

## SYMPOSIUM ON GLOBAL ANIMAL LAW (PART I)

### ANIMAL COLONIALISM: THE CASE OF MILK

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[Greta Gaard](#) writes that “[t]he pervasive availability of cows’ milk today—from grocery stores to gas stations—is a historically unprecedented product of industrialization, urbanization, culture, and economics.”<sup>1</sup> To these factors, I would add colonialism and international law; the latter understood broadly to include the rules considered binding between states and nations, transnational law, legal transplants, international food aid, and international trade law. Until the end of the Nineteenth Century, the majority of the world population neither raised animals for their milk nor consumed animal milk. Humans are unique in the mammalian realm in that they drink the milk of other species, including beyond infancy. With the European conquest of the New World and other territories starting in the Sixteenth Century, dairying began to spread worldwide—settlers did not set out to colonize lands and people alone; they brought with them their flora, fauna, and other forms of life, including lactating animals such as cows and sheep.

Though limited to a narrow group of animals and products, the story of milk’s globalization may have broader implications for how we understand the genealogy of global animal law. It suggests that animal law may long have been “global,” at least since the modern era, which saw the colonization of lands in the Americas, Africa, Asia, and Oceania by a few European countries and the accompanying migration of ideas concerning the legal status of animals. There is a fundamental difference between the new and the old global animal law, however. While the contemporary global animal law initiative embraced by this symposium is an emancipatory movement aiming at promoting animal welfare, the old, colonial animal law was only global for imperialist ends, displaying little concern for the well-being of animals, colonized people, and ecosystems.

Bridging the gap between scholarship on animal colonialism and on imperialism and motherhood, this essay argues that lactating animals became integral parts of colonial and neocolonial projects as tools of agroexpansionism and human population planning. Due to its disruptive effects on breastfeeding cultures, the global spread of dairying has not only been detrimental for the welfare of animals, but also for humans’, especially mothers and their children. I recognize the simplistic aspect of grouping and analyzing together disparate epochs, regions, peoples, and animals in an interimperial historical vein. I do not mean to imply that these epochs, regions, peoples, and animals belong to a coherent whole, but only that despite their diversity, they have experienced comparable forms of state-building projects centered upon the consumption of animal milk. As an aside, animal protection law and advocacy is often critiqued for its supposed cultural imperialism, but as the following discussion illustrates, it may be that the lack of concern for animal welfare exhibited by legal systems was bequeathed by hegemonic European colonizers.

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<sup>1</sup> Greta Gaard, [Toward a Feminist Postcolonial Milk Studies](#), 65 *AM. Q.* 595, 597 (2013).

In what follows, after presenting the notion of animal colonialism, I focus on two of its components, which I call “milk colonialism” and “breastfeeding colonialism” before concluding with a provocative proposal about the international right to breastfeed.

### *Animal Colonialism*

Animal colonialism can be defined as a dual phenomenon, consisting, on the one hand, in using animals to colonize lands, native animals, and people and, on the other hand, in imposing foreign legal norms and practices of human-animal relations upon communities and their environments. Beginning with the work of [Alfred Crosby](#) on ecological imperialism—in particular his insight that the conquest of the New World was as much a biological one as a political one<sup>2</sup>—studies have accorded domesticated farm animals an instrumental role in the establishment of colonies around the globe. [Virginia DeJohn Anderson](#) writes: “all Europeans . . . enlisted livestock as partners in colonization.”<sup>3</sup> By displacing local fauna, altering native weeds, seeds, grasses, and cultivars, ranching and dairying altered New World ecosystems to advance European purposes. This biological invasion disrupted the lives of native peoples, animals, and their environments.

Across time and space, colonists used animals to conquer ecosystems and their inhabitants, from Christopher Columbus who transported horses, cattle, swine, sheep, and goats to Caribbean islands to French settlers who brought cattle to New France starting in 1617, to Dutch settlers who exported their first cows to New York in 1629, to the British who landed with their sheep and bovines on the shores of Australia and New Zealand in the Eighteenth and Nineteenth Centuries. Similar in these disparate endeavors was the idea that the importation of European animals and the destruction of local fauna, flora, and local foodways were justified by the goal of “improving” agriculture and population health. Animals and their “products”—in particular milk, leather, fur, bone, wool, and silk—were and remain constitutive of national identity and imperial power. They operate as tools of domination to control territories, humans, animals, and ecosystems. Animal colonialism also served as a pretext for conquest itself: as the imported cattle multiplied, more grazing land was needed, justifying further expansions.

Animal colonialism involves not only the migration of animals, but also of the legal status they were accorded in the Old World. Imperial states can recognize or refuse to recognize the legitimacy of multispecies relationships in the regions they conquer, attempting to regulate them or replace them with new ones. In both the civil law and the common law traditions, animals were the [personal property](#) or chattel of their human owners and could not possess rights.<sup>4</sup> They were means to human ends. One illustration of how the property status of animals became “globalized” is the Seventeenth-Century introduction of the crime of animal theft in the Chesapeake and present day Virginia. While Northern native peoples such as Algonquians did not claim any form of property over animals—and had domesticated very few—Virginia’s governor Francis Wyatt proclaimed in 1623 that anyone convicted of stealing any “Beast or Bird of Domesticall or tame nature” worth more than twelve pence would be put to death.<sup>5</sup> By then colonists’ cattle and other domesticated animals were often left to run wild due to the lack of fenced pasture and manpower. These loose animals became a source of recurrent litigation either because they spoiled farmers’ crops or were “stolen.” Preserving the status of animals as property was a way to reinforce the authority of the English rule as wild livestock were considered as property of the Crown.

<sup>2</sup> ALFRED CROSBY, [ECOLOGICAL IMPERIALISM: THE BIOLOGICAL EXPANSION OF EUROPE](#) 900–1900 (1986).

<sup>3</sup> VIRGINIA DEJOHN ANDERSON, [CREATURES OF EMPIRE: HOW DOMESTIC ANIMALS TRANSFORMED EARLY AMERICA](#) 97 (2004).

<sup>4</sup> GARY L. FRANCIONE, [ANIMALS, PROPERTY, AND THE LAW](#) 4 (1995).

<sup>5</sup> DEJOHN ANDERSON, [supra note 3](#), at 124.

The notion of animals as property proved essential to the diffusion of animal farming, particularly dairying, as it justified taking the milk from female animals for human consumption.

### *Milk Colonialism*

Milk, which can be described as a “[conquering colonial commodity](#),”<sup>6</sup> has been caught up in some of the central tensions of nationalist projects both in the metropolises and their colonies. Before the modern colonization area, dairying and animal milk consumption were confined to a few areas: Central and Northern Europe, the Middle East, sub-Saharan Africa, Central Asia, and the Indian subcontinent. To this day, “[lactase persistence](#)” (the ability to digest lactose) remains relatively rare among humans: about 75 percent of the world population is lactose intolerant. Lactase persistence has been tied to population genetics, which explains why it is found primarily in people with ancestry in regions that have a history of animal domestication such as North-Western Europe, South Asia, and the Middle East.<sup>7</sup> The fact that animal milk and dairy products are now ubiquitous around the globe, either because they are produced in regions with little or no history of dairying or because they are imported, is a testament to the sway of milk colonialism and international trade law. India, China, Brazil, and New Zealand, all formerly colonized lands, currently figure on the list of the top ten cow’s milk producers in the world. The Asia Pacific is one of the biggest markets for imported condensed milk and other processed dairy products.

[Deborah Valenze](#) has depicted the global history of milk as the emergence of a culturally malleable, universal commodity, a story “of [the] conquest of space, energy, and dietary preferences.”<sup>8</sup> The arrival of domesticated ruminants in colonized lands was driven by European agendas. Settlers had become used to consuming milk products back home and were eager to carry on their foodways. Fast forward to the late Nineteenth Century, dairying had become a major industry in Europe and the United States through economic rationalization and new technologies which transformed milk from a substance that spoiled so easily that it had to be consumed on the spot into a commodity that could travel huge distances. Condensed milk—still ubiquitous today in formerly colonized countries of East Asia and Africa in particular—is a paradigmatic imperialist food. Its invention by Gail Borden in the mid-Nineteenth Century was tied to the search for a shelf stable food for soldiers, explorers, and merchants. During the American Civil War, the continental army embraced it as a cheap and transportable source of calories, soon followed by other armed forces, and later by the poor urban classes of European and North America as well as colonizers and colonized people in various regions where fluid animal milk was hard to come by.

The interwar period saw the first concerted attempts to industrialize dairying outside of Europe and North America. [China](#) is a case in point. Traditionally a nondairying culture, it is now the third largest cow’s milk producer in the world. The Chinese dairy industry originated in American missionaries and foreign businessmen’s efforts to promote milk production and consumption.<sup>9</sup> In the postcolonial era, milk colonialism carried on in most continents under the guise of international law and commerce, which is reflected in the number of international trade disputes pertaining to milk since World War II. Since the 1960s, the expansion of international food aid allowed Europe and the United States to dispose of their milk surpluses, all the while maintaining stable prices at home. For instance, “Operation Flood,” a program launched in 1970 and financed in part through the sale of European dairy surpluses through the World Food Program transformed India into the world’s largest milk producer. Reminiscent

<sup>6</sup> Jonathan Saha, *Milk to Mandalay: Dairy Consumption, Animal History and the Political Geography of Colonial Burma*, 54 J. HIST. GEOG. 1, 2 (2016).

<sup>7</sup> ANDREA WILEY, [RE-IMAGINING MILK: CULTURAL AND BIOLOGICAL PERSPECTIVES](#) 37 (2010).

<sup>8</sup> DEBORAH VALENZE, [MILK: A LOCAL AND GLOBAL HISTORY](#) 3 (2011).

<sup>9</sup> Françoise Sabban, *The Taste for Milk in Modern China (1865–1937)*, in, *FOOD CONSUMPTION IN GLOBAL PERSPECTIVE* 182, 188–189 (Jakob A. Klein & Anne Murcott eds., 2014).

of older forms of animal colonialism, this “white revolution” proceeded in part by replacing Indian bovine breeds with quick fattening, high yield European breeds.

The intense, and increasingly global, dairying and dairy food consumption has had dramatic effects on female mammals and their young. By taking milk from animals and feeding it humans, particularly human babies, dairying severs the nursing relationship twice: between lactating animal mothers and their offspring and between human mothers and their offspring.

### *Breastfeeding Colonialism*

In the early Twentieth Century, lactating animals were conscripted in a colonial reproductive politics aimed at reforming maternity, understood as the embodied experiences of being pregnant, giving birth, and feeding and caring for infants. Since the Nineteenth Century, low birth rates and high infant mortality (which was due in part to the unsanitary animal milk many infants were fed before “safer” substitutes became available) had generated anxieties, particularly in the British and French empires. In the metropolises, eugenicist fears developed about national decline and “racial degeneration.” In the colonies, the desire for a larger indigenous labor force and army underlied the declared public health goal of fighting “depopulation” and “improving” population health. Population growth was seen as a form of power and child rearing became a national duty.

In this highly racialized populationist project, milk turned into a central nationalist and imperialist tool. Indigenous people and animals were stigmatized as inadequate. Native women were accused of lacking maternal instinct and breastfeeding too long, yet producing mediocre milk. Traditional forms of contraception such as postpartum abstinence and long-term breastfeeding were ridiculed or deplored. Indigenous cows were disparaged as producing milk of inferior quality and in insufficient quantities. [A colonial doctor](#), writing in 1936 about French African colonies thus blames low natality rates among the native population on a combination of prolonged breastfeeding, inferior human milk, and scarce and low quality animal milk.<sup>10</sup> [Nancy Rose Hunt](#) magisterially described the colonial regulation of breastfeeding in the Belgian Congo as a tool for population increase.<sup>11</sup> In the early Twentieth Century, making animal milk available to the colony was thought to promote the fertility of women, both white and black. Early weaning and compulsory bottle-feeding were specifically prescribed to black mothers to reduce their breast milk supply and encourage return to full fertility.

The Belgian Congo was [not an isolated case](#) as comparable colonial policies were developed in Malaya, Sudan, French West Africa, Vanuatu and Fiji, and the Philippines.<sup>12</sup> Improving or modernizing maternity meant replacing the human breast by cow’s milk. That was also true in the metropolises. Milk depots and clinics multiplied in European and American cities, distributing sanitized animal milk at a time when pasteurization and formula were not widely available. In the colonies, early childhood interventions aimed at challenging indigenous traditions of mothering in the name of civilization, modernity, and scientific medicine. Early Twentieth Century milk depots in [the Philippines](#) are illustrative of this dynamic.<sup>13</sup> Through them, the American colonial government hoped to create “enlightened mothers,” instructed on the “proper” care of infants, particularly in terms of sanitation and hygiene. The depots dispensed free or subsidized pasteurized cow’s milk obtained, whenever possible, by establishing their own dairies populated by cows imported from Australia.

<sup>10</sup> J.L.F. Cazanove, *La Question du Lait dans les Colonies Africaines*, 9 AFRICA 227, 231 (1936) (my translation).

<sup>11</sup> Nancy Rose Hunt, “*Le Bébé en Brousse*”: *European Women, African Birth Spacing and Colonial Intervention in Breast Feeding in the Belgian Congo*, 21 INT’L J. AFR. HIST. STUD. 401 (1988).

<sup>12</sup> Tehila Sasson, *Milking the Third World? Humanitarianism, Capitalism, and the Moral Economy of the Nestlé Boycott*, 121 AM. HIST. REV. 1196, 1200 (2016).

<sup>13</sup> Mina Roces, *Filipino Elite Women and Public Health in the American Colonial Era, 1906–1940*, 26 WOMEN’S HIST. REV. 477, 484 (2017).

It is now well known that the spread of animal milk, particularly in the form of infant formula, has had deleterious effects on human babies and their mothers, especially in former colonies. However, the harm to animals ushered in by the globalization of milk consumption is less familiar. Female animals bred and exploited for their milk live a particularly miserable existence, exposed to extreme physiological demands. They are maintained in a quasi-constant state of pregnancy and lactation via forced insemination or other forms of reproductive technologies, only to have their newborns removed from them so that humans may express their milk. There is a special harm, for both human and nonhuman mammals in being prevented from nursing. As [Sherry Colb](#) has written, “[l]ike other mammals, cow mothers are extremely attached to their newborn babies and want nothing more than to be able to nurse them. The babies feel this way too, and they find comfort, nourishment, and pleasure in nursing on their mothers.”<sup>14</sup> Under natural conditions, the weaning process involves a gradual reduction in milk intake, accompanied by increasing social independence from the mother and increasing intake of solid food. By contrast, farm animals are typically weaned abruptly by separating the young from the mother, often within hours of birth. In this system, both baby animals and their mothers show a distinctive distress response when they are separated—both bellow for several days, sometimes weeks with grief.

*Conclusion: Toward a Trans-Species Right to Breastfeed?*

While international law has begun to address issues such as endangered species and biodiversity, the welfare of animals, let alone lactating animals, remains unaddressed. Yet, could it be that lactation, because it is common to all mammals, represents a promising starting point for advocating in favor of stronger international animal welfare protection? In other words, one strategy to promote global animal law, both as a research program and as a branch of law, could be to connect it with other international legal initiatives such as women and children’s rights. This could be done in an ecofeminist vein, that is, by taking seriously the idea that the oppression of animals and human females is interconnected and mutually reinforcing.

Milk is a quintessentially intersectional issue, cutting across the human/animal divide. It is produced by female mammals of all species, including women. As pioneering ecofeminist Carol Adams likes to point out, all milk from female animals is “breast milk.” One avenue to advance the global animal law agenda may be to reorient international breastfeeding advocacy toward promoting the welfare of lactating animals *of all species*, rather than humans only. International human rights lawyers have considered the idea of a woman’s right to breastfeed and a child’s right to be breastfed for some time. No such rights have been recognized yet, but the World Health Organization (WHO) and the United Nations Children’s Fund developed the International Code of Marketing of Breast-Milk Substitutes in 1981 as a health policy framework for breastfeeding promotion. Though the WHO lacks enforcement mechanisms, the Code’s recommendations were incorporated into many domestic laws and successfully pressured Nestlé and its like to change their marketing strategies. Why not expand the movement to other lactating animals and their offspring? This shift would vindicate Katsi Cook’s beautiful insight that the mother’s body is the [first environment](#),<sup>15</sup> and as such should be protected regardless of species.

<sup>14</sup> Sherry F. Colb, *“Never Having Loved at All”: An Overlooked Interest that Grounds the Abortion Right*, 48 CONN. L. REV. 933, 952–953 (2016).

<sup>15</sup> WINONA LA DUKE, *ALL OUR RELATIONS: NATIVE STRUGGLES FOR LAND AND LIFE* 22 (1999) (quoting Katsi Cook).