

**TIME TO LET THE DOGS OUT: ADOPTING PUBLIC INTERNATIONAL LAW
PRINCIPLES FOR GLOBAL ANIMAL PROTECTION**

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Abstract

The year 2020 was significant for many reasons, one of which was the inspiration of thoughts on the need for a cross-border regulation of animal treatment. Animal protection has been a private concern for states through diverse forms of Animal Welfare Acts, Prevention of Cruelty to Animals Acts, Humane Methods of Slaughter Acts and certain provisions in criminal codes. In municipal jurisdictions, developments have been a mix of progressive and regressive actions. Whatever the case is, this paper is based on some fundamental notions. Firstly, animals need protection. Secondly, to achieve this, states must come to a consensus on foundational principles and international cooperation. And thirdly, globalization has created an urgent need for international cooperation on animal protection. Currently, there exists no international treaty that regulates the welfare of animals or sets clear standards of procedure on minimum standards of animal treatment. Despite the challenges, the international community needs a regime for the protection of animals through a combined effort. This paper asks and answers the question: Can the principles of public international law offer a leeway?

Keywords: Animal Protection, Public International Law, Universal Declaration on Animal Welfare

Introduction

The year 2020 was significant for many reasons, one of which was the inspiration of thoughts on the need for a cross border regulation of animal treatment.² Generally speaking, animal protection has been a private concern for states through diverse forms of Animal Welfare Acts,³ Prevention of Cruelty to Animals Acts,⁴ Humane Methods of Slaughter Acts⁵ and certain provisions in

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² Daina Bray, Paula Cardoso, Jessica Chapman, Hira Jaleel, Rajesh K. Reddy & Joan Schaffner, "International Animal Law" 55 ABA/SIL YIR (ns) 585

³ *Australia: Animal Welfare Act 1992 A1992-45* Republication No 17. Section 7 states "A person commits an offence if the person commits an act of cruelty on an animal".

⁴ Lauren Lewis, "Truck Driver available at

<https://worldanimalnews.com/truck-driver-responsible-for-the-death-of-animal-activist-regan-russell-at-a-pig-vigil-at-ontario-slaughterhouse-pleads-guilty-to-careless-driving/> (last visited April 11, 2023).

⁵ *United States: Humane Methods of Livestock Slaughter Act, 7 USC 1901 – 1907*. Section 1902 states "No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane."

criminal codes.⁶ In municipal jurisdictions, developments have been a mix of progressive⁷ and regressive actions. Whatever the case is, this paper is based on some fundamental notions. Firstly, animals need protection.⁸ Secondly, to achieve this, states must come to a consensus on foundational principles and international cooperation. And thirdly, globalization has created an urgent need for international cooperation on animal protection.⁹ Currently, there exists no international treaty that regulates the welfare of animals or sets clear standards of procedure on minimum standards of animal treatment.

The proposed UN Convention on Animal Health and Protection (UNCAHP) was introduced by animal law experts in 2019 but has not yet been adopted. In 1978, the Universal Declaration of Animal Rights was presented to UNESCO. More recently, animal welfare organizations such as the protection (formerly the World Society for the Protection of Animals) and the ASPCA are leading a campaign to gather signatures to present to the United Nations along with the text of the Universal Declaration on Animal Welfare (UDAW).¹⁰

This absence of an international treaty prompts the current disparate treatment of animals all over the world, reemphasizing the need for a global structure to help resolve the issue. A unified treaty is a proposal with many benefits particularly the promotion of a consensus. This unified treaty would cause issues on animal welfare to have international recognition and insurance by setting the basic laws in regard to the treatment and utilization of animals. By reconciling the competing objectives of making a treaty appealing to as many nations as possible without eliminating mechanisms for enforcement, this is the most effective strategy for achieving international protection success.¹¹

⁶ Nigeria: *Criminal Code Act*, Cap C38 LFN 2004, 1 June 1916, available at: <https://www.refworld.org/docid/49997ade1a.html> (last visited April 11, 2023). Section 495 states “*any person who cruelly [treats] an animal is guilty of an offence of cruelty and is liable to imprisonment for six months or to a fine of fifty naira or to both such imprisonment and fine.*”

⁷ Carl Samson, *Hawaii, Washington Move to Ban Octopus Farms* Yahoo News, February 17, 2023 available at <https://www.yahoo.com/now/hawaii-washington-move-ban-octopus-191602435.html> (last visited April 11, 2023).

⁸ David Favre, ‘An International Treaty for Animal Welfare’ in Cao, D., White, S. (eds) *Animal Law and Welfare - International Perspectives* (2016) 87-106.

⁹ Thomas G. Kelch, *Globalization and Animal Law* (Kulwer Law International, 2011).

¹⁰ Georgetown University Law Library ‘International and Foreign Animal Law Research Guide’ <https://guides.ll.georgetown.edu/InternationalAnimalLaw/treaties> accessed 12th December 2023.

¹¹ David Favre, ‘An International Treaty for Animal Welfare’ in Cao, D., White, S. (eds) *Animal Law and Welfare - International Perspectives* (2016) 87-106.

This is not surprising as it is significantly challenging to reach a conclusion on the principles guiding subject. On the other hand, there has been more progress for animal protection at the regional level. Notable examples include the Animal Welfare Strategy for Africa¹² and the Treaty for the Functioning of the European Union.¹³ Despite the challenges, the international community needs a regime for the protection of animals through a combined effort. This paper asks and answers the question: Can the principles of public international law offer a leeway?

It is not desirable that animal protection remains a municipal issue. The international society is not an unchanging entity but is subject to the ebb and flow of political life¹⁴ and in the end, law's final appeal is to the individual.¹⁴ This is true whether in the municipal or the international context. Since individuals and societies are attaining a serious level and concern for these issues, then the law must respond and cater for these concerns and evidently, municipal law has not done too well. The international legal order that offers a fresh plane where the cross-border nature of these issues can be properly addressed. It is the intermingling of these general principles that makes it necessary to suggest a model that cannot rely on one aspect of international law, but rather a combination of many aspects. Since the protection of animals is now being contemplated by states in their relations with each other, it becomes pertinent to properly equip the international legal order with the best method of approaching these issues in order to achieve maximum cooperation and impact. This paper begins by examining animal law generally in Part I. This is essential to demystify the often-confused dichotomy of animal rights and animal welfare, a debate with neither head nor tail all under the umbrella of animal law.

The next segment of this paper, Part II, analyzes the specific general principles that make for the proposed model for international animal protection. Finally, the last segment of this paper, Part III,

¹² Animal Welfare Strategy for Africa: Executive Summary, available at <http://repository.aubiar.org/handle/123456789/543> (last visited April 11, 2023). Mission statement: “an Africa where animals are treated as sentient beings, as a leading continent in implementation of good animal welfare practices for a competitive and sustainable animal resource sector”.

¹³ European Union, Consolidated version of the Treaty on the Functioning of the European Union, 13 December 2007, 2008/C 115/01, available at: <https://www.refworld.org/docid/4b17a07e2.html>. Article 13 stating “animals are sentient beings”.

¹⁴ Malcom N. Shaw, *International Law*, (Cambridge University Press 9th ed., 2021) 377. ¹⁴ Janne Elisabeth Nijman, *The Concept of International Legal Personality: An Inquiry into the History and Theory of International Law* (T.M.C. Asser Press, 2004) 144.

concludes by suggesting the application of the proposed model through a universal declaration or some other nonbinding instrument. It argues that international law is highly malleable and has demonstrated remarkable flexibility in adapting to emerging issues that concern states in a way that any advancement of international animal protection can leverage upon. This paper explores and evaluates the feasibility of selected general principles of international law bearing in mind that “the process of changing and improving an international institution requires meaningful and engaged debate”¹⁵

1.0. General Overview of Global Animal Law

It is a known fact that generally, animals assume a property status under most jurisdictions.¹⁶ Despite this, many scholars have gone through the rigor of interrogating the possibility of legal rights for animals which is contrary to the deeply entrenched property status. Generally speaking, three schools of thought exist in relation to animal rights even at the domestic level. The first approach is one where animal rights are a must and a necessity. Here, they already exist and only seek recognition by legislature and the courts.¹⁷ The second school of thought adopts a more welfare oriented approach. Here, they lean towards ethical standards and better systems of living but not rights.¹⁸ The third school of thought is resistant to the rights movement and seek for the property status to be further upheld.¹⁸

Looking at the disparities that exist at the domestic level, one can imagine the long road down to legal rights for animals at the international level.¹⁹ There has been considerable progress in a search for a general blanket law, that is, a universal declaration that secures rights or animals. One of the most prominent examples include the 1978 Universal Declaration of Animal Rights proclaimed at the United

¹⁵ M. du Plessis, ‘The International Criminal Court that Africa Wants’, Institute for Security Studies, 2010, p. viii.

¹⁶ Visa AJ Kurki, *A Theory of Legal Personhood* (Oxford University Press 2019).

¹⁷ Steven M. Wise, *Rattling The Cage: Toward Legal Rights for Animals* (Perseus Publishing 2000). ¹⁸ Peter Singer, *Animal Liberation: A New Ethics for Our Treatment of Animals* (Harper Collins 1975) 23.

¹⁸ David Schmahmann and Lori J. Polacheck, ‘The Case Against Animal Rights’ (1995) 22 *Boston College Environmental Affairs Law Review* 747.

¹⁹ Jonathan Lovvorn, ‘Animal Law in Action: The Law, Public Perception, and the Limits of Animal Rights Theory as a Basis for Legal Reform’ (2006) 12 *Animal Law* 133.

Nations Educational, Scientific and Cultural Organization (UNESCO) on the 15th of October of that year.²⁰ Other examples include the subsequent Universal Declaration of Animal Welfare which was initiated by an international animal law protection group called the World Society for the Protection of Animals in 2007 with the official document produced in 2014.²¹ We also have the Universal Charter on the Rights of Other Species.²² This document contains nineteen articles and is more specific than the universal declarations because it creates legal obligation for state parties. Another noteworthy international treaty is the very recent Draft Convention on Animal Protection for Public Health, Animal Welfare, and the Environment.²³

There has been a lot of futility in the efforts made by these declarations, it makes it obvious that it might not be able to do much for animal protection globally This is why the principles are considered in the next segment to see how the loopholes that exists may be adopted. The discipline of Global Animal Law as an emerging field in the international sphere and its application in this context is viable.²⁴ What is more, others have gone beyond this debate to search for general principles of public morality and accountability.²⁵

The World Organization for Animal Health (WOAH, founded as Office International des Epizooties of the World Organization for Animal Health) was originally established in 1924 and the common name was adopted in 2003. As at today, it has 182 member states,²⁷ making it a widely accepted intergovernmental organization in comparison with the United Nations which has 193 member states.²⁸ The WOAH was originally founded to under its auspices, the terrestrial Animal Health Code (Terrestrial Code) issued its first publication in 1968 as the aftermath of an agreement to have a harmonized approach to combating the spread of diseases by the WOAH World Assembly of Delegates. The current strategic plan, which is the seventh, is for the cycle 2021-2025

²⁰ The Universal Declaration of Animal Rights: Comments and Intentions 87 (Georges Chapoutier & Jean-Claude Nouët eds., Ligue Française des Droits de l'Animal 1998).

²¹ Amy B. Draeger, *More Than Property: An Argument for Adoption of the Universal Declaration on Animal Welfare*, 12 *DRAKE J. AGRIC. L.* 277 (2007).

²² THE UNIVERSAL CHARTER ON THE RIGHTS OF OTHER SPECIES, <https://www.all-creatures.org/articles/ar-universal-charter-rights-species.html> (accessed Nov 20, 2022).

²³ Florida Animal Law Section, "The Prospect and Promise of an International Convention for Animal Protection" YOUTUBE (Nov. 17, 2022), https://www.youtube.com/watch?v=QGUo8BG_Km4 (accessed Nov. 20, 2022).

²⁴ Saba Pipia, "The Emergence of Global Animal Law as a Separate Branch of International Law" 16 *Animal and Natural Resource Review* 171.

²⁵ Martha C. Nussbaum, *Justice for Animals: Our Collective Responsibility* (Simon and Schuster, 2023), excerpt available at

and was adopted during the 88th general session of the World Assembly of Delegates held in Paris from May 24 to May 28, 2021.²⁹ This strategic plan is particularly important to this argument due to the key mandates that will be discussed in a subsequent part of this paper.

2.0. What General Principles Exactly?

Traditionally, international law is about states. Whether it is about the creation of a new government, the aftermath of a war, or the law of treaties, it is about states, not individuals and definitely not animals. This traditional state-centric nature of non-state actors which have now attained a significant height in international relations.²⁶ It is obviously *ambitious*, seemingly *chaotic*, and probably *impossible* to assume that in this expansion of subjecthood in international law, animals might somehow creep in. This segment of this paper delves into the third argument on the possibility while ignoring the former two because the first point is correct and the second will be proven to be simpler than it appears.

Ian Brownlie and James Crawford have very excellently pioneered literature on the general principles of public international law.²⁷ Their texts offer a breakdown of the foundational guiding principles of and its application in context. Many possibilities abide in a large portion of the existing general principles, especially from an ambitious perspective but preference is made to the ones that will achieve the most results for global animal protection. The following portions of this paper select three principles that suggest the trend upon which global animal protection will emerge and the high probability that future scholarship will investigate the possibilities of other general principles e.g., universal jurisdiction.

A. Adopting Personality and Recognition Principles for Recognizing Animals as Subjects

Personality and Recognition are the bedrock of international legal relations. While they are separate concepts, they go hand in hand as the existence of one without the other has led to complexities; some of which have still not been resolved in international law.²⁸ The recognition of

²⁶ Emmanuel Roucouas, ‘The “Users” of International Law: Moving beyond Doctrinal Controversies on “Subjects”, “Non-State Actors” and “Participants” A *Landscape of Contemporary Theories of International Law*, Brill Nijhoff 2019 427-433.

²⁷ James Crawford, *Brownlie’s Principles of Public International Law*, (Oxford University Press 8th ed., 2012) 118.

²⁸ See generally, Dunoff, Jeffrey, Monica Hakimi, Steven R. Ratner, and David Wippman. *International Law: Norms, Actors, Process* (Aspen Publishing, 2023)

a government is an “acknowledgement that a particular regime is the effective government of a state and implies a commitment to treat that regime as the government of that state”.²⁹ Personality on the other hand is similar to standing. It is a concept that is “employed to distinguish between those social entities relevant to the international legal system and those excluded from it”.³⁰ In varying degrees, other entities apart from states have been clothed with international legal personality in order to include them as relevant in the said international legal system as a matter of necessity and to facilitate legal relations. These entities include territorial entities other than states, international organizations as we will see in the next portion of this segment.

Since international law changes and new subjects emerge over time, the principles of international legal personality and recognition are worth evaluating in the animal protection context. As a caveat, this is not with the aim of creating a set of criteria,³¹ in the similitude of the Montevideo Convention,³⁵ where animals who do not pass this test are not recognized as subjects on international law. For example, a situation where an animal must be a primate or breathe air. That is laughable and far from the point. The suggestion rather, is that the need to protect animals corporately necessitates their being clothed with personality for such purposes. The distinction here is not that the animal is then vested with duties under international law, as that would not make any sense, but rather, in order to engage state responsibility on animal protection, animals need personhood.

Individual criminal responsibility offers a worthy example of remarkable flexibility in relation to personality and recognition which in this case, is in the context of individuals.³² The Rome Statue of the International Criminal Court (ICC) was adopted on July 17, 1998 at the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal

²⁹ Restatement (Third)V of the Foreign Relations Law of the United States, Introductory Note to Part II, at 70 (1987).

³⁰ Roland Portmann, “Introduction,” *Legal Personality in International Law* (Cambridge University Press 2010).

³¹ Montevideo Convention on the Rights and Duties of States, 49 Stat 3097, T.S. No. 881, 165 L. N. T. S. 19 stating objective requirements of statehood to be: (a) *a permanent population*; (b) *a defined territory*; (c) *government*; and (d) *capacity to enter into relations with other states*.

³² Younf Sok Kim, *The Law of the International Criminal Court*. Second Edition (William S. Hein & Co, 2019) pg

Court³³ with the simple sole aim of investigating and prosecuting war criminals.³⁴ The Preamble refers to the need to strengthen international cooperation in order to punish “the most serious crimes of concern to the international community as a whole”. This statute is individual-centric; something that is strange to the normative framework of international law generally.³⁵ Simply put, the Court can prosecute individuals who are directly accused of international offences beyond slave trading and piracy.³⁶ What is significant about the ICC is that it was created with the consent of the states who are in fact, already subject to its jurisdiction.³⁷ Therefore, a commitment by states to alter, create or empower an entity or procedure is possible despite persistent objections and controversies by other states³⁸ or groups of states.³⁹ However, that is beside the point.

The point is that the very structure of international law allows for this, provided all the required structures are in place (of which cooperation is the most important). This concept of international legal personality offers a model that can be modified and adopted for animal protection. While this seems like a long shot, it is possible.

This model can be summed up in these sentences:

- 1) Certain international crimes needed to be prosecuted.
- 2) There was no international structure available to prosecute the perpetrators of those crimes effectively.
- 3) Through cooperation, states joined forces to create a structure where that can be possible.
- 4) An individual can now be prosecuted in an international criminal court for the worst crimes known to humanity.

³³ UN Doc. A/CONF.183/9 (1998) reprinted in 37 ILM 999 (1998).

³⁴ For an extensive discussion on the Rome Conference proceedings, see Roy Lee, ‘The Rome Conference and its Contribution to International Law’, in Roy Lee, ed. *The International Criminal Court, The Making of the Rome Statute, Issues, Negotiations, Results*, The Hague: Kluwer Law International 1999 1, 22.

³⁵ Beth Van Schaack and Ronald Slye, *International Criminal Law and Its Enforcement* (Foundation Press 2020) 829.

³⁶ See, *The Inter-American Commission on Human Rights’ Advisory Opinion in Re-Introduction of the Death Penalty in the Peruvian Constitution*, 16

³⁷ William Schabas, *An Introduction to the International Criminal Court*, Cambridge University Press 2017, 47.

³⁸ William A. Schabas, ‘United States Hostility to the International Criminal Court: It’s All About the Security Council’, (2004) 15 *European Journal of International Law* 701.

³⁹ Nsongurua Udombana, ‘Can These Dry Bones Live? In Search of a Lasting Therapy for AU and ICC Toxic Relationship’ (2014) 1(1) *African Journal of International Criminal Justice* 57.

In the animal context, the model can be summed up in these sentences:

- 1) Animal protection needs to be regulated across borders.
- 2) There is no structure for enforcing the obligations owed by states.
- 3) Through cooperation, states joined forces to create a structure where that can be possible.
- 4) Animals can now be effectively protected and states held accountable.

B. International Organizations as the Guardian/Enforcer of Animal Protection

The second general principle suggested to secure a model for the advancement of animal protection is the law on international organizations. In this analysis, a distinction is drawn between the law on international organizations as a subject of international law, and the law of international organizations as an assessment of the regulations of its activities in the international legal system - with an emphasis on the latter. Although often ignored, international organizations are the most important players after states.⁴⁰ Their structure has been a design of states; and their personality is limited to as much as states confer on them.⁴¹ In terms of legal status, international organizations have a special legal status in international law. They are not states yet, they have the capacity to enter into binding legal relations with states and enforce them against states. They can also have binding legal relations between other international organizations and are subjects to which the rules of international law apply. In relation to the first point, the legal structure of international organizations is settled. They are created by an international agreement such as the United Nations Charter and such constituent instrument sets out its powers, functions and membership procedure clearly.⁴²

International organizations and the laws regulating them are important for the proper running of the international system especially based on the principle of state equality. Some of the most important include the United Nations, the International Labor Organization and the World Health Organization. By focusing on the proposed international organization for this model, the WOA, H,

⁴⁰ Stephen McCaffrey, *Understanding International Law* 2nd Edition Lexis Nexis 2015 156.

⁴¹ See generally, Jan Klabbers (ed), *The Cambridge Companion to International Organisations Law* Cambridge University Press 2022)

⁴² C. F. Amerasinghe, *Principles of the Institutional Law of International Organisations*, 2nd ed., Cambridge University Press 2005 447.

this paper offers the argument that the said organization can serve as a guardian for the rights of animals. As introduced earlier, the WOAHA is the central intergovernmental organization vested with the duty of engaging member states on common standards of animal health and welfare promotion. In considering its Strategy for the 2021-2025 cycle,⁴³ some provisions are important in providing an analysis for how the law of international organizations can offer a leeway for a normative animal welfare standard among member states. There are five areas of strategic focus which are scientific expertise, data governance, responding to Members' needs, collaboration with partners and finally, efficiency & agility. This segment focuses on the fourth area of strategic focus, *collaboration with partners*, as a foundational board upon which the general principle of public international law that govern international institutions may be applied to advance legal protection for animals. The goal under the fourth strategic area is “optimizing cooperation with partners to better respond to global challenges.”⁴⁴

There is little discussion on the method with which this goal will be achieved. Nonetheless, it offers valuable insight for animal protection. For example, the document proposes a collaboration with other international organizations including the Food and Agriculture Organization of the United Nations and the World Health

Organization. This alludes to the fact (or opinion) that the collaboration brings “added-value and synergy to addressing One Health challenges” and a proposed extension to include the United Nations Environment Programme (UNEP) in order to ‘take better account of the environmental component’.⁴⁵ The fact that this strategy recognizes that the protection of animal health and welfare is better achieved in collaboration with UNEP further stresses the interdependence of these principles in advancing animal protection internationally. It is no coincidence that the next point discussed is the development of international environmental law.

⁴³ *supra* note 27.

⁴⁴ *ibid* at 16.

⁴⁵ *ibid* at 17.

C. The Response of States to Developments in International Environmental Law

The development of international environmental law was like a boiling, bubbly pot of which the lid suddenly fell. The lid remained closed due to lack of understanding that resulted in lack of concern about the environmental effects of the advancement of technology in its various forms and recent years have demystified these effects.⁴⁶ Based on the two dimensions suggested by Shaw, it elevated from a speculation to urgent action of international concern.⁴⁷ The first dimension of this elevation is that environmental impacts generated from a particular state resulting from domestic activities, often had serious impacts on other states e.g. air pollution or acid rain. Second, it became obvious that states acting individually will not solve those problems⁴⁸ - they needed to collaborate.

In 1968, the General Assembly of the United Nations adopted a resolution⁴⁹ noting that “technological and scientific developments were having a profound impact on the relationship between man and the environment, on the quality of the ecosystem, and on the condition of humankind, and that the international community needed to respond to the challenges posed by such changes.”⁵⁰ The aftermath of this resolution led to the infamous United Nations Conference on the Human Environment (Stockholm Conference) and eventually, the Stockholm Declaration which is regarded as the bedrock of international environmental law.⁵¹ The Stockholm Declaration was adopted by all the members that attended the conference, no disagreements or abstaining parties showing a commitment by member states to tackle the environmental challenges that were plaguing the planet. The aftermath of the conference is important for two reasons. First, that after fifty years, the Declaration has attained a soft law status in international law and has now evolved to an international human right to a clean environment that has been codified in many international legal instruments including the African Charter on Human and Peoples Rights in Article 24.⁵² The

⁴⁶ M Fitzmaurice and D. French, *International Environmental Law and Governance* (The Hague, 2015).

⁴⁷ *supra* note 11 at 739.

⁴⁸ *Ibid* at 740.

⁴⁹ Problems of the Human Environment, G.A. Res. 2398, U.N. GAOR, 23d Sess., Supp. No. 18, U.N. Doc. A/7218 (Dec. 3, 1968).

⁵⁰ Chris Wold, *International Environmental Law Part One*, Fall 2022 Course Material 136.

⁵¹ See generally, Paolo Galizzi, ‘From Stockholm to New York, via Rio and Johannesburg: Has the Environment Lost its Way on the Global Agenda?’ (2005) 29 *Fordham International Law Journal* 952.

⁵² *Providing that ‘all people shall have the right to a general satisfactory environment favorable to their development’.*

second point is that the conference led to the codification of many treaties and a rapid response by states in effecting these principles in municipal jurisdictions.⁵³

When considering the development of international environmental law in relation to soft law, an evaluation of the outcome of the Stockholm Conference suggests possibilities which animal protection advancement can glean from.⁵⁴ The message of the Conference was clear; if the trumpet plays an uncertain sound, who shall prepare for battle?⁵⁵ States needed to prepare and equip themselves for the regime of international environmental law and it all began (mainly) with a conference where the issues were brought to fore and parties deliberated on the principles and came to a conclusion as a matter of urgency. Many of the international environmental law instruments as we know it today are as a direct result of the discussions that states began to have. These discussions eventually led to the establishment of the United Nations Environment Program which now served as the sole institution for the promotion and coordination of the international environmental agenda. Transferring this to the proposed model, the already existing WOAHA would expand its capacity to perform these functions.

Based on traditional principles of state responsibility, a state is only responsible for acts that are directly attributable to it. This means that where the source is unclear as is the case with ozone depletion, states are likely to easily evade liability. In the animal context, how will a state be held accountable for example, for the spread of a pandemic through poor animal welfare standards? It is unlikely that they are willing to be part of treaty that can make that possible, especially where the animal is the subject. The aim of this segment is not to delve into the nitty gritty of the normative principles of international environmental law but rather to view the developments as a whole for animal protection in the global context. Whatever the case is, these three general principles have established that a special status may be attached to animals without the creation of a legal person⁵⁶ in the conventional sense and when states cooperate, they can make laws that suit and regulate their concerns.

⁵³ See generally, M. Dejeant-Pons and M. Pallemarts, *Human Rights and the Environment* (Strasbourg, 2002).

⁵⁴ See generally, P. Sands and J. Peel, *Principles of International Environmental Law* 4th ed Cambridge 2018

⁵⁵ King James Version of the Holy Bible, 1 Corinthians 14:8.

⁵⁶ James Crawford, *Brownlie's Principles of Public International Law*, (Oxford University Press 8th ed., 2012) 118.

III. Time to Let the Dogs Out

A comprehensive assessment by mingling the general principles suggested above depict that if the international community comes to a consensus on the necessity of addressing global animal protection challenges, then, they have the capacity to clothe animals with legal personality strictly for this reason and have an international organization placed as the focal point for the actualization of these goals. While appearing to be chaotic, it is in fact simple and more importantly, possible. Of course, this is fraught with its own challenges. For example, in the situation of the ICC which is heavily dependent on the cooperation of states, some of the permanent members of the United Nations Security Council have still refused to ratify the statute.⁵⁷ Another example is the ‘revolt’ of the African Union to the exercise of its jurisdiction since nearly all of the indictments made by the Pre-Trial Chamber of the ICC originate from Africa.⁵⁸ While these issues reveal the possibility of significant challenges in securing the cooperation of states on animal protection as a matter of international concern, it also offers hope nonetheless. The one-time United Nations Secretary General, Kofi Anan commenting on globalization, termed its form of ‘utterly wishful thinking’⁵⁹ but globalization is the key to solving international problems. There simply is no other way out.

It was Chad McGuire who connected some dots in the evolution of the public morality defense in international trade to suggest recommendations on the development of animal welfare.⁶⁰ This offered fresh insight into animal protection in the international scene in light of the Tuna/Dolphin cases. It is probable that another dispute may emerge in the next decade where an international court has to deliver a judgment, or the General Assembly has to adopt an Advisory Opinion on a

⁵⁷ August 2018 Monthly Forecast, *Security Council Report* available at https://www.securitycouncilreport.org/monthly-forecast/2018-08/in_hindsight_the_security_council_and_the_international_criminal_court.php (accessed April 10, 2023).

⁵⁸ Kamari Maxine Clarke, *Affective Justice: The International Criminal Court and the Pan-Africanist Pushback* (Duke University Press, 2019).

⁵⁹ Kofi Anan, Address: ‘The Politics of Globalization’ Address to Harvard University, *Delivered on September 17, 1998, Cambridge, Massachusetts*.

⁶⁰ Chad J. McGuire, ‘Environmental Law and International Trade: Public Morality as a Tool for Advancing Animal Welfare’ in Randall S. Abate *What Can Animal Law Learn from Environmental Law?* (Environmental Law Institute, 2015) 293-310.

general principle of animal welfare.⁶¹ Ambitions like these are made feasible through universal declarations.⁶² Their non-binding nature, truly global reach and ability to crystallize into hard law over time offer rich soils where global animal protection agendas can take root.⁶⁷ Drawing upon the trend of the Universal Declaration of Human Rights (UDHR)⁶³, we see that it provides a ‘benchmark and a beacon’⁶⁹ that serves as a common standard for all nations with regard to what human rights is. Therefore, states can then enact domestic legislation in respect of the provisions as they did with the two resulting covenants- The International Covenant on Civil and Political Rights (ICCPR)⁶⁴⁶⁵ and the International Covenant on Economic, Social and Cultural Rights (ICESCR).⁶⁶

By analyzing the positive attitude of the international community to the development of international environmental law, it is obvious that attractive prospects exist for an international animal law although “the obligations that follow international consensus on the existence of a right can be hard to establish.”⁷² The same principled arguments which have led to the codification of human rights in international catalogs are also very valid arguments for the codification of animal rights. Firstly, from the perspective of fairness and justice, such rights are incumbent on animals independent of their place of birth and abode, and they are therefore universal. Secondly, international rights would serve as a benchmark for domestic law. International instruments would potentially allow for some monitoring or at least facilitate the formulation of criticism against domestic practices which do not satisfy the international standard. Thirdly, while the main mechanism for enforcing rights in domestic law is a court process where standing for animals

⁶¹ Katie Sykes, “Nations Like Unto Yourselves: An Inquiry Into the Status of a General Principle of International Welfare” (2011) 49 Canadian Yearbook of International Law 3.

⁶² Miah Gibson, ‘The Universal Declaration of Animal Welfare’ (2011) 16(2) Deakin Law Review 539. ⁶⁷

Motunrayo Esan and Bankole Sodipo PhD, ‘Towards a Universal Declaration on Animal Protection’ (2021) 3(1) Carnelian Journal of Law and Politics’ available at:

<https://carnelianjournal.com/wp-content/uploads/2022/04/Sodipo-Esan-CJLP-1.pdf> (accessed Nov. 1, 2022).

⁶³ Universal Declaration of Human Rights 1948, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948). ⁶⁹ Nsongurua Udombana, ‘Mission Accomplished? An Impact Assessment of the UDHR in Africa’ (2008) 30 Journal of Public Law and Policy.

⁶⁴ International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, entry into force Mar.

⁶⁵, 1976, arts. 7 & 9, 99 U.N.T.S. 171.

⁶⁶ International Covenant on Economic, Social and Cultural Rights, adopted Dec. 16, 1966, entry into force Mar. 23, 1976, art. 9, 993 U.N.T.S. 3, 6. ⁷² supra note 62

creates additional problems, international rights are mainly monitored in non-adversarial reporting procedures in which the rights-holders do not act as parties.

Fourthly and most importantly, the endorsement of animal rights only on the national level in some states would probably lead to the outsourcing of the relevant industries. This risk is already present when one state has higher protective standards than others, and it could be exacerbated when one but not all states embrace a rights-based approach to animal protection. In order to prevent a competitive disadvantage of industries subject to higher domestic standards, and in order to forestall a race to the bottom, harmonized universal standards and a level playing field must be sought. Such harmonization is also desirable to accommodate consumers' concerns about the importation of animal products from low-standard countries, and would obviate import prohibitions based on such public morality concerns.

For all these reasons, an intergovernmental universal declaration on animal rights is warranted.⁶⁷ Animal welfare is an issue which awaits global regulation, because it will not be possible to unilaterally implement high domestic animal welfare standards in the face of the threat by notable industries of relocating to production sites with lower animal welfare standards. This constellation calls for global animal law as a branch of international law and as a scholarly discipline.⁶⁸ Nevertheless, it is only a matter of time. Just as states have been able to reach conclusions on specific human rights, we can expect the same to happen for animal protection although at a much slower pace.

Conclusion

The need for global animal protection is not just for animal welfare. It is for human health and sustainable living. The animal protection movement consisting of advocates, attorneys, nonprofits, businesses, religious organizations, educational institutions, and campaign activists has been misjudged by many sects, especially the latter. The situation is the same with other movements –

⁶⁷ Peters, A. (2020). Toward International Animal Rights. In: Peters, A. (eds) *Studies in Global Animal Law. Beiträge zum ausländischen öffentlichen Recht und Völkerrecht*, vol 290. Springer, Berlin, Heidelberg. https://doi.org/10.1007/978-3-662-60756-5_10

⁶⁸ Fraser, D., *Understanding Animal Welfare: The Science in its Cultural Context* (Wiley-Blackwell, 2008)

feminism, child rights, et al. Despite the discrepancies and disagreements that surround such movements, the fundamental underpinnings still remain the same. In this case, that animals need protection and states must begin a discussion on what that might entail. Is it possible to position animals in the international plane in such a way that commands the responsibility of states? This paper answers this question in the affirmative. Public international law is very malleable. The principle of consent and cooperation that it is based on allows for many possibilities – something that is significantly harder in the municipal realm. The general principles analyzed in this paper offer some insight and it is certain that further research and scholarship will expand these possibilities. We can only hope that states, international courts and other stakeholders are able to take the bold step of letting the dogs out because in this case, no one will ask the question of “who?”.