

# The current challenges of international laws for animal welfare: Bridging the gaps through innovative approaches.

Noyonika Gogoi<sup>a</sup> Dr. DeepomBaruah<sup>b</sup>

<sup>a</sup>Assam Rajiv Gandhi University of Cooperative Management, School of Public Policy and Law  
gogoinoyonika53@gmail.com

<sup>b</sup>Assam Rajiv Gandhi University of Cooperative Management, School of Public Policy and Law  
deepombaruah2019@gmail.com

**Abstract:** *The condition of the animals across the world is very pathetic. They suffer on daily basis either because of human's oppressive treatments on them or because of human needs and greed. This major social issue has not been solved yet because there is no international agreement that provides protection and welfare of animals. Lack of International law is the main reason behind the cruel treatment of animals all over the world. Different countries have different set of laws for providing protection to animals. Few developed countries have strong laws while in some developing countries there is complete absence of laws, or the laws have no standards at all. Interestingly, even countries that has animal welfare standards in place, the degree of legal protection may be different as per situations. This paper would like to highlight the current challenges faced by the prevailing guidelines in international law that has tried to address animal welfare partiality, but they are not able to give effective protection which is important to raise the status of animals in our society. This research paper would like to support the eminent animal law scholar's David Favre's idea to revive the proposal of adopting the international convention for the Protection of Animals (ICPA) is important because the main objective of the treaty is to focus on the animal welfare issues and to receive international recognition and protection by setting the general guidelines and polices regarding the treatment and use of animals. There might be some challenges in passing the treaty by all the countries. However, the ICPA can come into force by applying smart strategies. In this paper the researcher would like to recommend the urgent need of an international treaty for animal welfare to ensure uniform legal protection towards domestic animals and stray animals by following doctrinal research method.*

**Keywords:** *Animal Protection; Animal welfare; Uniform legal protection; animal welfare;*

## I. Introduction

International law plays an important role in regulating international relations to maintain international peace and security among different states. The aim of international law is to promote basic humanitarian rights, promote friendly relations among the member states. In the current scenario the field of international law includes criminal law, maritime law, law of war, human rights law, refugee law, environmental law. But there is a

huge gap in the current international laws for animal protection. As mentioned in the Deborah Cao and Steven White Editors book "Animal Law and Welfare International Perspectives" animal cruelty is still happening in our society despite the existing laws for animal protection and continuous study on the topics related to animal welfare science and the need of moral and legal status of animals. The cruelty towards domestic animals and wild animals is increasing day by day. Billions of farm animals suffer on daily basis in

the factory farms, and they are killed brutally on a huge scale whenever there is outbreak of disease.

In this grim situation there is still a ray of hope because of the handful of conscious citizens globally who are willing to improve the conditions of animals. According to the former President of Australian Law Reform Commission Professor David Weisbrot suggested that “animal welfare” is likely to become the next great social justice movement. As our understanding of animal cognition and emotions deepens along with the introduction of One Health Approach, recognizing animals as “sentient beings” there is a growing consensus that animals deserve ethical consideration and appropriate legal safeguards. However, despite significant progress in the development of international laws and regulations for animal welfare, numerous challenges persist, impeding the effective implementation and enforcement of these measures. This research aims to explore the current challenges faced by international laws for animal welfare and propose innovative approaches to bridge the existing gaps.

Over the past few decades, there has been a notable shift in societal attitudes towards animals. Increasingly, individuals and organizations has started recognizing the intrinsic value of animals and their capacity to experience pain, suffering, and joy. This evolving perspective has led to the emergence of animal welfare as a pressing

ethical and legal issue worldwide. Countries and international bodies have responded to this concern by enacting legislation and creating frameworks to protect animals from cruelty and exploitation. However, despite these efforts, the effectiveness of international laws for animal welfare remains limited due to several significant challenges. One such challenge is the lack of uniformity and harmonization among different legal systems. As animals’ cross borders through international trade and transportation, discrepancies in legal standards create confusion. This fragmentation hinders effective enforcement and cooperation among nations, making it difficult to address transnational issues related to animal welfare comprehensively. Additionally, the scope of existing laws often fails to encompass emerging areas of concern.

Rapid advances in scientific knowledge, technological innovation, and changing societal values have given rise to new challenges in animal welfare. Issues such as the use of animals in research, the impact of industrial farming practices on animal welfare, and the treatment of animals in entertainment and sports require updated and adaptable legal frameworks. The current laws often struggle to keep pace with these developments, leaving gaps in protection and enforcement. Moreover, the enforcement of existing animal welfare laws faces significant practical challenges.

Limited resources, inadequate training, and a lack of political will undermines the effective implementation of regulations. This can result in weak enforcement mechanisms, lenient penalties, and a culture of non-compliance, perpetuating the mistreatment of animals despite legal provisions. To address these challenges and to bridge the gaps in international laws for animal welfare, innovative approaches are necessary. This research aims to explore the main problems behind the existing challenges of the global legal policy for animal protection and then delve into the justification why it needs to get changed. The main task of the researcher here is to study the potential solutions and propose new frameworks that can enhance the effectiveness of existing legal systems. By examining successful case studies, analysing emerging practices, and considering the perspectives of stakeholders, this study seeks to identify strategies for improving the harmonization, adaptability, and enforcement of international laws for animal welfare. Through this paper the researcher would like to support the eminent animal law scholar's David Favre's idea to revive the proposal of adopting the international convention for the Protection of Animals (ICPA)" This legal tool will be a benefit to all people who are working tirelessly for animal protection. And, it will be uniform in nature.

This research endeavours to shed light on these challenges and explore innovative approaches to address the gaps in current legal frameworks. By doing so, it aims to contribute to the ongoing global efforts to ensure the welfare and ethical treatment of animals across borders.

## II. Legal Materials and Methods

In this paper, the legal material and method employed to examine the current challenges of international laws for animal welfare and propose innovative approaches are crucial for a comprehensive analysis. To gather the necessary legal material, a systematic review of relevant international treaties, conventions, and agreements will be conducted. This review will encompass the doctrinal research method, by revisiting the primary sources such as international legal texts, legislative documents, and case law, as well as secondary sources including scholarly articles, books, and reports. The legal analysis will involve identifying the key provisions, principles, and gaps within existing international laws for animal welfare. Additionally, comparative studies will be conducted to understand the best practices laws for protection of animals, and which can be adopted in our Indian law system. This methodology will provide a solid foundation for understanding the shortcomings and limitations of the current legal frameworks and pave the way for innovative approaches to bridge the gaps in international laws for animal welfare. The paper proposes that though in present times domestic animals are provided protection against unnecessary suffering from human beings through the existing international

legal framework and few selected countries but much is needed to be done to attain inclusive animal protection.

### III. Result and Discussion

#### a) **The lack of existing international treaty to govern the protection of animals.**

The 1969 Vienna Convention defines treaty as “an international agreement between nation states, either bi- lateral or multi-lateral, which commits the state to engage, or not engage, in certain actions and it is only between sovereign states It is important to have treaties, or else the leaders of a country may function internally and externally as per their wish. If a country signs a treaty the leader cannot change mind as per his/ her wish and will have certain restrictions. For good reasons like plastic management, human rights, etc countries have signed treaties to limit their freedom and conduct actions for the good of the society. The country must abide by the provisions of the treaty if they are members unless it formally withdraws from the treaty.

Treaties are powerful and it is considered as motivator for action for the countries who is a part of it. As, we have discussed in the introduction part many conscious individuals and organizations across the world are not happy the way animals are being treated in the modern times. They believe that animals need a better life where they are protected from unnecessary pain and sufferings. All animals irrespective of their species specially the farm animals and stray animals are treated in an inhumane manner. For all these above reasons we urgently need a Universal treaty for the protection and welfare of animals.

Some might argue that there is an already existing Universal declaration on animal welfare but since it is a declaration it is not binding on the states to do something or stop from doing something. It is different from treaties. This short declaration is like a public statement where it has primarily stated that all the countries should acknowledge that animal welfare is an important public policy issue, and it needs more attention for the benefit of the animals. While many countries have supported this document, but they are not legally bound to perform as per the declaration. Nobody will question if they don't act as per the declaration. They are just simple, good feeling that we have something as a reference for animal welfare.

#### b) **Existing International legal instruments are purely made to achieve smooth trade rather than providing animal protection.**

The existing international treaties divides animal into the categories of domestic and wild animals. There is no common treaty as of now. The primary focus of these international treaties for wildlife is the preservation of the endangered species or to protect and manage the commercially valuable species so that they will not become endangered. Treaties like Convention on International Trade in Endangered Species and Wild Fauna and Flora (CITES) says very little about the welfare of the individual animals while transportation from one country to another. The countries that have signed the treaty have not clearly mentioned what actions will lead towards cruelty to animals. Similarly, Convention on Biological Diversity (CBD),

which aims to protect the environment and the wildlife unfortunately has said nothing about the welfare of individual animals .

Apart from these two treaties we have Role of World Trade organization (WTO ) which was created by the Marrakesh Agreement. WTO is the only recognized and accepted international organization which main function is to deal with the rules and regulations of trade between different nations. It has the power to command a lot of nations in terms of implementation of trade rules globally. It has its own legal personality, legal capacity and sufficient privileges and immunities. It has received huge support from its members and the organization has gained public understanding over the years and till today it has continued to play a key global economic role. However, just like the other international instruments there are no clear and distinct yardstick to give animal welfare guidelines or any other animal welfare measure that can be practiced. WTO has limited provisions for animal welfare, and they are mostly indirect. But the organization has highlighted the negative impact of trade upon animal welfare and taking this as an opportunity several scholars and animal welfare organizations have started extensive research on this topic.

### c) **The standards of World Organization for Animal Health (OIE) are not sufficient.**

The one and only international body that is dealing with animal welfare but in an indirect manner is the World Organization for Animal Health (OIE) which was established in the year 1924 under the name of Office International des Epizooties (OIE). The organization was created by an

agreement between 28 countries in 1924 to improve the conditions of animal health across the globe to prevent outbreak of diseases among human beings. Hence, the approach of OIE is more towards achieving good health for animals that are used in the trade purpose rather than animal welfare or animal protection. Nonetheless, for more than ninety years now OIE ha played the role of guardian of animal welfare in the absence of any other proper organizations. OIE is called the keeper of the animals because of the five freedoms that have been recognized globally. They are as follows : Freedom from hunger, thirst and malnutrition , freedom from fear an distress , freedom from physical and thermal discomfort , freedom from pain and disease, freedom to express normal patterns of behaviour. These five freedoms have been recognized even by the Supreme Court of India in Animal Welfare Board of India vs A. Nagaraja&Ors judgement .

There is an urgent need to enlarge the role of OIE because it is the one and only legal international instrument which is trying to bring animal welfare policies. The organization is global in nature because it has a support of 178 member countries. It has adopted 11 animal welfare standards focusing on areas like transportation of animals, use of animals in research and education, stray dog population control, inhumane killing of farmed fish and animal slaughter for human consumption along with animals used for food industry. All these guidelines are incorporated in the Terrestrial Animal Health Code . Section 7 of the code is dedicated to “animal welfare.” In the year 2016, a new section was added for the welfare of animals used for



transportation and carriage like donkeys, mules.

Another significant primary document is “The Aquatic Animal Health Code”. The main purpose of this code is to set standards for the improvement of the health and welfare of the farm fish and aquatic animals. This document focuses on achieving good health of the aquatic animals and their products which are a part of international trade.

The status of OIE in relation to working towards international animal welfare is quite impressive. The future of OIE will depend on the basis of commitment to the work, consultation, international solidarity, external support and continuous striving towards improvement and positive change. But OIE has its own loopholes because the list is useful only for policy makers it has not put much emphasis on prohibiting practices that are harmful for animal welfare. The main objective of OIE is to improve the health standard which is important to facilitate smooth trade of animal and animal products to the consumers. Animal welfare here comes as a side benefit, so it is very important to have an independent act at international level that is meant to address issues of animal care and protection.

The other short comings of OIE are the standards and codes have liberally used the word “Should” rather than using the terms “must” or “shall”. These words shall and must indicates more obligations on the member states to follow the code or take the standards too lightly.

The OIE is a reference organization of the World Trade Organization, which means that the standards laid down by OIE are not binding on the member nations and in case

they don't follow the guidelines they are not enforceable in the court of law.

Again, the standard set by the OIE whether for the terrestrial or aquatic animal health code which are in the form of recommendations are optional in nature. Nobody can be questioned for not following the recommendations.

d) **Limited Scope:** The scope of current international laws like CITES is often limited to specific species or issues. This narrow focus leaves many animals, such as farm animals, laboratory animals, and wildlife, vulnerable to exploitation and neglect. Expanding the scope of international laws to encompass a wider range of animals and addressing emerging issues, such as animal testing in cosmetics and the use of animals in entertainment, is crucial for comprehensive protection.

e) **Cultural and Ethical Differences:** Animal welfare is influenced by cultural and ethical perspectives, which vary widely across different regions and countries. These differences can create challenges in developing universally acceptable animal welfare standards. Balancing cultural sensitivities while promoting a common baseline of animal welfare principles requires innovative approaches that encourage dialogue, education, and awareness campaigns. One such case in the year 2009, the E.U passed a regulation to prohibit selling of any kinds of seal products originating from any country in the market. But, this regulation had some exceptions for the indigenous communities such as Inuits because of their tradition and culture.

f) **Gradual shift from Anthropocentric approach to eco centric approach:** It is essential to abandon the anthropocentric approach, which dominates the current system of international law, and instead adopt a more comprehensive organization of human relations with nature. Anthropocentrism, which places human interests and welfare above all else, has contributed to the exploitation and degradation of the environment and the suffering of non-human beings. Shifting towards alternative frameworks like anthropocentrism can promote a more balanced and sustainable approach to environmental and animal welfare issues. These perspectives recognize the interconnectedness and intrinsic value of all elements of the natural world, including humans, animals, and ecosystems. By embracing such approaches, international laws can be better equipped to address the complex challenges of our time and foster a harmonious coexistence between humanity and nature.

g) **Animals should not be considered as property** - Animals should not be considered as mere property. Viewing animals solely as objects of human ownership undermines their inherent value, autonomy, and welfare. Animals possess their own complex experiences, emotions, and interests, deserving of respect and consideration. Treating animals as property perpetuates a system that allows for their exploitation, commodification, and mistreatment. Additionally, identifying animals as property does not correspond to the modern ideas about them as sentient beings. Regardless of whether they will have legal capacity or will lead a new, animals must have certain set of

international legal guarantees. Recognizing animals as sentient beings with intrinsic rights would lead to a shift in our attitudes and legal frameworks, promoting their well-being and protection. Instead of regarding animals as property, we should strive towards acknowledging their individuality, promoting their rights, and adopting a more compassionate and ethical approach to our relationship with them.

h) **Reason behind adopting ICPA and other new frameworks for International laws for animal welfare :**

After finding out all the hindrances the researcher would like to suggest that in order to fulfil the gap there is an urgent need of a treaty to deal with animal welfare and to design the framework of the treat it should adopt the modern umbrella treaty approach. And, the best part is a model treaty has already been drafted but it currently facing some financial crisis. But International Convention for the Protection of Animals (ICPA) in the future can become an umbrella treaty because of its progressive and modern approach. As per the ICPA any state who would like to join the treaty must also become a member of at least one protocol: The draft protocols exist for the following topics:

Companion animal protocol

Protocol for the care of exhibited wildlife

Protocol for the taking of wild animals.

Protocol for the International Transportation of Animals

The need for international rules for animal welfare is a new topic and many countries world wide might understand that animal welfare is a serious social issue and its needs

immediate attention. In such an environment where the laws are not uniform for animal protection the adoption of ICPA proposed by Dr. David Favre can become an important tool in giving welfare to the animals. With this convention there will be accepted standards, which can be accessible to all the nation states, organizations and individuals across the world. The researcher knows due to diversity in social – economical, cultural and political indifferences it will be difficult to have homogenous law across

implementation of the treaty. Without the agency person no one will care if the treaty is fulfilled.

Along with ICPA, there is an alternative global framework there is an alternative global framework known as Universal Declaration on Animal Welfare. This declaration is more than thirteen years old. The framework is based on the UN Model, and it the result of Manila Conference on Animal Welfare in 2003 organized by the World Society for the Protection of Animals (WSPA). It is a short document consisting of only seven articles. The UDWA in its preamble expressly states that animals are sentient beings and that their welfare should be the primary focus of all the member states. The aim of this proposal is to develop a better and comprehensive animal welfare provision. The UDWA defines animal welfare as being good or high when the condition of the animal is fit, healthy and free from complete suffering and in a positive state of mind. UDWA has incorporated OIE's five freedom guidelines in its preamble. In the proposal the UDWA has emphasised the member states firstly to work towards improving the national animal legislation, secondly, introduce animal welfare legislations in country where it does

not currently exist, thirdly, encourage businesses which use animals as their profit making business to practice higher animal welfare standard fourthly build an interlink between humanitarian, animal welfare standards nationally and internationally and inspire positive changes among the public towards animal welfare.

UDAW is based by four fundamental principles. The first principle is that the welfare of animals shall be the common objective for all, and the standards for animal welfare to be achieved by each participating states and all the states will take measures to prevent cruelty towards animals and take steps towards reducing their sufferings and pain. And, finally update the animal welfare standards with the demand of time.

There is a slight difference between OIE and UDAW because UDAW has vision to get support from across all the countries and communities. The platform provided by UN also strengthens the proposal. However, despite being redrafted twice based on the suggestions and recommendations of the UN member states and various other international animal welfare organizations the UDAW is still in the stage of draft proposal.

Lack of uniform international legal instrument for animal protection is one of the primary reasons for the failure in implementing and enforcing a treaty which is mainly for animal welfare.

#### IV. Conclusion and Suggestion

From the above discussion we can conclude that animal welfare protection in the international spheres is not sufficient to provide adequate legal safeguards. The



existing international legal framework like WTO, OIE , UDAW cannot fulfil the purpose completely because they are designed purely on the basis of anthropocentric approach . Having said that animal Welfare is not their main priority. So, to prioritize animal welfare issues in the global scenario the proposed draft ICPA should be initiated with the support and consultation of some of the biggest NGO's working for animal protection and with the help of private parties. They should get into dialogues with a nation state who is willing to help animals. This process will be time taking but it is also possible if the citizens are conscious about the sufferings of animals and if they raise their voice to elevate the bar of animal welfare standards around the globe. Then, immediately the players in the market will have to shift to sustainable ways of farming and provide more care and protection to animals under their care.

It is also important to take examples from the current UN recognized international organization like International Labour Organization which is working towards securing social justice and to improve the conditions of labours in different countries since 1919. Even though it is in the form of a soft law the results are very good . ILO has occupied a significant position in the international legal sphere on issues of labour welfare. Similarly, in case of animal welfare there is an urgent need of dedicated body which can provide a set of uniform guidelines and policies that needs to be strictly abide by the overall country . Animal law is complex in nature so rather than expecting too much at least a progressive and standard international legal instrument is needed for animal welfare which is completely separate from

international trade of animal and animal products.

It is suggested that the present situation the stars are not aligned for the adoption of an animal welfare treaty due to various reasons. One of the primary reasons is the negative condition of our global economy. The country needs to first take care of the economic needs of its citizens which includes health and education, reduce hate crimes only if these aspects are taken care of there is a little hope for the welfare of animals. But, as a researcher and strong advocate for animal welfare I personally have positive hope that the situation will become better in the near future and we might have an international treaty, for the animal welfare soon which will cover the both the physical , mental well being of the animals together by providing dignity , respect to the animals .

## References

- Animal Welfare Board of India V. A. Nagaraja (2014) 7 SCC 547  
<https://indiankanoon.org/doc/39696860/>  
 Accessed on 30-06-2023 WTO, European Communities : Measures Prohibiting the Importation and Marketing of Seal Products- Report of the Panel (25 November 2013) WT/ DS400/ R , WT/ DS401/ R (EC- Seal Products Panel Report)
- Compromise & the Universal Declaration on Animal Welfare accessed on 30-06-2023  
<https://www.animallaw.info/article/compromise-universal-declaration-animal-welfare-0>
- Convention on International Trade in Endangered Species of Wild Fauna and Flora accessed on 30-06-2023  
<https://cites.org/eng/disc/text.php>
- David Fabre's An International Treaty For Animal Welfare", Lewis and Clark College ,

accessed 24th June, 2023 ,  
<https://law.lclark.edu/live/files/22936-182-favrepdfLewis>

David Fabre’s “An International Treaty For Animal Welfare”, Lewis and Clark College , accessed 24th June, 2023 ,  
<https://law.lclark.edu/live/files/22936-182-favrepdfLewis>  
 Deborah Cao and others  
 Animal Law and Welfare International Perspectives, ( Volume 53 , Springer )

International Treaty for Animal Welfare :  
 accessed June 30, 2023 ,  
<https://www.animallaw.info/article/international-treaty-animal-welfare-0>

Mitsuo Matsushita and others, The World Trade Organization : Law, Practice and Policy ( 2nd edn, Oxford University Press 2006)

Noyonika Gogoi , “ A shift from Anthropocentric approach to ecocentric approach for the protection of environment and non-human animals , National Journal of Environmental Law , Vol.6. No. 1 (2003)  
<https://lawjournals.celnet.in/index.php/jel/article/view/1200>

Sandra I. Tsygantsova “ International Legal Protection of Animals : Problems and Prospects “ Moscow Journal of International Law DOI: <https://doi.org/10.24833/0869-0049-2021-2-122-132>

Sohini Mahapatra, Non-Human Animals And the Law An Analysis of Animal Welfare and Animal Rights within the Indian Legal Discourse ( First edition Thomson Reuters) , 2020

The Convention on Biological Diversity  
 accessed on 30-06-2023  
<https://www.cbd.int/convention/articles/?a=cbd-02>

United Nations Treaty collections accessed on 30-06-2023  
[https://treaties.un.org/Pages/overview.aspx?path=overview/definition/page1\\_en.xml](https://treaties.un.org/Pages/overview.aspx?path=overview/definition/page1_en.xml)