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International Laws for the Protection of Animal Rights and Welfare

MANSI GUPTA¹

ABSTRACT

At present there is no international agreement that ensures the welfare and protection of animals. Animal welfare is not regulated by a single, comprehensive, international law instrument. In other words, there is no international standard that regulates and defines the acceptable treatment of animals. This lack of international consensus leads to the current discordant treatment of animals around the world, echoing the need for an international framework addressing the issue. This article considers the prevailing frameworks in international law that addresses animal welfare in some way, but they in themselves are not able to meet hallmarks of an effective global protection regime, including enforceability and comprehensiveness. This article also discusses about the proposed treaty, The International Convention for the Protection of Animals (ICPA). The treaty would ensure and enable animal welfare issues to gain international protection and recognition of animal rights by settling the general guidelines and policies regarding the treatment and use of animals. It may however be impossible for all countries to pass such a treaty. But the ICPA could make it possible to begin the process of enacting groundbreaking international animal protection.

I. INTRODUCTION

The treatment of animals has been described as ‘the next great social justice movement’ and ‘as a major unresolved problem social justice in the world today’². One of the main reasons for this ‘unresolved problem’ is a poorly developed international regime of legal protection for animal and their welfare. Even those countries where animal welfare laws are in place, the law may be heavily qualified, providing protection in some settings and not in others. Like, federal jurisdiction, as United States and Australia, may have state based regulations which may vary across country. Until now, the issue of the care and wellbeing of the non human inhabitants in this planet has no equivalent international focal point. Due to human needs, ignorance, greediness and vanity, untold number of animals throughout suffer and die on a daily basis.

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² Weisbrot, 2013

Though there are people who are working day and night to reduce this toll, a more visible and efficient but a universal standard is needed. While animal welfare is increasingly protected in domestic jurisdiction, animal rights are still hardly recognized, although they would serve animals better. Animal rights needs to be universalized in order to deploy effects in global setting.

In the around the world, the demand for animal protection naturally increases as the level of development increases. Animal welfare concerns also amass more attention as people recognizes the link between animal health and animal welfare and human well-being. One of the biggest challenge that most of them faced was how to increase food animal production while simultaneously ensuring the best animal welfare and protection of food security, balancing them was quiet difficult. See animal welfare is not a new subject for regulation in most developed nations and it owes it to the sophisticated consumer base and greater exposure to animal welfare issues. To date, countries wishing to update their existing veterinary legal frameworks have had little comprehensive guidance on the options for regulating animal welfare.

Disregard for animal welfare often lead to poor animal health, increased susceptibility of animal populations to disease and injury and poor quality and animal products. Animal welfare is intrinsically related to other government concerns such as public health, food safety and long term economic development.

Some countries have adopted serious and stringent laws for dealing with animal welfare issues. Some have welfare laws but inadequate enforcement resources or political will to carry out their laws. Some countries have neither enacted meaningful laws nor expressed any legitimate interest in dealing with animal issues. At present time there is no international animal welfare standard by which to judge the legislative efforts within one country. A number of international instruments directly address animals, but they mostly focus on their preservation, trade rather than focusing on their welfare and treatment. In such an environment the adoption of International Convention for the Protection of Animals (ICPA) can be one important legal and political tool in the process of progress for animals. With this convention, there will be an accepted standard, which immediately accessible to all the nation states, organizations, and individuals anywhere in the world. The World Animal Health Organization (OIE) which has in recent years enlarged its spheres of policy concern from animal health to include the distant area of animal welfare.

II. TRENDS TOWARDS ANIMAL WELFARE

Over the last 60 years there has been a dramatic increase in agricultural productivity, due to general advances in agricultural and veterinary science, nutrition and disease, specific improvements in genetics³. There has been implacable move to intensive systems of production, especially in densely populated areas like- Europe, Asia and North America in particular, especially with pigs, poultry and beef cattle. More extensive systems of production continue to be practiced in Africa, Australia, New Zealand and South America, for grazing species, and there has been a strong public opinion and perception that more extensive management systems are synonymous with a better welfare system. There is an unfortunate tendency to underestimate the importance of animal health in relation to animal welfare.

If we take out one of the most populous continent in the world which Asia, animals whether as pets, food production, as work animals, strays and wild animals are found in large numbers⁴. Food producing animals are an important source of protein and other essential minerals and many countries are giving emphasis and priorities to feed their people. Poor feeding of animals results in the animals being in poor condition and lowered productivity. Animals are marked cruelly for the purpose of identification and when they are ready for the markets they are usually transported in cages or vessels which often cramped and suffocated. Poultry die from suffocation; many times they break their legs while being moved to Lorries, which clearly shows this the result of poor handling of animals in slaughterhouses.

Stray animals also pose a huge threat and problems for animals. Often they die in accidents. In India, it is estimated that there are 30 million stray dogs roaming the streets. This problem mainly arises due to poor understanding of animal ownership and responsibility. Cruelty in wildlife happens when they are used for entertainment purposes. They are beaten and harmed to perform various tasks like riding on elephants, swimming with a captive wild animal, holding and hugging wild animals. Wildlife is poached and hurt to sell their body parts for supposedly medicinal values and as trophy.

The council of Europe has played a key role in developing standards for Europe and which are taken note of internationally. These standards are based on both scientific evidence and practical experiences and evidences which also emphasizes on the importance of the relationship between animal health and animal welfare. It is helpful to have basic guidelines and rules to refer to when making decisions that may impact on animal welfare. Probably the

³ <https://citeseerx.ist.psu.edu/> - (Visited on May 2nd, 2021)

⁴ <https://www.fondation-droit-animal.org/> - (Visited on May 4th, 2021)

most widely utilized set of guidelines is the Five Freedoms (Farm Animal Welfare Council 1993). These states that for an animal's welfare not to be compromised it have: Freedom from thirst, hunger and malnutrition, freedom from discomfort; Freedom from pain, injury and disease; Freedom to express normal behavior; and finally, Freedom from fear and distress. Although slight modifications are made to these basic freedoms, however they generally serve as a set of goals towards which animal owners and handlers should strive and abide by them. The prevention and control of disease in all species makes a major contribution to animal welfare and veterinarians, in general, and the OIE, in particular, plays a vital role in this regard. As a compliment to the five freedoms, 12 criteria for the assessment of animal welfare have been identified by the Welfare Quality Project (WQP), a research partnership between Europe and Latin America funded by the European Commission, which aims at a standardized system for assessing animal welfare. Because of these criteria, may eventually underpin an integrated and standardized animal welfare labeling system for European Consumers.

III. IMPORTANT INTERNATIONAL LAWS

Historically, the cornerstone of international law was the treaty. Sovereign states controlled the world, its people, commerce, information and military. Creation of rules by treaty became the international rules of conduct between nations. While treaties do not dictate how a nation state decides whether to become a member of a treaty, they do have a process by which a nation state formally acknowledges the decision of ratification to their countries. As an example to a multi-lateral treaty that the United States promoted internationally is the Convention on International Trade in Endangered and Wild Fauna. But it is also important to understand here that some international instruments are not treaties. Like declarations are not treaties, they are merely being public statements about something but they are binding.

World Organization for Animals (OIE)

Also known as the Office International des Epizooties (OIE) realized that animal welfare must be given importance as it is crucial for the wellbeing of animals which indirectly relates to the wellbeing of humans too. So animal welfare was recognized as a priority in the 3rd OIE Strategic Plan. The OIE guiding principles on animal welfare is based on the universally recognized "Five Freedoms", which has been discussed earlier. The OIE animal welfare standards are science based standards which are agreed globally currently by 180 member countries. Animal welfare as defined in Article 7.1.1 of the OIE Terrestrial Animal Health Code means how an animal is coping with the conditions it lives in. An animal is in a good state of welfare if it is healthy, comfortable, and well nourished, safe, able to express innate

behavior and not suffering from any pain, fear and distress. A good animal welfare requires disease prevention and appropriate veterinary treatment, shelter, management and nutrition. Animal welfare refers to the state of the animal; the treatment the animal receives such as animal care, animal husbandry and humane treatment. Some of the guidelines setting the standards are given below-

1. In cases of transportation of animals by land, sea and air, standards were laid down regarding the responsibilities, competence, on planning of the journey, documentation required, pre-journey period, loading, the travel, unloading and post-journey handling, actions in the event of refusal to travel and species-specific issues.
2. In Article 7.7.1 of the OIE Terrestrial Animal Health Code, it is stated that the need to ensure welfare of food animals during pre-slaughter and slaughter processes until they are dead in the slaughter houses. Animals which are slaughtered outside of slaughterhouses should be managed to ensure their transport, lair age, restraint and slaughter is carried out without causing undue stress on the animals.
3. It is important that the strays (stray dogs) are controlled to ensure that they do not pose any human and animal health issues and specially diseases like rabies. In controlling the population, unnecessary animal suffering should be avoided. Different control measures can be employed to control strays.
4. Standards were set for the use of animals in research and education, that it should be based on a set of requirements to ensure welfare. The regulatory framework must be in place with an oversight committee to scrutinize the need for the animals for research and ensuring if animals are used according to the guidelines which are universally acceptable.
5. For the killing of animals for disease control purposes, it laid down that killing for animals in a disease or emergency situation require that the welfare of the animals be given due consideration with respect to the handling, restraining and employing the appropriate method of killing.

The OIE can establish a dispute resolution process where an OIE member alleges breach of standards on the part of another member. However the whole process is voluntary. The OIE guidelines may exert influence through international trade, but it needs to be understood within the context of the trade rules of the World Trade Organization.

But OIE was built around Universal Declaration on Animal Welfare (UDAW). This campaign for animal welfare of the UDAW by the United Nations (UN) is being led by the World Society for the Protection of Animals (WSPA). Here they have endorsed over 330 animal welfare

groups, over 1 million benevolent individuals and many supportive government including Cambodia, Fiji, New Zealand, Palau, Switzerland. WSPA's agenda is ambitious, seeking a global approach to animal protection, and global recognition that animals also matter, that they can feel pain and suffer and we all have a responsibility to put an end to cruelty around the world.

Regional Animal Welfare Strategy for Asia, the Far East and Oceania (RAWS)

In addressing the issues of implementing OIE standards with respect to animal welfare is focused effort was undertaken and the RAWS was conceptualized in 2008. Since then, the RAWS implementation plan was developed and eventually got approved in 2009. The first meeting as RAWS coordination Group (RAWS CG) meeting was held in April 2011, in which Australia, New Zealand, Malaysia, China, Korea, Thailand, Indonesia and Bhutan were the members. Also the Australian Department of Agriculture, Fisheries and Forestry (DAFF) has supported the activities that were undertaken by RAWS CG.

There vision being, 'A region where the welfare of animals are respected, promoted and incrementally advanced, simultaneously with the pursuit of progress and socioeconomic development'. The factors driving the region's approach to improving animal welfare is based on science, values, ethics, culture, education and awareness, economics and livelihood, research and development and regional and international developments. The functions of the RAWS CG are:

1. To provide strategic advice and guidance to OIE through the Regional Commission to Asia, the Far East and Oceania on the further development and implementation of the RAWS.
2. To review the performance of the RAWS, to enable the assessment of improvements in animal welfare in the region.
3. To identify issues/new research/scientific knowledge of relevance to the RAWS and to seek independent scientific advice as necessary.

The objects are:

1. Promotion and achievement of a high level of understanding and awareness of animal welfare in the region through effective coordination, communication, education and training.
2. To promote ownership of the strategy by all member countries of the region.
3. To improve attitudes, skills and knowledge of all animal careers and handlers, with initial on farm animals.
4. To facilitate the development or improvement of legislation within member countries.

5. To obtain high level support for the implementation of the strategy in each member country in the region.

6. To explore opportunities for the dissemination and use of research outcomes from regional OIE collaborating centers.

All people who have animals in their care have a responsibility to ensure that they have adequate knowledge, training and skills to protect the welfare of animals. More specifically the following groups, organizations and institutions will play an important role in the implementation of the strategy:

(a) member countries; (b) animal industry groups; (c) animal welfare NGOs, for example WSPA; (d) academic and educational institutions; (e) national and regional veterinary associations, example FAVA

Universal Declaration on Animal Welfare

In the most recent years, number of NGOs under the leadership of the World Society for the Protection of Animals (WSPA) have advocated that the United Nations elaborate and adopt a Universal Declaration on Animal Welfare (UDAW). A global petition launched to support the UDAW initiative had acquired over 2.2 million signatures by September 2010. According to established principles of international law, the UDAW would not be binding although it would represent a consensus among states regarding animal welfare and would be considered customary international law.

In 2003, the Government of the Philippines presented and introduced an intergovernmental conference which produced a draft declaration agreeing on four principles that would form the basis for UDAW. These four principles are-

1. The welfare of animals should be a common objective for all states.
2. The standards of animal welfare attained by each shall be promoted, recognized and observed by improved measure, nationally and internationally.
3. All appropriate steps shall be taken by states to prevent cruelty to animals and to reduce their sufferings.
4. Appropriate standards on animal welfare shall be developed and elaborated on such topics as the use and management of farm animals, companion animals, animals in scientific research, draught animals, wild animals and animals used for recreation.

The international committee also considered that UDAW would 'complement and promote the world of the OIE, and facilitate global acceptance of OIE standards and their application at a

national, regional and global level'. The OIE is actively encouraging the participation of member governments as well as globally recognized animal welfare organizations in the development and adoption of UDAW.

Apart from this there are initiatives taken by the selected countries for animal welfare, some are-

Malaysia

Historically, there has been a proper written law on animal care since 15th century as in the Malacca Code and Pahang Code. Modern law on animal care has been enforced since 5th December 1910 which was known as the Enactment for the Prevention of Cruelty to Animals, 1910. Malaysia had banned bull and cock fighting since 1953. Meanwhile state enactments were introduced. All these legislations were consolidated into the Animal Act 1953 aimed for the prevention of cruelty to animals. Malaysia has taken firm steps to improve animal welfare. But Malaysia needs to inculcate a culture of caring and concern for animal welfare, like any other developed countries in line with the vision of attaining developed nation.

The National Animal Welfare Strategic Plan (NAWSP) was launched during the 3rd OIE Global Conference on Animal Welfare in 2012. It strives to execute international animal welfare framework for each sector, ensures a comprehensive and constituent approach to various aspects of animal welfare to be implemented in an integrated manner, and determines that the animal welfare needs are met by those responsible for it is bases on science, societal culture, values and religious obligations, ensures transparent and impartial information on animal welfare is accessible and sufficient, and ensures the governance of national animal welfare is carried out efficiently and effectively.

Switzerland

Switzerland is said to be the country which has the strictest animal laws. It became the first country with a provision to protect animals' dignity, also it is a leader in improving the living and working conditions of animals. In 1992 Switzerland was the first country to constitutionally recognize animals, with a provision warranting the protection of the dignity of the creature. Activities that are deemed degrading to the dignity of the animals are forbidden here by law. The Swiss Ordinance on the Protection of Animals of 2008 was enacted and its laws became some of the strictest laws in the world. The Swiss Government also recognizes some animals as social animals and orders them to be kept in pairs. Stopping a dog from barking is also considered illegal here and pet owners are required to attend classes to learn to take care of their pets. Pet owners are not allowed to crop the tails of dogs, not use sandpaper to line the

bottom of a bird cage; puppies may not be separated from their mother before they are 56 days old.

South Korea

South Korea has always shown a commitment towards improving animal welfare. It introduced the Animal Welfare Strategy which outlines the various activities planned to be implemented. The Animal Welfare Act is in place to regulate animal welfare while the Korean Animal Welfare Advisory Committee functions to address animal welfare concerns and provide solutions to the issues.

Awareness of animal welfare was given emphasis and the government engaged famous singers and actors as ambassadors for animal welfare. This has become an important tool in the circulation of animal welfare concerns. Apart from these other initiatives taken by the country includes, the training of various stakeholders, and providing certification for farms which promote animal welfare. This certification will result in animal products carrying good animal welfare labels as certified by the government and being priced higher and receive a premium and this strategy has proven to be effective. The government has introduced the national registration for companion animals in order to deal with the problem of strays and owners abandoning their pets.

IV. CONCLUSION

Animal welfare is a complex, multi-faceted public policy issues which includes important ethical, economic and political dimensions. There is a real concern, in some quarters, that its recognition as an international trade policy issue is sought for ‘trade protectionism’, rather than ‘animal protection’ reasons. To encourage compliance with animal welfare standards, governments at times have established policies to go beyond direct regulation. But more initiatives, efforts, programs and activities are required to achieve this end. Some countries require assisting in funding, some on technical expertise and others on proper guidance and mentoring. A strategic approach underpinned by science based policy and standards and an incremental approach to animal welfare change management helps, however, to directly address such concerns. The need for international leadership in respect of animal welfare policy and standards has been evident for some time and is likely to be an expanding more role for the OIE in the decades ahead.

There is a significant increase in interest in animal welfare at University under-graduate level and the establishment of Animal Welfare Chairs in Universities in Canada, the USA, the EU and New Zealand and Australia over the last few decades, has provided academic and research

direction to this interest. The strategies should include improving communication, education and training, upgrading skills and knowledge, improvement in legislation, obtaining high-level support, sustainable improvements on animal welfare, cooperation with NGOs, international organizations and key trading partners. These strategies must be shared through each country's OIE Animal Welfare Focal Points so that the implementation of animal welfare standards can be enhanced. Progresses in the area of animal welfare will, of course, be a case of 'evolution not revolution' based on the principle of incremental change management. It is vitally important that all such changes be science based and validated, be implemented over realistic time frames and take account of economic and cultural factors.

There are two ways in which animals can gain greater legal status. Firstly, when the animals are granted a legal status greater than property through legislation. Secondly, when animals are given protection through laws that are created primarily for their protection. Germany leads the way with an expressed duty to protect animals premising their animal legislations. Switzerland and Norway imply duty when they make animal welfare the guiding reason for their animal legislations. For the companion animals, few states have established anti-cruelty laws mainly for the owner, not the animal itself. Civil suits are entirely for the benefit of the benefit of the owner of the animal.

The EU is taking huge steps to improve the animal welfare conditions on the farm and in route to slaughter houses. Currently, there are several directives that will soon become active barring cruel and inhuman practices. The most notable are the bans on sow stalls, veal crates and battery cages. The United States has fallen behind the EU and other European Governments on improving animal welfare on the farm. One of the major problems in The U.S. plaguing the animal welfare system is a lack of enforcement. Regulations governing humane slaughter for example exist to protect the welfare of the animal and the quality of the product. When they are violated no action is taken, companies continue to violate them.

Most countries are on the right pathway to achieve the level of animal welfare currently practiced in the developed nations.
