



”For Whose Sake and Benefit?”

A Critical Analysis of Leading International Treaty Proposals to Protect
Nonhuman Animals”

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Methology of the analysis

- critical, legal analysis of two draft treaties to identify:
 - the impact on nonhuman animals
 - how human groups are affected by their consequences

I. Analysis of the preambular language

(Q): Are Animals direct beneficiaries?

II. Analysis of the operative clauses

2 problematic dynamics of the principle of „unnecessary“ suffering

1. Prioritizing anthropocentric interests
2. Promotion of „western ways“ of using animals

III. How can a progressive treaty succeed at advancing human and non-human interests in tandem?

Why This Topic Matters

Today's Legal Vacuum

No binding treaty recognizes:

- animal sentience
- a prohibition on cruelty
- a duty of humane treatment
- fundamental rights for animals

Existing Instruments Fall Short

CITES / GATT protect:

- species, not individuals
- biodiversity, not welfare
- trade interests, not intrinsic value

Meanwhile growing concerns:

- industrial animal farming
- animal experimentation
- climate change
- zoonotic diseases

CAP

= **C**onvention on **A**nimal **P**rotection for Public Health, Animal Well-Beeing and the Environment

- April 4. 1998: ICPA
- revision + reformulation = CAP: 2021 – response to Covid-19 pandemic
- By a team of practicing lawyers and legal academics specialized in international law and animal law
- Nov. 16. 2022: second draft

UNCAHP

= **U**nited **N**ations **C**onvention on **A**nimal **H**ealth and **P**rotection

- GAL published draft in 2018:
„To increase in the worldwide level of animal protection through the pillars of legislation, law enforcement and education in national and global animal law“



“Why has no state officially signed their name to, nor taken steps to ratify, any of the proposed treaties?”

-Blattner & Tselepy-

Traditional goals of international law

International law traditionally seeks to:

- Maintain global peace and security
- Secure social progress through economic and social development
- Protect human rights
- Facilitate international cooperation



Usually understood in an anthropocentric sense

= securing the needs of humans with little to no regards for peace, security, safety for animals

Humans = beneficiaries of international norms and principles

Animals = instruments to advance anthropocentric goals

Animals = potential beneficiaries?

Problem I: Consent-based nature of international law

- International law depends on the consent of states
 - States only join and comply with treaties if its in their own interest
- = strong global animal protection is difficult
- Formulating and pitching international treaties to protect animals:

Balance between anthropocentric vs distinct concerns about and for animals

„we must protect for our own benefit“

vs.

„we owe animals more as a matter of justice“

Animals = potencial beneficiaries

Problem II: divergent views of nations

- roughly 200 nations have divergent views on:
 - Whether animals should be protected?
 - Who should be responsible for protection?
 - The appropriate level of protection
 - The situations in which protection should apply

States with high protection: „lax treaty is counterproductive“

States with low standards: might hesitate agreeing to higher standards

Part I: Titles And Preambles

- the importance of framing the purpose of international treaties -

Comparing the titles

CAP

= Convention on **A**nimal
Protection for **P**ublic **H**ealth,
Animal Well-Beeing and the
Environment

- Anthropocentric reasons to
protect animals

UNCAHP

= **U**nited **N**ations **C**onvention on
Animal **H**ealth and **P**rotection

- Mainly concerned with
protecting animals and their
health

Importance of preambles

Preambular provisions do not have binding legal effects above and beyond the treaty text BUT:

- They are of political relevance and offer cues about the policy rationales behind a treaty
- They are relevant to define its object and purpose - one of the primary methods of treaty interpretation.

Art. 31 (1) of the Vienna convention on the Law of Treaties

Art. 31 – General rule of interpretation of the Vienna Convention on the Law of Treaties

“1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

Comparison of the preambles

CAP

three-tiered approach

Public health + Environment + Animal welfare

= animal protection is not an isolated objective, its one goal among others

- Preambular clauses 2,3 contain important animal-centered elements
- „individual animals, as sentient beings, have intrinsic value ...“
- „interactions with and uses of animals and their supporting eco systems often fail to account for and protect the well-being of animals“

BUT: predominant emphasis of the preamble lies on benefits humans derive from protecting animals (ex.: prevention of zoonotic diseases)

„the proper treatment and protection of animals and their supporting eco systems positively impact public health, ... and cultural and economic development...”

UNCAHP

- Some anthropocentric elements: notes that „concern for animal health, welfare and protection are rising around the world”; „health and welfare of humans and animals are interdependent“

Apart from that: primary concern is with animals

- „the interests and needs of nonhuman animals are to be fully considered in every field of human endeavour“
- Recalls „UN-Mandate for a peaceful world, which is not limited to human beings but must be extended to all nonhuman individual animals“

Article 3: animals are „sentient beings possessing intrinsic value“

Meaning: „ animals should be considered as individual sentient beings, having proper value in themselves, notwithstanding their instrumental value for human beings“

CAP

(+) current political and public health reality
– sensible and balanced

(-) Treaty leaves no opportunity untapped
to emphasize the benefits for humans

(-) allows the traditional use of animals to
continue

Problem: Accepting the fact that we use
animals as we please as legal could be
counterproductive

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(+) primary concern is with animals

(-) Animal cruelty is not fully prohibited, but
only cruelty that is considered avoidable
= weakens protection

(Q): What is avoidable?

The „strategic argument“ – and its risk

Strategic argument: Start with a lower, more politically acceptable standard – gradually improve it over time via future protocols.

The Risk:

- Future protocols may never materialize
 - The treaty then mainly formalizes the current, exploitative status quo
- = progressive in principle, reinforcing in practice

Part II: operative clauses

- A critique of anthropocentric language and the embedded “use paradigm”-

Promises

Both treaties promise to inaugurate a new international scheme uniquely useful for nonhuman animals

UNCAHP: claims that the treaty is “a unique initiative to globally protect animals“

CAP: promises that CAP will be „the first umbrella treaty to advance the interests of animals on the international stage“

General principles

UNCAHP

- Animals have fundamental interest to live but limited: „not to be killed unnecessarily“ / „unnecessary suffering“
- The Parties' duty to “take appropriate measures to end avoidable cruelty toward animals and promote compassionate and humane treatment“
- „not to be confined or contained unnecessarily“

CAP

- „No animals should be subjected to cruel acts or unnecessary suffering“

**The key word in both:
“unnecessary”**

The Necessity Test

Promise

Necessity demands that the least restrictive and least harmful means are used to achieve a certain purpose or goal.

= if there is a choice between several suitable measures, then the least onerous measure must be chosen

Example:

Goal = feeding people

We can only use animals' bodies to do so if there are no other alternatives

In Practice

In practice it is rare to find legislators or courts applying the necessity test in this unbiased manner.

Why?:

- Humans decide on the necessity of animal suffering
- Consequence: subordination of animal protection to human use
- Problem of „interest convergence“(Ani Satz):
The privileged protect the disadvantaged only when their interests align.

The „Use Paradigm“

Common categories:

- Farm animals
- Research animals
- Zoo animals
- Companion animals

Criticism: These categories define animals according to their usefulness to humans

Example: When legislators establish rights for „research animals“, this term anchors that being used for research is the only purpose these animals may have.

Treaty language: CAP & UNCAHP

- UNCAHP: aims to better protect „companion animals, farm animals, laboratory animals, wild animals ...“
- CAP: difference between „wild animals“ and „animals under human control“
= use for human purpose is at the center of concern = only „reason to be“ is to be used by humans for a purpose

Problem: language of the draft treaties is intended towards lifting subordinate characterizations, while also seeing that they are still characterized in subordinate terms – still CAP and UNCAHP claim to bring about a paradigm change

Postcolonial Critique

- Colonial legacies in international law
- Western Norms shape animal welfare standards
- Double standards in defining „necessary suffering“
- Disproportionate criticism of non-Western practices
- Risk of reproducing neo-colonial hierarchies

Main Concern: international animal law reflects Western values

Questions:

- Who defines cruelty?
- Who defines necessity?
- Are cultural differences respected?

Example

Case: Australian Live Exports

- 2011: footage showed cattle abused before slaughter in Indonesian abattoirs = nationwide outrage
- Debate centered on protecting „our“ Australian animals
- Australia's own slaughterhouses: neither discussed nor criticized

The Pattern:

- Minority/non-Western practices condemned: Ritual slaughter, dog meat, seal-hunting
- Majority practices explicitly exempted: US „GAAMP's“ shield standard farming from cruelty review

Art. 7 – CAP – Progress, but not enough

Article 7 (2nd draft, newly added)

„Whenever consideration is being given to ... measures that may affect the values, practices, institutions, ways of life, local food sources, or economic development of Indigenous peoples or local communities, Contracting Parties shall consult those affected groups ... regarding the most collaborative and respectful ways to implement this Convention“

Authors' Critique: Three Gaps

- Too narrow – omits other groups historically marginalized by biased animal laws
- No guarantee consultation leads to real normative change, not just performative statements
- „most collaborative and respectful ways“ is undefined – whose interests should prevail when conflicts arise?

Part III: Conclusion

Conclusion

- Crafting an international treaty that does justice to the interests of animals and at the same time meets with universal approval is challenging

I. Preambles:

- draft treaties draw attention to the many uses of nonhuman animals for human purposes

Problem: Implies that animals are there to serve humans = merely replicates and perpetuates the current political reality for animals

II. Operative clauses

- Abundantly using the term of „unnecessary suffering“ without acknowledging the limits and weaknesses

Problem: this principle has been established in most countries – and animals are still being exploited,
= these treaties risk legitimating systematic practices of animal exploitation, while maintaining the illusion of taking animals interests into account

III. Treaties overlook the racist, gendered, classist, and other discriminatory aspects inherent in the principle of „unnecessary suffering“

Experimentation, breeding, raising, slaughtering vs. ritual slaughter, live-animal markets, seal hunts

„necessary“ vs. „uncivilized“

Blattner's and Tselepy's view on what a progressive treaty requires

1. Cover routine harm, not just extremes

Bring the ordinary practices that harm animals within the treaty's scope

2. Affirm, don't just limit

Promote a positive vision of human-animal relations, not merely a ceiling on cruelty

3. Name the interconnections

Specisism, racism, sexism & ableism all rely on exclusion and coercion

4. Empower marginalized voices

Meaningfully include affected groups in both process and outcome

My conclusion: CAP

Strengths:

- Politically more realistic and likely to attract broader support
- Connects animal protection with public health and environmental concerns
- Could serve as a first step toward international cooperation

Weaknesses:

- Remains strongly anthropocentric
- Focuses heavily on benefits for humans rather than animals themselves
- Risks legitimizing existing practises instead of challenging them

My conclusion: UNCAHP

Strengths:

- More explicitly recognizes animals as sentient beings with intrinsic value
- Animals' interests are at the center of the treaty
- Represents a more progressive vision of international animal law

Weaknesses:

- Still relies on concepts like „avoidable cruelty“/“unnecessary“ harm
- Ambitious language is not always matched by strong legal obligations
- May face greater political resistance and lower chances of ratification

Overall Opinion

Question

Would any of the proposals make a practical difference for the lives of animals if they were signed and ratified?

Thank you for listening