

Analysis of the Concept and Nature of Legal Framework for Animal Welfare Protection in Nigeria

1.0 *Abstract

Animal Welfare Protection is receiving a global concern and attention. This concern has increased awareness on the need to address this area in international law and from there promote it to the regional level and national domains. The concern to protect animal rights and welfare has become an emerging thought prescribing humane treatment for animals of different categories all over the world, including farm animals, companion animals, wild animals, captive animals and laboratory animals etc. The movement and struggle for animal rights protection has raised consciousness over some issues in animal welfare touching on sheltering, cruelty; improved feeding and others. Much as it is understood that efforts are being made at international level by United Nations and other concerned groups like "PETA" (People for the Ethical Treatment of Animals) and "FARM" (Farm Animal Reform Movement) Mobilization for Animals ("MFA") for an international instrument promoting animal welfare. It is critical to state that at present, there is practically no legal frame work effectively protecting and promoting animal welfare in Nigeria. This paper therefore reviews the existing laws on animal welfare in Nigeria for the purposes of determining the extent of protection they offer if any for protection of animal rights and welfare. The study will also find out the challenges facing the implementation of animal welfare protection laws in Nigeria and find out, if there is any advocacy for animal rights and welfare protection in the country. The paper seeks to discover the responsibilities of the government of Nigeria, the non - governmental organizations and civil society groups in Nigeria towards the promotion of animal welfare in Nigeria. Finally, the paper will make recommendations on the best way forward to present an effective legal framework in Nigeria that will ensure a safe animal welfare protection and guarantee a strong animal rights advocacy initiative in Nigeria.

Keywords: Animal, Welfare, Protection, and Advocacy;

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1. Introduction:

There is growing concern at global level for the protection of animal welfare. Efforts are not only made by States on their own but much of it are being powered and pioneered by regional bodies and international organizations such as nongovernmental animal welfare movements. In this respect, the efforts of the government and people of United States is also appreciated. Apart from this, the campaign by the Council of Europe, the United Nations and bodies like the People for the Ethical Treatment of Animals (PETA); Farm Animal Reform Movement (FARM) and the Mobilization for Animals (MFA) (which are all US based organizations) are recognized.

Although; the above effort is a progressive movement for the promotion of Animal Welfare Protection and Advocacy at the international level. It seems in our opinion that Nigeria and indeed Africa is missing in action as the situation on ground shows clearly that little or no effort has been made or is being made in our domain to guarantee animal welfare protection.

In Nigeria, cruelty against all kinds of animals in our considered opinion knows no boundary and is prevalent amongst all categories of people - women, men and even children. Thus, in Nigeria and most African states, cruelty against animals of different species and categories has become a daily and regular occurrence, most particularly, to domestic animals that ought to be seen as friends and some kind of "Pets" like cats, dogs, birds, goats, and others. We all are living witnesses to this.

The level of advocacy for animal welfare protection in Nigeria and other African states is still so low and hence, there is still lack of awareness and consciousness among their citizens about animal rights. Unlike, the level of awareness about human rights protection which has been strengthened in the exant national laws as well as regional instruments and international treaties and documents, little or nothing is known about animal welfare and as a result, there is no interest and no government support, initiative or scheme as well as viable policy or policies directed towards progressive promotion of animal welfare protection in Nigeria.

It is observed that though there may have been provisions of some laws in Nigeria prohibiting cruelty against animals, our candid view is that such

legislative enactment prescribing rules against animal cruelty are not sufficient and do not effectively guarantee the protection expected¹. The world is moving fast and the emerging trend is for an international instrument, treaty or convention to guarantee effective and efficient protection of animal welfare. This initiative must not end at International sphere, but must be reciprocated and given a solid root and base in municipal laws of states². Nigeria is not exempted.

It is evident that considering the importance attached to Animal Welfare Protection at the global perspective, there is need to develop the concepts and guidelines that will give birth to the study of Animal law, Animal welfare and Advocacy in Nigeria and in doing this, government must lead and play a pivotal role that is capable of arousing support from all stakeholders including lawyers, environmental activists, agriculturists and corporate organizations to create enough synergy for a great success of this all important movement in our country. To this end, all hands must be on deck: researchers, faculty of laws of Nigerian Universities and civil society groups must be ready to work with each another and have international linkages as well as peer review schemes and initiatives that will put together a solid foundation for Animal welfare protection and advocacy in Nigeria.

2(i) Key words

In an attempt to ensure a sound - understanding of this paper, it will be necessary to explain and define the following key words which are central and fundamental in this discussion. These words include:

- (i) Protection
- (ii) Animal
- (iii) Welfare
- (iv) Advocacy

Primarily, the essence of keywords and their explanation is to give meaning to the concept, since, if not properly explained, the issue discussed can be misinterpreted, leading to misunderstanding of the argument made as well as line of thought which obviously affects the reasoning canvassed. A Conceptual explanation is thus a prerequisite in an intellectual discourse especially in the area of law.

1. Section 495 of the Criminal Code LFN 1990. This section prohibits cruelty against animals like beating, kicking, overloading of animals on transit, infuriating or terrifying an animal or as owner permitting the acts aforesaid to happen.

2. David S. Favre "A quest for International Treaty For Animal Welfare" Michigan State University

2(ii) Protection

Cambridge Advanced Learners Dictionary defines the word 'protection' interalia to mean:

"The act of protecting or state of being protected"³. It is clear from the above definition that protection means state of being protected. By extension, protection means and include acts done primarily to ensure or guarantee the safety or security of a thing including human beings or animals or things. In legal science, protection refers to a process or procedure which provides safeguard or rescue to a thing, a person and even to things other than human beings like animals⁴. With respect to welfare; the word protection means the state of protecting animal species including the endangered species and others as case may be. The rationale for the protection given to the animals is founded on the fact that they can easily be physically attacked and may also be influenced one way or the other in the environment which may lead to their suffering.

The nature of these animals create the need for their protection and in most cases, absence of protection can easily lead to the extinction of certain species or groups of these animals. The cultural values and orientations about animals also determine the type of protection given to them in different communities. Thus, in Africa where there is a relative thinking about certain animals by communities, the love or hatred for such animals depends on the perception and value orientation attached to it by the people. The love or hatred determines the level of protection of such animals and justifies how willing or not the people are to promote the rights of such animals and their welfare. In some Nigerian communities especially, among the Ibos; there is relative love for certain animals and hatred for others and this orientation forms major basis at that rural setting for the protection afforded such animals. It is not the same way snakes are perceived in one community that they are seen in other areas. The same thing is the case about other animals like cats, rabbits, monkeys, snails and other categories of animals.⁵ The importance, love or hatred demonstrated for these animals by communities may be for reasons of their historical relevance to these communities and so on and so forth. All in all, what protection for animal welfare is all about is a promotion of an idea based on a common ideological thought based on a consensus for a decent treatment for animals to guarantee their health, safety and care.

3. College of Law <http://digitalcommons.law.msu.edu/fac/pubs> Cambridge Advanced Learners Dictionary, Third Edition, <http://www.protection.com> (accessed 2011/2015)

4. E. E. Bake Williams, "Dictionary of wildlife" Los Angeles, Res Pact Press Ltd, 1930.

5. A. U. Abonyi "Comments on the need for Animal Welfare protection in Nigeria" at the Animal Rights seminar for selected secondary schools at Nnewi, by Basic Human Rights Initiative Nig, Nnewi held at Sound Mind int. Schools, Nnewi between 16th - 17th February 2015.

2 (iii) Animal:

The Oxford Advanced Learners Dictionary of Current English defines the word 'animal' to mean and include all creatures that live and move but are not human beings⁶. From the meaning above, the word animal in this respect does not include human beings, but include all other things that move and live like birds, fish and others which may be domestic or wild etc. Human beings are widely recognized as higher and superior animals. However, for the purposes of this study, this group is not included in our meaning of animals for proper understanding of the concept. Animals relate to or take the form of, an animal or animals rather than a plant or human beings. This means that plants are also excluded in the meaning of animals and this is notwithstanding that plants by simple elementary science definition are regarded and described as living things. Thus, in our candid opinion, to talk of animal life, is an indication that there is in existence a group or groups of animals at a particular place or area or environment. Without animal life or existence of animal species, there will be no basis for animal welfare protection.

(2iv) Welfare:

The Oxford Advanced Learners Dictionary of Current English defines welfare as help given or rendered to improve happiness or health⁷. More often than not, welfare is used with reference to help given in form of financial support to a government or by a government to promote certain benefits. However; welfare when used in respect of animals other than human beings, refers to assistance and help given to promote care, health, happiness and decent treatment of animals⁸.

(2v) Advocacy:

The Webster Dictionary defined advocacy to mean giving public support to something or to a scheme or initiative. It further defined advocacy to mean and include creating awareness or consciousness for an idea or concept so as to bring it to limelight and public knowledge or domain⁹. Oxford Advanced Learners English Dictionary defined the term advocacy to mean the act of giving public support to an idea, a course of action or a belief^{10(a)}. From the above, it is imperative to observe that advocacy implies a deliberate effort made to give public support for an

6. A. S. Hornby "Oxford Advanced Learners Dictionary of Current English London, Oxford University, Press Ltd. 1998.

7. Ibid

8. Ibid (as in no 5b)

9. Webster Dictionary Revised Edition, (London, Pintax Press Ltd, London), 1998.

10a. A. S. Hornby "Oxford Advanced Learners Dictionary, London, Oxford University Press Ltd, page 23, Panag A. (2) New 8th Edition.

idea or a course or a movement. It means to advance and promote a course or movement or struggle so that consciousness and awareness about such a course or movement can be effectively generated.

On the issue of protecting animal welfare; it is a movement committed and intended to mobilize public support for decent treatment for animals and by this, reduce or even wipe out cruelty against all categories of animals. Advocacy for animal welfare protection also embraces campaign targeted at persuading the government and her agencies and other institutional bodies to initiate and implement broad based policies for animal population capable of promoting their health and safety from the cruel and harsh practices of the people. Advocacy thus, is the key for a healthy animal welfare protection movement and should be supported by all and sundry.^{10b}

3. Classifying Animals for Purposes of Protection Under the Law

The movement for the recognition and protection of animal rights dates back to 1975 when Alex Hershaft attended the World Vegetarian Congress in Ohio which held to the formation a year after of Vegetarian Information Service (VIS)¹¹. The body was an initiative intended to distribute information on the benefits of a vegetarian diet. Similar conferences were organized in the Pennsylvania and participants in these conferences were influenced by Peter Singer's 1975 treatise "Animal Liberation" Argument was made that the conferences should be expanded to include animal rights. Accordingly; in 1981, Hershaft organized Action for life, at Cedar Crest Town College in Allentown, which effectively launched US animal right movement including People For Ethical Treatment of Animals (PETA), the Fann Animal Reform Movement (FARM), and the Mobilization for Animals (MFA)¹². The promotion of animal rights has been boosted by the pioneer activists like Cleveland Amory, Ingrid New Kirk, Alex Pachelo, Peter Singer, Henry Spira, Hershaft, Gretchen Wyler as well as Thorn Hartmann¹³. The above pioneer activists have promoted conferences for animal rights and in 1982, there was one in San Francisco, then in Montclair in 1983, Washington in 1984, LOS Angeles in 1985, Chicago (1986) and Cambridge 1987. In 1991, FARM organized a decade of Animal Conference in Washington DC. Since, then, the effort has not stopped and

10b A.O Ajuluchukwu, General Comments on Animal Welfare Protection at Animal Rights Forum organized by Basic Human Rights Initiative (BHRI) Nnewi, held at Abubor hall, Nnewi on 5/11/2015.

11. Norm Phelps; "The longest Struggle", Lantern Books, United States, 2007, p 274

12. "1983 Mobilization For Animals" (Primate Research Retrieved) 20/11/2015

13. Ibid.

in 2004, FARM organized such conferences both in Los Angeles and Washington DC respectively. Indeed; there is now Animal Rights Hall of Fame instituted in 2000 in which authors, law teachers, leaders and other key agents of change in US have become members like Carol J. Adams, and some of the earlier listed animal rights pioneers¹⁴.

Indeed, from the above conferences, it is evident in firm view, that effort has been made to make a classification of animals for the purposes of their protection. Some of those classes are:

1. Domestic Animals
2. Wild Animals
3. Farm Animals
4. Transportation Animals
5. Companion Animals (Pet Animals)
6. Entertainment/Recreation Animals
7. Medicinal/Laboratory Animals
8. Captive Animals

- (i) **Domestic Animals:** This species refers to animals that live and move around at home while with their owners. Usually, they are allowed to move freely in the compound with little or no restriction unless where such movement can endanger other living things like plants or crops which belong to the owner or to other persons¹⁵. Examples of this species include goat, dog, cat etc. Their movement may also be restricted where the animals may injure themselves.
- (ii) **Wild Animals:** They live and move around in thick forests and are usually hunted for food and for other economic use and benefits. wild animals are usually and most often violent in their disposition and are not often friendly as they are hostile¹⁶. Good example of wild animals are lion, leopard, bear, tiger, zebra, rabbit, grasscutter etc.
- (iii) **Farm Animals:** This category or class of animals facilitate agricultural activities and assist in agricultural production¹⁷. Some farm animals are donkeys and so on.
- (iv) **Transportation Animals:** This class of animals boost transport especially, in harsh and hot climate regions like northern hemispheres. They assist movement and transportation in hot

14. Ibid

15. Fann Animal Reform Movement Conference Document, No 122/144, Washington DC 2002t

16. Ibid

17. Ibid

areas and zones, including the deserts. Examples are camels, Donkeys etc¹⁸.

- (v) **Companion Animals (Pet Animals):** This refers to animals which are seen as friends and pets to their owners. They live and move around the owner's house with little or no restriction. Companion animals include cats, dogs, English rat, birds etc¹⁹.
- (vi) **Entertainment Animals:** This class of animals is also known and called the recreation animals. They are used for entertainment and recreation and include such animals like horses and others used for sports²⁰.
- (vii) **Medicine/laboratory Animals:** These are animals that are of medicinal value and contain some valuable tissues used as drugs for cure of certain diseases. Some animals in this category also facilitate scientific and laboratory experimentation and other scientific research. Examples of these animals are insects, bees and some reptiles like snakes etc²¹. Honey is obtained from bees and has potential medical value. Bees have high economic value. Some farmers specialize in bee farming.
- (8) **Captive Animals:** They are animals kept in captivity. They are caught kept and held in at a confined place. Sometimes wild animals are caught and kept at a place where their movements are restrained e.g. fish, birds, some reptiles are captive animals²².

It is clear from the above, that the classification is flexible and not rigid hence an animal can be a pet animal (companion and still be classified as domestic animal, the same way, transportation animals can still be classified in the class of farm animals.

4. Some Provisions of the Laws Relating to Animal Welfare Protection in Nigeria

Our view, is that, though provisions exist in our laws promoting animal welfare: little or nothing is known till date in Nigeria about the emerging global mobilization for animal welfare protection. Notwithstanding the above, it will be necessary to review provisions of laws if any in Nigeria that advance animal welfare protection. The first aspect of this review will be in respect of laws against causing animal suffering and cruelty. In this regards, Section 495 of the Nigerian Criminal Code is instructive. It will be proper for effective understanding of the foregoing section to quote the

18 Ibid
19 Ibid
20 Ibid
21 Ibid
22 Ibid

provisions of section 495 (1) thus:

(1) Any person who:

(a) Cruelly beats, kicks, ill-treat, over-rides, overloads, tortures, infuriates terrifies any animal or causes or procures or being the owner permits any animal to be used.

Or

(b) by want only or unreasonably doing or omitting to do any act or causing or procuring the commission or omission of any act causes any unnecessary suffering or being the owner, permits any unnecessary suffering to be caused to any animal and other acts contained under subsections (I) c-f, shall be liable for a crime²³.

From the above section of the Criminal Code, cruelty to animals which is capable of causing their suffering is prohibited. This include among others acts of beating, kicking, overloading, infuriating or terrifying the animals (495(1)a), unreasonable doing of any act that causes suffering to animals by the owner or the owner permitting the act (495(1) (b) etc. The section also prohibits transporting animals in a manner capable of causing their suffering, subsection (c), administration of poison operations performed without due care and actions associated with animal fighting. It is our candid view, that though the above provisions are good to check unnecessary suffering of animals, the provisions it seems is sufficient for prohibition of acts of cruelty to domestic animals as it includes offences of failure to act.

The section provides exceptions for acts done in the course of slaughter for food, except where there is the infliction of unnecessary suffering before the slaughter and for the captive animals; unless it was liberated in an injured, mutilated or exhausted condition. It must be noted that Section 495 of the law reviewed, applies to all domestic animals and captive animals' including birds, fish and reptiles. Thus, Section 495 does not apply to wild animals until they are captured and confined.

Offences created under sections 450 and 456 of the Criminal Code prohibit willfully and unlawful killing or maiming or wounding any animal "capable of being stolen" with greater penalties for more species of animal and willfully spreading infectious diseases among animals.

A look at the above section will show that there is to an extent, the

23. Section 495(1) (a-f) Criminal code, cap 77 LFN 1990. See also section 495 (i) (d) of Criminal code etc

recognition of animal welfare and the importance of prohibiting animal cruelty by the law. However, nothing is in the law to show that wild animals are covered by this provision. Our view, is that, though the protection does not expressly cover wild animals, they are still protected by the application, since protection is afforded to wild animals by the section once captured or confined. Again, the legislation is not applicable to hunting of any captive animals unless such animals are liberated when they have been injured (thus, they enjoy protection as a result of the injury) or, mutilated or is exhausted. In any of the above situations, they will be protected.

Specifically, there is a legislation or provision protecting animals used in farming in Nigeria though partially applied.²⁴ Sections 450, 456 and 495 of the Criminal Code apply to animals used in farming. However, there is no specific reference to animals used in farming in the law and animals slaughtered for food are excluded from protection under section 4 of the law except where there is unnecessary suffering. It is our view, that what may amount to unnecessary suffering to animal being slaughtered may be a difficult task to construe and may be seen differently by different persons.

The Animal Diseases (Control Act) which aims to control and prevent the introduction and spread of infections and contagious diseases among animals in Nigeria contains requirements for transportation of animals including farm animals. These provisions apply to control of disease rather than animal welfare but do include the requirement that during transportation of animals for purposes of slaughter, the journey may not exceed thirty kilometers²⁵. There is also a requirement that in the transport of animals for trade by road or rail, the person in charge must stop and feed, give the animals water and rest the animals every twelve hours²⁶. The Act permits adequate ventilation for the animals transported²⁷ as well as the one requiring loading ramps to reduce injury to the animals.²⁸

It is important to note that most of the provisions in the Animal Diseases Control Act above reviewed concerns the welfare of these animals than the issue of disease control. However, it is imperative to appreciate that no proper discussion over the provisions of disease control can be made without taking cognizance of the welfare of the animals. Thus, the Animal

24. Asiru Ekpenela, "Animal Cruelty: An Enigma in Nigeria" <http://www.ekpene.welfareanimalrights.com.ng> (accessed 16/8/2015)

25. Section 12(6) of Animal Disease Control Act 2004

26. Section 12(7) of Animal Diseases Control Act 2004

27. Section 12(8) of the Act (supra)

28. Section 12(9) of the Act (supra)

Diseases Control Act by every standards made provisions which concerns the welfare of farm and transport animals especially on the issue of humane treatment to the animals. The general provisions of Sections 450, 456 and 495 of the Criminal Code also apply to animals in captivity. Notwithstanding this, there is a legislation specifically covering the welfare of captive animals, which is the Wild Animals (Captive Animals) Regulations Act which prohibits the keeping of certain protected species of wild animals in captivity without a license.²⁹ The Regulations broadly made reference to welfare by requiring the license holders to make adequate provisions for the health and welfare of captive protected animals. A look at this legislation shows that it did not make provisions relating to the housing and handling both during capture and husbandry of these animals to ensure their welfare in zoos or other places or with individuals with licenses.

As for companion animals, the general anti-cruelty provisions of sections 450 456 and 495 of Criminal Code 1990 also apply to this species of animals. Thus, by the said general provisions under the code, it is a criminal offence to cause suffering to an animal and for an animal owner, it is a criminal for him to permit such suffering to be caused to any animal. In addition to this, the inclusion of neglect to prevent the suffering of an animal is a progressive provision not only to recognize the right but to check the different forms of animal abuse. Any provision in any law or enactment about preventing suffering to animal or checking neglect to cause suffering is a dynamic provision which is obviously important towards promoting animal welfare protection³⁰. In our view, these provisions are important steps in raising awareness and by this make the welfare and protection of companion animals a mainstream concern of the society.

A review of the laws in Nigeria as it is present on animal protection will show that it made provision over cruelty against animals (companion animals) without issues faced by companion animals such as provisions on food and shelter and human management of stray populations. This in our fair view is worrisome and it does appear that government is not prepared to invest her resources on this (human and financial) important area.

Entertainment animals are among the animals that the general provisions

29. Wild Animals (Captive Animals) Regulations, 1975 (England)

30. FARM Document (Farm Animal Reform Movement) 2005 No 121/vol 2

against cruelty under the Criminal Code apply³¹. The provision as it relates to overriding and overloading under Section 495 of the Criminal Code is relevant to draught and entertainment animals. Animal fighting and baiting is banned under Section 495 and this restricts the use of animals for recreation. Apart from the general anti-cruelty Provision under the code, there is no legislation now in Nigeria in our view promoting welfare of animals properly speaking.

Welfare issues expectedly should be for all animals and none should be excluded. However, the anti cruelty provisions under Section 495 of criminal Code does not apply to wild animals unless they have been captured or confined. Section 450 and 456 of the Criminal Code, which prohibit unlawful killing as well as poisoning apply only to animals that are capable of being stolen and wild animals in the enjoyment of their own natural liberty are not covered by the provisions^{32(a)}.

It is important to observe that the Endangered Species Act focuses on protection and management of Nigeria's wild life^{32(b)}. Specifically, vulnerable and endangered species are protected under the Act. Thus, hunting, capture or trading in an animal species that may become threatened with extinction is prohibited. Hunting, capture or trading in vulnerable species that may become so threatened unless trade is controlled is prohibited except where there is a valid licence³³. All the same, by the Act, reviewed, no person shall trade in vulnerable species if export/import of the animal is detrimental to its survival. The animals must be in such a manner and way that will minimize the risk of injury, damage to transportation, health, cruel treatment and death.³⁴

The Wild Life Regulation Law made provisions for the protection of certain listed and protected species and for the establishment of game reserves with restriction on the use of certain hunting methods. The law and its provision apply to wild animals and prohibit the use of bait, poison or explosives for hunting of any animal other than pests, to use net, fence or pit to capture any wild animal other than fish, or pests or to use or sell any trap(s) other than those prescribed for control of" pests, to hunt or capture animals except fish at night, to hunt as a group of more than five people or to hunt animals from vehicles or aircraft (other than wild fowl and crocodiles which can be hunted from small craft. Wild animals are not

31. Section 450, 456 and 495 of Criminal code cap 77 LFN 1990

32(a). Section 382 of Criminal code cap 77 LFN 1990

32(b). Endangered species Act Cap E9 LFN 2004

33. Asiru Ekpene "comments on Wild Life and Endangered Species" <http://www.asiruekpene.articleswildlife.com> ngr.org accessed 20/2/2015

34. Section 33 and 34 of Wild Life Regulations Law, 1963.

protected under the general provisions against cruelty under the criminal Code³⁵. Such cruelty include beating, kicking, ill treatment, overriding, over-driving, over loading, torturing, infuriating or terrifying as well as unlawful killing, maiming or wounding etc. The implication is that because wild animals are not protected against the above acts, can be extended to them without restriction. There is, therefore the need to extend this legislation to ensure the protection of wild animals as well as domestic and captive animals.

From the foregoing, it is evident that provisions exist in Nigeria, prescribing rules against cruelty against animals of different categories. However, it is also that more progressive welfare provisions are not yet in place. Thus, it can be concluded that the emerging global idea of animals welfare protections and advocacy is still low in Nigeria.

5 Animal Welfare Protection and the Concern of International Law
International law has demonstrated a strong commitment in addressing many areas of concern to the society. The aspect of animal welfare has received and is still receiving attention in international law. Animal welfare protection is an emerging universal concern which needs to be addressed in international law.³⁶ At the beginning of the 21st Century, animal welfare protection was at the front burner, internationally. As a growing concern in the international society, it is now desirable to reach a universally agreed basis to regulate International relations on this subject and address issues not yet resolved³⁷. In order to address the above and to remedy unsustainable insecurity in International Law, a global instrument is essential to provide proper guidance for animal welfare protection on a uniform harmonized basis. The absence of such instrument and frame work on animals welfare protection appears to be a serious gap in international law³⁸. Therefore, the international community should address the subject while taking into account its inherent desirability. Instead of disagreement, the world must come together and agree on common points and converging elements put forward in order to bring all member states together towards a universal conception of animal welfare protection in International Law³⁹.

The United Nations as an international organization has made

35. Section 495 and 450 of Criminal Code Cap 77 LFN, 1990

36. Sab Bres, International Environmental law, Doctorate student in law (specialized on Animal Welfare protection in International law, Vanier, Canada, Laval University contact: Sabine.rels.1@ulaval.ca

37. A.B. Therman and S. Babcock "Animal welfare and International Trade" Bayvel A CD, 2005, pp 747

38. Austen M. and T. Richards "Basic Legal Documents on International animal welfare and wildlife conservation" Eluwer Law International 2000o pg 1

39. Ibid (as in no 36)

concerted and spirited efforts to promote animal welfare protection. It has worked in partnership and collaboration with NGOs and other animal rights movements to design a template for the protection of animal welfare globally. The United Nations (UN) Conference on sustainable Development held at Rio between 20th-22nd June, 2012 addressed animal welfare protection through sustainable consumption and production goals⁴⁰. A declaration on this subject was adopted by the UN General Assembly during the conference aforesaid and stressed the need to safeguard animal welfare and conserve biodiversity for future generations.

At present, there is a proposition for a Universal Declaration on Animal Welfare which is made by governments and non-governmental organization for adoption by the United Nations General Assembly as a means of improving welfare of animals⁴¹. At first, it states as a fundamental precept that animals are sentient beings and their welfare should be respected⁴². From Article 1 of the proposed instrument, animals are recognized as "beings" not human and should be respected. The proposed document demonstrates its progressive spirit to protect animal welfare and defines it as a positive state of well being of animals (both physical and psychological) and free from suffering⁴³. States and government are also urged and enjoined to make policies and legislation and see to their implementation in respect of animal welfare⁴⁴.

As at the time animal welfare protection started receiving international concern, what was observed to be of importance was to determine its dimensions in the international legal system. For this purpose, it appears that domestic law seems to provide a consistent solid and operational basis. Common ground can be found in the general provisions of these national laws and constitutions, where obligations for humane treatment and care as well as interdictions of cruelty and ill-treatment against animals are stated. A good example is the anti-cruelty provisions under sections 450, 456 and 495 of Criminal Code in Nigeria.

No fewer than 65 countries in the 5 continents have stringent provisions aimed at protecting animal welfare in their domains⁴⁵. Nigeria is included among the African countries as is evident in our Criminal Code. Animal welfare protection is a common principle shared by many legal systems in the world. Therefore, nothing in our view prevents the

40 UN Documents No 1145/voll/2012, Rio, 20-22nd June 2013 <http://mcgsd2012.org>.
41 Sabine Bres "Animal Welfare Protection: A Universal Concern to be addressed in International Law" Sabine.com.org
42 Article of the proposed Universal Declaration on Animal welfare
43 Article 2 of the proposed Universal Declaration on Animal welfare
44 Article 5 of the proposed Universal Declaration on Animal welfare
45 Animal Welfare protection laws concern, 12 Countries in American Continent, 10 in Africa, 9 in ASIA, 2* in Europe <http://www.animalwelfareinfo.nonus.articlebrelsabine2012p13>

international community from considering its integration into international law not only as a non-binding principle but as a more reliable one from a legal perspective.

Since the concept to respect living beings is present in every culture and religion in the world, protection of animals could be recognized as a universal ethical principle. With evidence of animal welfare protection, seeing its root in domestic laws, this can constitute a decisive argument for its incorporation, as a new general principle in International Law.⁴⁶

Although, the animal welfare appeared recently in international instruments: most of them are international environmental law instruments which cannot be considered as a principle in International Law because of the absence of either established customs or international treaties directly related to it⁴⁷. However, some international environmental law instruments indirectly refer to some welfare issues, for example the World Charter for Nature, and International Convention for the Regulation of whaling and the Convention on International Trade on Endangered Species of Wild Fauna and Flora⁴⁸. Most of these instruments focus on health issues and if taken, may cause problems in the international community as other key welfare issues like housing husbandry and cruel treatment may not be highlighted.

Therefore, a support for the Universal Declaration on Animal Welfare (UDAW) is a proposed formal international acknowledgment of a set of principles giving animal welfare due recognition among government and international community⁴⁹. Indeed our view is that a support for Universal Declaration on Animal Welfare is a demonstration of a government commitment to working with the international community to improve animals' life.

6 Animal Welfare Protection in Nigeria Prospects and Challenges.

It is evident that animal welfare protection is an emerging concept in the global community. This is why, till today, there is still no international instrument for protection of animal welfare that has been adopted by the General Assembly of United Nation as a Universal document prescribed for states, principles of animals welfare protection to be integrated into the mainstream of International Law. Happily, Nigeria is among the states in African continent that has its domestic law provisions relating to animal welfare. However, findings show that most

46. Ibid
47 Ibid
48 Ibid
49. Ibid

of the provisions of our laws relates to cruelty and inhuman treatment against animals which cause their suffering.⁵⁰ Apart from the Criminal Code; the Animal Diseases Control Acts of 2004, the Wild Animal (Captive Animals) Regulations, 1975, the Endangered Species Act, Cap E9 LFN 2004, have little or no provisions strictly on welfare issues. There is no other law specifically made to promote animal welfare protection. Thus: in Nigeria, there is no legal framework, particularly, made to promote animal welfare as the mainstream provision of the law to cover issues like cruelty against animals, humane treatment to them, their health, housing, husbandry, protection on transit and protection against poisoning etc.

Looking at Nigeria, there are viable prospects for animal welfare protection and advocacy. This is informed by the fact that the existence of some of the laws earlier mentioned provides the foundation and benchmark towards a broad based culture of animal welfare struggle in Nigeria, which will create consciousness and mobilization for principles and best practices for eventual animal welfare regime. The greatest challenges faced by animal welfare protection in Nigeria at present is that apart from the absence of a law to reflect true animal welfare, the sanctions provided in our view, for acts against animals that causes their sufferings in the existing laws are not only outdated, but low and can even encourage repetition of the acts. The punishment for animal cruelty contained in the general provisions of the Criminal Code under section 450, 456 and 495 ranges from six months' imprisonment on conviction and/or a fine of fifty naira or both and some other times N100 (one hundred naira) and there about. Under the provisions of Animal Diseases Control Act of 2004, the fine is N100 or thirty days for first offenders and subsequent offenders get penalty of fine not exceeding N100 and 2 months. This is, in our view, not acceptable. It should also be noted that one of the challenges of Animal Welfare Protection in Nigeria is that most of these laws in existence does not provide a viable enforcement mechanism procedure. There is indeed no specific government agency entrusted with the enforcement of the animal welfare laws. This, indeed, has made data collection of information relating to animal abuses difficult in Nigeria. The lack of responsible authority implementing the existing Act as a serious barrier in our considered view for improving and promoting animal welfare in Nigeria.

Finally, the apparent lack of general concern, awareness,

⁵⁰ See General provisions on Anti-cruelty" under sections 450, 456, and 495 of CC cap 77 LFN

consciousness and advocacy for animal welfare presents by no small means a challenge to the concept of animal welfare in Nigeria.

7 Conclusion and Recommendations

(a) Conclusion

Animal welfare protection is an emerging global concept prescribing common principles to provide rules on a consensus of common thought, a humane treatment to animals all over the world. Nigeria cannot be left out in this important global initiative. Indeed, Nigeria has demonstrated commitment towards animal welfare protection for being one of the members of United Nations that already have laws consistent with the idea of animal welfare protection. However limited. There is no evidence that there is a law now in Nigeria strictly and mainly devoted for animal welfare, at best what we have are laws making general provisions against animal cruelty. There is also absence of enforcement mechanism and implementing authority hence it can be said that the advocacy level on animal welfare in Nigeria is still low. There is however prospects for progress.

(b) Recommendation

In our view, the following should be done to boost animal welfare protection in Nigeria.

- 1) A legal framework should be put in place by Nigeria, specifically, on animal welfare issues. The Federal government must work with National Assembly to achieve this.
- 2) Existing laws should be amended to bring them in line with the modern society.
- 3) Enforcement mechanism/implementing authorities should be set up to bring the laws in line with the modern society.
- 4) Advocacy efforts should be made through seminars, conferences, forums, and summits on animal welfare and should be organized and supported by government and other donor agencies, to bring to limelight the issue of animal welfare in Nigeria.
- 5) Academic peer review groups in our Universities must immediately start work towards addressing the issue of animal welfare in Nigeria. These groups must be funded by government and her agencies like Tertiary Education Fund (TET Fund) as part

of its mandate in Research development in our tertiary institutions. In this respect, law faculties of Nigerian Universities should be ready to encourage their academic staff who demonstrate desire to embark on research in this important area of our national life.

The National University Commission (NUC) should, as a matter of urgency work with law faculties in Nigeria to develop a curriculum that will give birth to the teaching of Animal Welfare Law in Nigerian Universities.