graphic videos that could undermine some of the arguments presented here. This is an area for further research.

This article has put forward five principles that will assist the educator in selecting and using graphic video that will harness the educational benefits of the medium. These principles are also designed to minimise the chances of causing any students to experience a negative affective state due to the video’s graphic content. Although this risk cannot be eliminated entirely, the potential educational benefits of using graphic video outweigh the risks, which can be effectively managed by employing these principles.

The utility of these principles was demonstrated in the final substantive section of this article, where they were applied to a YouTube video showing the surgical castration and tail docking of three-day-old piglets in Iowa, USA. Although graphic, this short video is less likely to trigger a student if the appropriate warnings are given. The mild graphic content, relatively speaking, also makes this video suitable for gauging the reactions of the students. Based on this information, the educator can adjust which, if any, graphic videos are shown later in the topic. For educators outside of Iowa, care must be taken to ensure that the surgical castration and tail docking conforms with local laws and regulations. For Australian educators, the

procedures depicted in the video appear to comply with the Model Code of Practice for the Welfare of Animals Pigs (3<sup>rd</sup> ed), and so is an accurate portrayal of industry practice in those States and Territories of Australia that have incorporated or prescribed the Model Code. Seeing these procedures performed, students are better equipped to critically analyse the utilitarian calculus on which the animal welfare paradigm is premised: balancing the interests of the piglet in avoiding pain against consumer demand for pork products that are free from an unpalatable odour.

The role of the animal law educator is not to indoctrinate students into a particular way of thinking.<sup>126</sup> However, animal law is a part of a broader social justice movement and as such, animal law educators should not shy away from content that is going to make students uncomfortable. Students are aware of the human interests in the continued exploitation of animals. Taste, convenience, pleasure and tradition are a few of these interests. Students readily accept animals' interests in minimising pain and suffering while maximising pleasure. Students are, however, generally unaware of the many and varied ways animal welfare regulation permits the most fundamental interests of animals to be overridden by the most trivial of human interests. This raises uncomfortable truths about the current animal welfare regime and one's own complicity in that system. The role of the educator is to present this information as objectively as possible and not to ignore the suffering involved in the intensive exploitation of animals. Video is unparalleled in its ability to show students situations or phenomena that they would not otherwise see. It is a sad indictment of the current animal welfare regulation that many of the videos relevant to animal law are upsetting, distressing and difficult to watch.

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<sup>126</sup> Senatori and Frasch, above n 4, 213.