Global Animal Law and the Problem of “Globabble”: Toward Decoloniality and Diversity in Global Animal Law Studies

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Abstract
Global animal law has emerged as a new legal subdiscipline and area of study following the widespread proliferation of animal law and animal law studies across the globe. However, there remains confusion as to what exactly global animal law is. Early global animal law studies are also entrenching norms that facilitate coloniality and neglect intersecting oppressions. In response, this article proposes a conception of global animal law based in global law metatheory and second wave animal ethics. This article critically analyses instances of “globabble” within global animal law, where global-speak has masked ethnocentric, western influence, and bias. This article recommends diversifying and decolonizing global animal law, relabelling some such work as western/European perspectives on animals and international law. It also recommends focusing on deep, critical, and radical animal justice in lieu of welfarism or rights-based theory. The article argues this could inspire a more interconnected, post-Westphalian, multilateral global animal lawscape.

Keyword: Environmental Law; Animal Law; Global Law; Global Law Theory; Posthumanism; Global Animal Law

The proliferation of animal law has inspired a recent movement to recognize and realize global animal law as a new legal subdiscipline and area of study. However, there remains confusion as to what exactly global animal law is. Additionally, global animal law scholarship and legal developments have fostered coloniality and ethnocentricty, falling short of ensuring equality, diversity, and inclusion. There remains untapped potential to explore diverse, interconnected, and post-Westphalian multilateralism to create a better vision of a future global animal lawscape. This article will argue that these shortcomings within global animal law are due to an insufficient reflection upon global animal law’s theoretical and normative underpinnings.

I. Introducing the Animal Question to the Study of Global Law

The objectives of this article are: to retrofit global animal law with some proposed theoretical and normative insights; and then to apply these insights by critically appraising the scholarship, practice, and legal proposals that have emerged within global animal law’s
early years. This introductory section will expand upon these objectives by outlining: global animal law’s emergence; the theoretical and normative insights I wish to retrofit into global animal law; and the problems I have observed within global animal law scholarship, practice and legal proposals which could be improved through this retrofitting.

A. Introducing Global Animal Law

While global animal law remains in its infancy as an academic subdiscipline, broader animal law is now described as a rather “sophisticated discipline”\(^1\) and as having “arrived” as a “field” of study in at least some jurisdictions.\(^2\) The United States (US) in particular has over 150 law school courses on animal law.\(^3\) Globally, there are now various animal law clinics, conferences, journals, and publications. These developments are a response to the fact that law governing animals’ lives has historically served to establish human dominion over animals: a stream in the “river of injustice”.\(^4\) Animals typically fall on the wrong side of the “most fundamental classification in law”: the person/property divide.\(^5\) Animals’ legal status as property is a dismissive and destructive falsity which permits dominion\(^6\) (dominion), which lies at the heart of the law governing animals’ lives.\(^7\) This property status was spread by colonizers from the west to the rest of the world through seventeenth century animal theft crimes which were used to assert colonial power, and through the inundation of European animals onto ex-colonies as a “pretext for conquest”.\(^8\)

In this context, the emergence of animal law (studies) presents an opportunity to move toward meaningful legal protection of animals’ interests. I conceptualize animal law as “law for animals” in contrast to a commonly used wider conceptualization of animal law which regards animal law as law about animals, and animal welfare law or animal protection law as a mere subset which exists for animals.\(^9\) I believe this wider conceptualization is anthropocentric because it allows for the realm of animal law to include law that normalizes the ownership of animals and the prioritization of the owners’ interests over that of the animals.

Following decades of animal law practice and scholarship, the term “global animal law” emerged in the 2010s. The publication of an Oxford Handbook in Global Animal Law, scheduled for 2022, could be taken as a milestone signifying its full materialization as a

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\(^{1}\) TAUBER Steven C., Navigating the Jungle: Law, Politics, and the Animal Advocacy Movement (New York: Routledge, 2016) at 20.


legal subdiscipline. However, animal law scholarship has had a global dimension for decades. It has included comparative studies, campaigns for international law instruments, regional initiatives, non-governmental international standards, and a flourishing global transfer of legal knowledge and norms.\textsuperscript{10}

Despite the maturation of global animal law scholarship, its leading scholars and experts describe it in a way that neglects the distinct conceptual meaning of “global law” explored in section III. I believe this conceptual formulation to stem in part from a reliance upon what I term “first wave animal ethics”. I will explain both statements here, explaining that this article’s core contribution to knowledge is its proposal to improve global animal law through the incorporation of global law metatheory and “second wave animal ethics”. Once this proposal is made, this article will go on to apply these theoretical and normative insights by critically analysing the normative themes emerging in the early years of global animal law practice and scholarship. This practice and scholarship include: the practices of global animal law organizations and research centres; the publication of key global animal law collections and arrangement of conferences; and proposals for development of international law instruments on animal law. I will assess the normative themes emerging in this lawscape\textsuperscript{11} in order to argue that the theoretical and normative insights outlined in section III of this article are mostly neglected. I will argue that this has and will limit the claims to justness and effectiveness of global animal law scholarship and practice.

**B. Introducing Global Law Metatheory**

Global law metatheory consists of academic jurisprudential thought which presents theory to underpin the practice of global law. Global law is law that tracks with globalization and it exists because of the “interconnectedness” of everything, including “global humanity and intervention”.\textsuperscript{12} The description of global law outlined in this article focuses on three core components: it is connective (giving legal quality to the transfer of legal norms), future-oriented (giving legal quality to pre-positive legal developments), and post-Westphalian (focusing on more than just the international law state-centric legal order).\textsuperscript{13}

In contrast to this, some animal law experts conflate global animal law with international law, and others treat it as equivalent to a universally applied international law.\textsuperscript{14} Most operate within global animal law spaces without appearing to reflect upon what this means at all. Troublingly, when global animal law work is not “global” in the

\textsuperscript{10} See exploration in section IV.

\textsuperscript{11} For an exploration of the relationship between law and space, as gestured toward by the phrase “lawscape”, see PHILIPPOPOULOS-MIHALOPOULOS Andreas, *Spatial Justice: Body, Lawscapes, Atmosphere* (New York: Routledge, 2015).


\textsuperscript{13} See section III.

sense I described, it can be regarded as “globabble”. Globabble, a term coined by William Twining, refers to instances where global-speak actually masks ethnocentric, western influence, and bias.

Global law should allow space for contextual and specific law which builds from the ground up. This article will demonstrate that, while many developments in more top-down kinds of international law contribute towards a global type of animal law – as both the “precursor” and “platform” – they do not constitute all of global animal law, nor are they synonymous with it. Global law can be found in a wide range of spaces. International instruments, national law, industry standards, and even academic legal proposals can all be regarded as a global kind of law. Recognising this allows much more space for marginal actors, including Global South actors particularly, to have significant impact on global animal law’s development. By overfocusing on universally applicable international law, global animal lawyers neglect the decolonising potential of global animal law. This article will explore how global animal law practice and scholarship has left space for coloniality and ethnocentricity, arguing that this could be resolved through the application of global law metatheory and second wave animal ethics. Before turning to the question of animal ethics, I will set out briefly why I refer to coloniality over alternative terms like neocolonialism.

Neocolonialism focuses on the period of time following colonization and instances where ex-colonies are made to be dependent upon ex-colonial powers, and subject to their indirect rule. In contrast, coloniality is conceptualized by Latin American scholars as a “matrix of power in the modern world” reflecting the way the world order has been shaped by colonialism. Coloniality entails perpetuation of the “relationship between the European – also called ‘western’ – culture, and the others” as one of “colonial domination” in which western culture is coded “paradigmatic” and others destroyed. This accurately depicts patterns that have occurred within internationally scaled animal activism, whereby non-western practices of animal consumption are coded barbaric whilst harmful western practices like factory farming are not similarly coded within the same activist activities. Globalized, legislative patterns are being used to entrench this power matrix and the destruction of non-western culture. Coloniality is also associated with its antithesis, decoloniality, which aspires beyond “surviv[al]” to the “creat[ion] of an-other world”. This is much more ambitious than simply tackling neocolonialism where it can be seen to arise. Decoloniality is essential to effective and ethical (global) animal law, from the perspective of second wave animal ethics. This article will support deep integration of decoloniality within emerging global animal law through incorporation of Third World Approaches to International Law (TWAIL) and relevant insights from second wave animal ethics.

18 Ibid., at 76.
21 Maldonado-Torres, supra note 17 at 76.
22 See below at section III.B.
C. Introducing Second Wave Animal Ethics

I turn now to the question of animal ethics. The content of animal law and related legal scholarship, insofar as they rely upon and grow out of ethical insights, tend to reference or utilize what I term “first wave animal ethics”. First wave animal ethics encompasses heavyweights of the animal liberation movement including Peter Singer, Tom Regan, and Gary Francione.23 The first wave focuses primarily on concepts of animal welfare and animal rights. The ethical systems within the first wave can be characterized by their use of arguments based on rationality and liberal individualism to justify including animals within the circle of moral concern. The circle of moral concern marks the boundary line between those we consider ethically considerable and those we do not consider in this way. First wave theories tend to make this in/out determination based on similarities that animals have with humans which are attributed moral significance, such as cognitive ability, self-consciousness, or sentience.24 They also tend to regard individual contexts as irrelevant to these determinations, preferring a universally applicable system of ethics.

A first wave-inspired welfarist model of animal protection has become entrenched in animal law in the west, and increasingly in Africa, Asia, and South America.25 The hallmarks of welfarist animal law are incremental reform26 and a utilitarian balancing of animal and human interests focused on the principle of “unnecessary suffering”.27 This entrenches human superiority in law, treating the use or instrumentalization of animals as unproblematic28 and leaving the question of animal suffering to the whims of the courts.29 This is regarded by many as a step in the right direction because it at least resists violence against animals and welfarism vocabularies can help to describe new animal issues that arise.30 However, entrenching the welfarist model into legal systems across the globe has introduced a number of limitations to animal law. These include a neglect of wild animal welfare,31 a neglect of city-dwelling wild animals,32 and the freedom to kill healthy animals for no reason.33
The welfarist model is being challenged by new animal rights litigation and literature. Animal rights law may lead to more significant improvements in the treatment of animals compared to the welfarist model. Second wave animal ethics is another alternative approach which tends to align more with insights from critical animal ethics. Second wave animal ethics is a porous category, encompassing critical approaches and alternatives to the welfarist and rights-based approaches which have dominated the legal theory utilised by most animal law experts. Contributors to second wave animal ethics could be regarded as stemming from posthumanism (Rosi Braidotti), critical environmental ethics (Val Plumwood), feminist animal ethics (Josephine Donovan), critical race theory (Aph and Syl Ko), and more.

Second wave thinking tends to entail: a commitment to indistinction between the socially constructed categories of human and animal; an ambition to promote and safeguard flourishing, as well as protecting against suffering; favouring Other-facing ethics rather than a constrained circle of moral concern that is unconcerned with Others that fall outside the circle; a commitment to care, entailing deep listening and embracing connection, in place of liberal individualism; and a situated and intersectional approach to solving ethical dilemmas as opposed to a reliance upon universal imperatives. Elements of these second wave trends will be elaborated and made clearer as they become relevant throughout this article, though it is not necessary to elaborate upon all of this here.

Second wave animal ethics has been afforded less attention in the legal literature than first wave animal ethics. Yet, as this article will demonstrate, second wave animal ethics contains particularly significant ideas for the contexts of international and global law. For example, critical approaches within second wave animal ethics favour reflexivity, transparency, and responses to the intersectionality of various oppressions. I will argue that it is essential that global animal law scholarship and policy adopt these priorities to achieve legitimacy amongst diverse local communities across the globe.

In this regard, the concept of intersectionality, which is utilised by various second wave theorists, has particular significance for this article and global animal law. Intersectionality is a term coined by Kimberlé Crenshaw to define the particular oppression experienced by black women in relation to discrimination law. It is now used as a "method and a disposition, a heuristic and analytical tool" to counter the invisibility of those experiencing multiple oppressions at once, to locate power, and to identify the

35 Otter, O’Sullivan, and Ross, supra note 14 at 62–5; and Peters, supra note 14 at 42.
37 For elaboration see Offor, supra note 20.
41 Crencshaw, supra note 39 at 140–1.
mutual operation and exacerbation of various inequalities. Interactionality methodologies critique the “rigidly top-down social and political order” and “white male dominance” that facilitate oppressive realities. Interactionality is applied to the animal question in second wave animal ethics and, in this article, to highlight how animal oppression stems from politics of power; how animal oppression mirrors or resembles other oppressions; and how hegemonic means of pursuing animal protection are counter-intuitive and detract from the goal of long-term improvement of animals’ lives.

This is a particularly important concept to employ to ensure that global animal law scholarship does not utilise colonial tactics, and that it does not neglect the views, priorities, and work of actors within the Global South.

I refer to intersectionality with the knowledge that it has been critiqued by scholars such as Aph Ko. Ko writes that we “don’t need movements to intersect; we need new imaginations of how oppressions manifest themselves at the root”, how they “constitute one another” rather than intersect with one another. Ko’s alternative of afro-zoological resistance is a superior alternative that deals with these issues. It also deals with critique of instances of shallow intersectionality that are performative, and which ignore “settler colonial power”. However, it is possible that deeper practices of intersectionality reflect at least some of these ideals and, indeed, it is a vision similar to Ko’s that I had in mind when investigating the concept of intersectionality. Therefore, I refer to intersectionality in this article because I see potential in a deep version. Also, given that intersectionality is increasingly well recognized amongst animal law scholars, I choose to use that concept here for the sake of accessibility, but ask that its deeper potential or alternatives be borne in mind.

D. Outline

In order to achieve its objectives, this article will proceed in the following three parts.

First, in order to illuminate the content, meaning, and direction of global animal law, this article will expand upon the globality of the animal question. The motivators for international governance of animals will be elaborated here because they contribute significantly to the substance of global animal law. Specific considerations that give globality to the animal question will then be introduced to distinguish global law from international law, transnational law, and law that applies universally.

Second, this article will propose a conception of the global that is inspired by metatheories of global law and second wave animal ethics. This is proposed as a new normative underpinning for global animal law scholarship; an underpinning that, I argue, is capable of injecting decoloniality and intersectionality into global animal law spaces.

Third, these theoretical insights will be used to critically analyse the normative, theoretical, and ethical merits of current responses to animal problems within global animal law.

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45 ibid., at 1023 citing Crenshaw, supra note 39 at 152.

46 For more detail, see Offor, supra note 20.


48 ibid., at 99.

law (scholarship). This article will critically analyse the practice and research of global animal law and scholarly visions of global animal law futures, revealing the gaps that the new normative framework proposed in section III would fill.

In the conclusion, this article will summarize the emerging normative practice and scholarship of global animal law and it will suggest changes that could nuance and improve the use of global terminology by animal law practitioners and scholars in order to work toward more effective and ethical global animal law.

II. The Globality of the Animal Question

The animal question has become a subject of international law for three reasons: international problems, international animals, and normative trends. In addition to this, animals have also become a subject of distinct but intertwined global animal law (scholarship). The globality of the animal question derives from distinct considerations. This section will explore the conditions that have inspired international law on animals, and which have also formed the substance of many global animal law debates. This section will then introduce the unique globality of the animal question.

A number of internationally scaled problems give rise to a need for international animal law. For example, it is recognized that “animal experimentation is heading east and animal agriculture is moving south.” However, the issue frequently identified as the defining international animal issue is the trade of animals and their bodies across borders. Free trade is argued to create economic incentives to cause animal harm. This, it has been argued, creates a need for harmonization and unity in welfare standards so as to avoid low animal welfare havens and associated problems. Trade is also intricately tied up with food production and, thus, the spread and shape of livestock farming. Feeding a growing population is also a problem of global scale that impacts upon animal welfare. For example, China has become the largest pork producer in the world, but also neglects animal welfare in policy setting. The pressure to make profits in globalized free markets has incentivized harmful intensification of livestock farming practices. However, by 2050, we will be feeding enough food for four billion people to livestock animals. Plant protein is vastly more efficient to produce, and yet we persist in pitting people against livestock in a competition for food, causing particular detriment to the poorest countries.

Another problem that attracts international regulation and which demonstrates the globality of the animal question is that of animal health and zoonotic diseases. Due to trade, transport and the natural movement of animals, such diseases carry across borders.

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52 Bowman, ibid., at 57; Favre, ibid., at 94–6; Garner, supra note 27 at 86–7; Peters, supra note 14 at 51–2.

53 Garner, supra note 27 at 86–7; Peters, supra note 14 at 51–2; Robertson, supra note 14 at 13.


55 ibid., at 180. Globalized markets are argued to be bad for agriculture at large in TUDGE Colin, Feeding People Is Easy (Pari, Italy: Pari Publishing, 2007) at 117 et seq.

56 Tudge, ibid., at 107.

57 ibid., at 66.

58 ibid., at 107.

59 Favre, supra note 51 at 92–6.
borders. For example, African swine fever has led to animal welfare atrocities, particularly as production shifts in the wake of export restrictions due to outbreaks.60 This is also true of the COVID-19 pandemic which has proven with devastating consequence just how interconnected the lives, health, and welfare of humans and animals are. Some of the worst consequences of the pandemic for animals have seen thousands of healthy pigs in the US slaughtered in poor conditions due to the breakdown of global supply chains in a factory farming industry that cannot accommodate a slowdown in processes.61 A decision was also made to cull all Danish mink, up to 17 million animals, due to outbreaks of COVID-19 on Danish mink farms.62 A further problem attracting international regulation is environmental protection.63 The interlinkages of animal protection and environmental protection could justify more elaborate incorporation of animal welfare into international environmental law.64 Global animal law practice and scholarship could learn various lessons from global environmental law65 and the emerging incorporation of global law metatheory therein.66

Moving on from international problems to international animals, one sees this justification for international law governing animals’ lives most frequently in the case of migratory species. Indeed, this is something of a catch all category, encompassing all those animals that move across borders of their own accord. Animals that move across borders not of their own accord would also be relevant here, including animals that are transported or traded for industries that use animals for food, research, or entertainment, as well as animals that are transported for conservation or other purposes.

Finally, regarding normative justifications, international law is useful where animal protection standards diverge between states and there is desire to share best practices.67 Second wave animal ethics does not support coloniality in approaches to such cooperation. For example, a second wave view regards literature that critiques non-western states as lagging behind in animal welfare legislation as misleading.68 This is because such states usually cause less harm to animals than western states with industrialized farming. Animal welfare standards often arise in response to industries causing animal harm; standards alone cannot be utilised as a reliable measure of animals’ quality of life.

These motivators of international law are relevant for global animal law, but do not distinguish it from international law. Three core concepts are adopted and will be explained here to distinguish global (animal) law from other kinds of law: connectivity, future-orientation, and decentring the state in post-Westphalian governance models. These three concepts are borne of globalization and are defining features of the (global) law that seeks to order a globalized world. The following section explores these three
concepts by introducing global law metatheory. I recommend centring global animal law on these concepts as well as ideas contained within second wave animal ethics.

III. A Proposal for an Intersectional Conception of the Global

Metatheories of global law are beginning to be adopted by global environmental lawyers.69 These metatheories are essentially theory about theory, because global law is itself a theoretical concept. In this article, I combine global law metatheory with second wave animal ethics to redirect global animal law away from its sometimes narrow focus on universally applied international law instruments which, as an approach to global animal law, can facilitate coloniality and neglect the intersectionality of oppression.

A. Metatheorizing Global Law

Yoriko Otomo provides a feminist imagined account of the signing of the Treaty of Westphalia which portrays it as a “constitutive moment” and perhaps a “founding myth” of international law which catalysed states’ “jurisdictional independence from the Roman Catholic Church”.70 Today, globalization “has outgrown traditional Westphalian patterns of international governance” which are centred on the state’s exclusive sovereignty over its territory and which maintain that the state is the primary, central actor of international law.71 It no longer makes sense to talk of “the global political arena, social movements, markets and multinational corporations” solely within the constraints of international law.72 Global law seeks to bring some “coherence” to this “post-national”, globalized normative landscape.73 Therefore, “doing” global law requires unearthing and developing global kinds of law without restricting ourselves to the boundaries of the Westphalian international law, UN-centric model.74

This post-Westphalian globalized situation provides the context for global law’s connectivity. Ideas assume mobility in a globalized world. In the realm of law, this results in an increase in cross-fertilization of legal concepts, or “connectivity”.75 Connectivity is the most important feature of global law and, indeed, has been described as the most crucial “question of our time” in the context of the “implosion of the Eurocentric world” and consequent “decentring of the world”.76 To understand how to organise ourselves on a global scale, we must understand how we “connect” socially, normatively, and legally. Global law recognizes the way that “legal concepts travel globally between jurisdictions and other normative systems”.77 Global lawyers practice in interconnected78

69 Kulovesi, Mehling, and Morgera, supra note 66 at 412.
70 OTOMO Yoriko, Unconditional Life: The Postwar International Law Settlement (Oxford: Oxford University Press, 2016) at 137–44.
72 Cardesa-Salzmann and Cocciolo, ibid., at 445.
73 Kulovesi, Mehling, and Morgera, supra note 66 at 411.
76 ibid., at 123.
77 Kulovesi, Mehling, and Morgera, supra note 66 at 415.
78 ibid., at 407.
liminal spaces, crafting conversations between otherwise distinct, separate realms of law.\textsuperscript{79}

Global law has been described as a “decentered, universally applicable legal phenomenon of the ‘in-between’, or ‘inter-legality’”, thus transcending “the classical conceptual trichotomy between the legal realms of the international, the transnational and the domestic”.\textsuperscript{80} It is all about the spaces and connections between law, as well as relating to laws at various levels and stemming from different legal fora. By transnational, law is meant “all law which regulates actions or events that transcend national frontiers, including public and private international laws, as well as other rules which do not wholly fit into these categories”.\textsuperscript{81} Crucially, global law is different and distinct from this. Global law helps us to “rethink and reorganize the legal worldview to reflect and capture” upheavals due to globalization.\textsuperscript{82}

Poul Kjaer conceptualizes the connectivity of global law as a “transfer” which, relying upon Rudolf Stichweh’s definition, entails: (1) an object of meaning, such as a legal judgment or product, capital, or knowledge; (2) which has “informational value” that causes impact upon arrival; (3) which crosses boundaries; (4) which bridges distances in space or time; and (5) which has a “certain permanence” through, for example, repeated transfers.\textsuperscript{83}

Animal lawyers regularly find inspiration from animal law within other jurisdictions. Global animal law practice sees domestic law put into conversation with regional law, international law put into conversation with industry standards, and so on. This results in a webbed interaction that centres upon an exchange of ideas, norms, legal concepts, and practices. Global law metatheory regards these interactions themselves as having the quality of law. Global animal law, as a subdiscipline, has not engaged with these theoretical reflections on connectivity and has, instead, focused heavily upon universally scaled international law instruments.\textsuperscript{84} However, misaligning “global” with “universal” is a misunderstanding regarding global law.\textsuperscript{85}

Han Somsen’s remarks on external and internal understandings of global law are helpful in overcoming this. He describes external notions of the global as “referring to some all-encompassing legal system or principle spanning the globe” (a universal legal system) while internal notions denote “the basic building blocks of which all legal systems are made up” (a feature of existing laws).\textsuperscript{86} I find this latter conception to be quite useful because it regards the global law project as one seeking to “unearth the global within” rather than a universalising project.\textsuperscript{87} This conception leads to an understanding of global law as “an adjectival, not a nominal category”.\textsuperscript{88} In plain terms, this means global law studies should investigate the globality within various different kinds of law, rather than seeking to delineate some kind of universal, global legal system. This entails a legal enquiry and practice that pursues more than just the adoption of a universally-applicable treaty, for example. This is important to draw out the potential global animal law has to amplify the voices of marginalized communities and their animal protection practices. Focusing solely on a universalizing mission risks marginalizing already oppressed peoples and their

\textsuperscript{79} Ibid., at 415.
\textsuperscript{80} Cardesa-Salzmann and Cocciolo, supra note 71 at 440 citing Kjaer, supra note 75.
\textsuperscript{82} Kulovesi, Mehling, and Morgera, supra note 66 at 407.
\textsuperscript{83} Kjaer, supra note 75 at 124–5.
\textsuperscript{84} See below at section V.
\textsuperscript{85} Kulovesi, Mehling, and Morgera, supra note 66 at 414.
\textsuperscript{86} Somsen, supra note 74 at 252.
\textsuperscript{87} Ibid., at 253.
\textsuperscript{88} Walker, supra note 16 at 19.
perspectives if they are squeezed out or spoken over by a western-centric majority. All this is explored in more detail below.

Neil Walker’s metatheory of global law may help global animal law scholars to adopt such an adjectival understanding of globality in law. He regards global law as a “category of law which operates at the external ‘global’ edge of the transnational domain”.

Again highlighting how transnational and global law are distinct. A necessary, uniting feature of global law is its “practical endorsement of or commitment to the universal or otherwise global-in-general warrant of some laws or some dimensions of law”.

This tells us that global law is “wider than mere neighbourly or regional” but “narrower than literally world-wide”.

It is an oversimplification to think of global law as universally applicable international law. To describe it concisely, we might refer to global law as “a sort of meta law” that “lies above international and transnational law and draws together the many ways in which law and globalization overlap”.

If global law is an adjectival category, what sort of law does it describe? Walker defines global law as including both law that will “overcome difference” and which will “accommodate difference”.

He does not favour or rule out either approach. While he accepts some universalization or homogenization within global law, it also encompasses diversity and dispersion. Second wave animal ethics would desire an addition here; that we oppose global law that stands against difference through colonial power structures. The following sections will show that global animal law has fallen short of this imperative because it has adopted an external universalizing view of global law, facilitating coloniality. Thus, the first lesson of global law metatheory for global animal lawyers is that it ought to encompass and encourage bottom-up, diversified law and policy recommendations with global colour in addition to top-down universally scaled initiatives.

A second lesson involves the future-oriented leaning of global law: it is normative, aspirational, and has directionality. For Neil Walker, global law is located “in the active domain of constructive discovery or creative projection”. This means the task of analysing the law adds heightened significance to “trend-spotting” and “challenging or rethinking our very ideas of legal order” on top of its roots in “settled doctrinal analysis”. The role of global lawyers is different to international or transnational lawyers due to this future-orientation. Even though global law is future-oriented, it can still have “current applicability” and a “rule-like quality”.

It is just that these things are “tentative” and “fragile”, as one would expect of merely intimated or pre-positive law. Global animal law has indeed, thus far, presented as widely future-oriented, aspirational, and normative. The focus within global animal law studies upon proposals for international law instruments is broadly in line with global law metatheory.

A third lesson of global law metatheory is that the future-orientation of global law lends heightened significance to the role of academics as “jurisgenerative”, as having

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89 Ibid., at 18.
90 Ibid.
91 Twining, supra note 15 at 542.
93 Ibid., at 1054. For full elucidation of these ideas, see Walker, supra note 16 at 55–6.
94 Walker, supra note 16 at 178.
95 Kulovesi, Mehling, and Morgera, supra note 66 at 418.
96 Walker, supra note 16 at 22.
97 Ibid., at 205.
98 Ibid., at 171.
99 Ibid.
100 See below at section IV.
law-making potential. Global law is more dispersed than international and transnational law (which are state-centric); it recognizes the increasingly important norm-creating roles of “non-governmental organizations (NGOs), law firms, financial markets, and multinational corporations”. This stems from a view of legal development’s “center of gravity” as “in society itself”, recognising that pluralist globalized society will permit peripheral legal normative developments to grow. By ascribing roles in “rulemaking and implementation” to non-state actors, global law entails growing normative challenges to the Westphalian legal order. Legal pluralism, whereby multiple legal systems are able to coexist, is attractive for marginalized communities that have been ill-served by the Westphalian model of international law. Global animal law experts are, thus far, missing an opportunity by restricting themselves to debating mostly international law solutions to global animal problems, as demonstrated below.

Walker argues that “practitioners and academics are crucial sources of global law”. They are “jurisgenerative”, contributing to the “fashioning and shaping of global law” by “moulding it, nudging, infiltrating and reshaping actual laws”. Global law treats established sources of law as “a mere starting point” of legal normativity. Observations have also been made regarding the jurisgenerative nature of indigenous peoples and the transformation of human rights law owing to their influence. This speaks to the potential benefits of recognising jurisgenerative potential outside of traditional sources of international law because it permits the incorporation of often neglected marginal interests. This view lends legitimacy to legal proposals and pre-positive developments that dominate discussion of international law and animals. This also presents animal lawyers with a warning to act responsibly in publishing, theorising, and advocating on global animal law issues because they may be “inadvertent or strategic norm entrepreneurs”.

The three concepts outlined in this section (connectivity, future-orientation, and decentralizing the state in post-Westphalian governance models) provide important lessons for animal law scholars. I propose adopting global law metatheory to redirect global animal lawyers to a more theoretically sound understanding of global law. Because of its adjectival nature, I do not utilize global law theory as a means to map animal law. Instead, I use global law metatheory to provide global animal law scholars with the ability
to identify what global animal law is not, so as to benefit from the unique potential global law studies present to the animal lawyer. Global law is not an alias for international law (and thus ought not to be judged against the “standards of national legal systems”). Neither is it transnational law in a new guise. Nor does it equate to universally applied laws. Global law’s distinctiveness ought to be safeguarded.

B. Operationalizing Intersectional Ethics to Critique Claims of Globality

There is tension between second wave animal ethics and the way global law has been operationalised by some global animal law scholars. This section identifies those tensions, establishing clear recommendations for global animal law’s further development. This section highlights synergies between global law metatheory and the second wave imperatives of intersectionality and situatedness.

The domestic and international law that fills global animal law with its substance is deficient from a second wave perspective. It is welfarist in tone, reliant upon similarity theory and closed circles of moral concern, and it is liberalistic. Global law metatheory does not speak to these points and so these deficiencies are elaborated briefly below. Conversely, second wave animal ethics and global law metatheory both problematize the use of false globality and the facilitation of coloniality. In this sense, William Twining is critical of the use and overuse of “g-words” or “globabble”. He regards these as leading to generalizations that are “exaggerated, misleading, meaningless, superficial, ethnocentric, or a combination of all these”. His critique aligns closely with my critique of universalistic global animal law rhetoric; of talking about global law when actually speaking about something that is western-centric.

Global law metatheory envisages a departure from western “academic legal culture” which tends to be “state-oriented, secular, positivist, ‘top-down’, Northo-centric, unempirical, and universalist in respect of morals”. However, in practice, global law narratives have been operationalized to further coloniality in legal traditions. Indeed, global animal law scholarship is focusing on and evolving out of international law expertise and scholarship, without introducing reflexivity or a rebellious moment to begin tackling the coloniality that has featured throughout international law’s history (as unearthed by literature including TWAIL).

Improving work within global animal law requires reacting to insights from TWAIL and similarly critical approaches to (international) law. TWAIL literature aims to “unpack and deconstruct the colonial legacies of international law” to “decolonise the lived realities of the peoples of the Global South” and to “give voice to viewpoints systemically underrepresented or silenced”. From a Global South perspective, international law has been described as a “predatory system that legitimizes, reproduces and sustains the plunder and subordination of the Third World by the west”. If it is to be ethical and effective,

114 Teubner, supra note 103 at 4.
115 See below at section V.
116 Twining, supra note 15 at 543.
118 Ibid., at 6.
global animal law cannot accept this structurally oppressive function of law facilitated by false claims of justice and equality. TWAIL literature has identified how Europe has a “self-assumed civilizational responsibility to lift the peoples of [Latin America, Asia and Africa] to Europe’s level” when, in actuality, this was an “altruistic cloak to plunder the wealth of the people of Africa and Asia” because they did not lack “civilizational standards when compared to the genocidal plunder that the Europeans embarked on”.121

This cloaking may strike animal law scholars as familiar. Is it not suspicious that efforts to globalize animal welfare protection stem from the west122 where systems of oppressing animals’ lives are the most barbaric and cruel? Factory farming was born in the west and is spreading from there. Yet, western nations and animal welfare organizations continue to label the practices of non-western nations and peoples as “barbaric”. For global animal law to fail to meet these challenges would be to misuse global language to forward western objectives, contributing to “material distribution and imbalances of power”.123

Global animal law scholarship has presented as global when it is, in fact, dominated by western scholars and western ideas, thus contributing to coloniality.124 The western legal tradition has dominated broader efforts at legal theory.125 This approach is incapable of contributing significantly to solving “pressing problems of the age”.126 This is particularly pressing for animal law because “colonists used animals to conquer ecosystems and their inhabitants”.127 Mathilde Cohen argues there has been a hidden globality to animal law for centuries because the “migration of ideas” associated with colonization solidified global property status for animals where this was previously rare outside the west.128

Thus, animal lawyers must treat so-called “g-words” cautiously. There must be a clear case for attributing globality to something over describing it as transnational or international law. Failing to do so risks perpetuating the promulgation of western concepts and standards in a universal or global guise which, in fact, poorly fits non-western systems.129 This view aligns with the objectives of TWAIL literature. For these reasons, it is a problem that “g-words” are increasing in popularity amongst animal lawyers without an attendant reflection upon the potential consequences of this.

Animal law scholarship sometimes proclaims to be value-neutral while forwarding subjective viewpoints which stem from unidentified, situated positionalities.130 This attracts many animal law scholars to the idea of universalising animal law norms because “a horse is a horse regardless of what country it lives in”.131 Many animal lawyers regard this view as having spread across the globe due to globalization.132 This perception has led to two problems. First, the idea of norm spread is sometimes communicated in a troubling way by presupposing a localized (European) source point rather than reflecting the reality that

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122 See below at section IV.
124 See below at section IV.
125 Twining, supra note 117 at 12.
126 Ibid.
127 Cohen, supra note 8 at 268.
128 Ibid., at 267.
129 Kulovesi, Mehling, and Morgera, supra note 66 at 427.
130 For example, Robertson, supra note 14 at 31.
132 Robertson, supra note 14 at 10.
animal care norms have always existed across the globe. While many continue to argue that animal welfare is a western value,133 this is not the case.134 Second, whilst it has become clear that animal welfare is an issue of global moral significance,135 this is often problematically used to defend a lack of attention to local conditions. This lack of attention results in a one-size-fits-all approach that assumes it is possible to universalise (European) particulars through, for example, treaty law or a universalized standard.

To expand on this last point, the increasingly globalized conversation about animal protection does not have homogenization or unification as its natural or only consequence. Global law’s connectivity results in “contextual diversity”, explained by post-colonial “legal pluralism”.136 Global law entails a shift from “territorial to functional differentiation on the world level”, not a shift to territorial and functional homogenization (which is what a centralized universal legal regime would entail).137 This means global animal law ought to facilitate the use of different tactics and legal modalities by different communities, rather than requiring a top-down unification in our cooperations on animal protection. While globalization may create certain identifiable shared moral principles across the globe, global law can accommodate diversity in responses to such moral principles. This speaks to second wave animal ethics values of diversity and contextuality. Of course, this can lead to difficulties associated with fragmentation in international and transnational law. This necessitates consideration of democracy and global governance to tackle “tunnel vision” within discrete international law; regimes that results in a neglect of animal welfare.138 The problem with tunnel vision being that different international law regimes will focus solely on their issue, without adequate consideration to their impacts. For example, the way the trade law regime has traditionally been regarded as poor at dealing with the impact of trade on other social values like environmental protection or animal welfare.139

The trends outlined here have meant that many animal law scholars consider a “global animal protection regime” as a “logical progression”, given the scale of domestic advancements.140 But, second wave animal ethics warns that such a regime would be unethical and ineffective if it favoured homogenization over genuinely broad and deep participation, attentiveness to local conditions through diversified norms, and the pursuit of meaningful consensus and collaboration where harmonization is appropriate. Global convergence around certain animal protection priorities should not be used to justify coloniality in modes of animal welfare governance. Ostensibly neutral, objective, rational, and universalizable animal law principles that are transplanted from western legal systems without meaningful engagement with other traditions should be treated with suspicion. Indeed, international law itself is known to have an “oppressive and hegemonic function” and global animal law ought not to follow in these footsteps.141 Failure to seriously contemplate the risk of cultural imperialism would unfortunately lend credence to

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134 Offor, supra note 20.

135 Bowman, supra note 51 at 57.

136 Kjaer, supra note 75 at 115; Teubner, supra note 103 at 4.

137 Teubner, supra note 103 at 5.

138 Ibid., at 15 and 22–5.


140 Otter, O’Sullivan, and Ross, supra note 14 at 59.

141 Peters, supra note 14 at 34.
arguments that globally-scaled animal protection is necessarily hegemonic.  There is even hegemony at play in domestic animal protection laws that target minority groups and practices, like the debate around halal and kosher slaughter. Thus, global animal lawyers must be particularly vigilant when interacting with institutions and legal histories that maintain the oppressive power of western nations.

This recommended imperative to avoid cultural imperialism is in tension with a perception expressed by animal law scholars of cultural sensitivity as a barrier to effective animal protection. Those who adopt this perception argue that harming animals is common in “almost all cultures of the world” and so nothing is gained by offering cultural exceptions to animal protection efforts. This misses the point and does not address the dangers for animals and humans posed by facilitating oppressive, colonial forces. Public opinion may sway toward animal protection at a particular historical moment. However, using hegemonic force to achieve this, rather than attentive listening and care, leaves ample space for oppression of animals to return. To do so would be to impose animal liberation in a colonial fashion, despite the fact it is not an inherently colonial value.

The field of environmental law has lessons for animal law regarding the benefits and challenges of recognizing intersecting oppressions and avoiding coloniality by including indigenous peoples, the Global South and other minorities in decision-making processes. Global animal law scholarship has yet to provide sufficient reflection on this so I will introduce useful lessons for reflection from the participation of indigenous peoples in environmental law-making. Scholarship on environmental governance has recognised the value of including indigenous peoples in climate change law-making processes due to their contribution of “valuable context-specific knowledge and resources”, their involvement in rule-making leading to enhanced opportunities for implementation and compliance, and ethical considerations of “cultural integrity”. Despite its progress, environmental law still struggles with “procedural, conceptual and structural challenges” to including indigenous people. Gaining access alone has proven a fundamental challenge. Despite trying to gain access since the 1920s, it took indigenous peoples until the 21st century to achieve participation in forums like the UN. Additionally, ensuring the possibility of inclusion does not ensure adequate participation in practice due to the “extreme power imbalance” resulting from a “centuries-long history of colonization, violence and discrimination”. Participation processes at the UN Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity (CBD) demonstrate this.

In practice, the “possibilities for having real impact” at the International Indigenous Peoples’ Forum on Climate Change at the UNFCCC process is “nearly inexistent”.

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142 Ibid., at 37.
144 Peters, supra note 14 at 38.
146 Ibid.
147 Ibid.
148 Ibid.
151 Brugnach, Craps, and Dewulf, supra note 145 at 21.
152 Ibid., at 23.
Problems that have arisen there include “confusion, problems of accreditation and deliberate exclusion” with access badges that forbid access to many important rooms.\textsuperscript{153} Therefore, indigenous groups have long called for a UNFCCC working group to deal with these problems.\textsuperscript{154} Such a working group was only recently established in 2019.\textsuperscript{155} The CBD is considered the most accessible environmental law forum for indigenous peoples and yet serious problems persist.\textsuperscript{156} Article 8(j) of the CBD mandates that the contracting parties respect, preserve and maintain indigenous and local knowledge, innovations, and practices, whilst also sharing the benefits of utilising these with them. A working group was created to implement these requirements.\textsuperscript{157} However, “traditional community structures” and “communal land tenure” lack (legal) recognition due to serious discriminatory challenges and insufficient mandated participation.\textsuperscript{158} Further, indigenous peoples are often geographically isolated from public processes and excluded from public spaces and education.\textsuperscript{159} Thus, engagement in CBD processes is practically challenging. Additionally, indigenous ways of knowing differ from western prioritization of science and technical fact finding, western political systems tend to neglect such different ways of knowing, thus fundamentally excluding indigenous knowledge.\textsuperscript{160}

These challenges demonstrate that serious consideration and work is required to ensure broad, diverse, and fair participation in legal proposals on global animal law. Global animal law scholarship has much to do in this regard. This will be demonstrated in the next section which identifies misuse of global terminology by the global animal law community, contrary to the warnings of global law metatheory and situatedness imperatives of second wave animal ethics.

\section*{IV. Assessing the Intersectional Credentials of Global Animal Law Practice}

\subsection*{A. Conceptions of Globality in Practice}

I will use two representative examples to introduce common understandings of global animal law amongst practitioners and researchers. These will be assessed against the insights of global law metatheory and second wave animal ethics introduced above. The two examples are: from academia, the Max Planck Institute for Comparative Public Law and International Law section on global animal law (the MPI section);\textsuperscript{161} and from the third sector, the Global Animal Law (GAL) Association.\textsuperscript{162}

\begin{thebibliography}{999}
\bibitem{153} MIHLAR Farah, “Voices That Must Be Heard: Minorities and Indigenous People Combating Climate Change” Minority Rights Group International (19 November 2008), online: Refworld <https://www.refworld.org/docid/492d18da2.html> at 3.
\bibitem{154} Ibid., at 8.
\bibitem{158} Brugnach, Craps, and Dewulf, supra note 145 at 24.
\bibitem{159} Ibid.
\bibitem{160} Ibid., at 24–5.
\end{thebibliography}
The MPI section’s overarching objective is to “shed light” on global animal law, which it refers to as a discrete branch of international law.163 This is inconsistent with metatheories of global law. More detailed descriptions of global animal law by the MPI section partially rectify this inconsistency. The MPI section’s website describes global law as transboundary and multi-level, arguing animal law must include global animal law to be effective.164 Their research orients toward stimulating law reform and norm development, thus adopting a future-orientated direction.165

Anne Peters, head of the MPI section, describes global animal law as a “regulatory mix combining a host of different types of norm” from “national, international, and regional or sub-state law” plus “norms made by states and by private actors, thus including standards emerging from industry, often in collaboration with governmental agencies” and including “hard and soft law”.166 This is very useful, but contrasts with the official MPI definition of global animal law as a discrete branch of international law. The “discrete branch” definition is repeated by Charlotte Blattner, an animal law academic and former PhD student of Anne Peters.167 Putting this contradiction to one side for now, Peters’ definition is largely compliant with a second wave-inspired conception of global animal law. Peters argues the corpus of global animal law is thin but has “reached a critical mass”, justifying its existence as its own legal field.168 Thus, gap-filling is a critical task of the section.169 Peters says this work must be mindful of “Eurocentrism and legal imperialism”.170 Second wave animal ethics would opt for a stronger imperative than mindfulness which could leave room for inaction.

The MPI section’s conception of global animal law contrasts with that of the GAL Association. The GAL Association’s goal is to “help and create a new framework for the global discussion on animals in law”.171 It is unclear whether it is the issues or dialogue that are deemed to be global here. Sabine Brels, former manager of the GAL Association, notes how animal welfare law is “present at every level of governance, from the national to the global level”172 Evoking a global-national spectrum suggests global is conflated with universal here.173 Brels states the GAL Association’s legislation database reflects multi-level animal law. The database excludes non-governmental standards and soft law, which leaves room to explore the post-Westphalianism of global law. Contradicting these statements, Brels sometimes refers to global law as an alias for international law, which leads to a lack of clarity.174 Leaving this contradiction aside for now, it seems the GAL Association generally adopts two different uses of global. First, it facilitates a global (meaning universal) discussion on animal issues. Second, it discusses law at the global level, regarded as law with universal application.

The GAL Association’s objectives and projects indicate a normative view of globality, promoting a vision, ethics, and proposed legal solutions to animal problems capable of

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163 Global Animal Law, supra note 161.
164 Ibid.
165 Ibid. See also Peters, supra note 63 at 20.
166 Peters, supra note 63 at 20.
168 Peters, supra note 63 at 20.
169 Ibid.
170 Ibid., at 22.
171 Global Animal Law, supra note 162.
172 Brels, supra note 14 at 376.
173 Ibid., at 366.
174 Ibid., at 365.
application across the globe. For example, the GAL Association seeks to become the “leading authority in ensuring global animal health and welfare through the law” by proposing legal solutions. The GAL Association is also embarking upon globally-scaled projects. For example, it intends to develop a database to rank domestic laws regarding animal welfare and it has developed a model treaty for animal health and welfare. This understanding of globality seems akin to the global care Favre refers to when he says “a horse is a horse regardless of what country it lives in”. This can risk neglecting considerations of coloniality which do not feature centrally in the GAL Association’s publications and communications.

The MPI section and GAL Association have contrasting understandings of global animal law. Both, to varying degrees, could focus more on second wave imperatives of intersectionality and avoiding coloniality. Both adopt a future-orientation, but could perhaps do more to emphasize the connectivity and post-Westphalian nature of global law. This situation may stem from the prominence of western perspectives within the global animal law movement.

B. Eurocentric Perspectives on Global Animal Law Masquerade as “Global Animal Law”

Western animal law experts are vastly overrepresented in the global animal law debate. From the perspective of second wave animal ethics, this lack of diversity in participation is a problem. This is a systemic problem which does not speak to the individual intentions of global animal law actors. As a member of the animal law community, I offer this internal critique with the deepest of respect for the animal law scholars that have crafted our discipline. In this section, I provide demographical insights developed from online biographies and personal connections. This is cursory and excludes information regarding, for example, queer and disability representation. It would be beneficial if animal law organizations publicly shared diversity statements to promote transparency and to facilitate this kind of research. I will first look to the GAL Association and the MPI section introduced above, then I will move on to discuss the field more broadly with reference to other organizations, research centres, and projects.

The GAL Association team hails from Switzerland, France, Germany, and Australia. Its patronage committees are made up of seventeen men and five women who are American, Australian, and European. The team and committees are entirely white and have a majority male representation. One of the key offerings of the project is a matrix of ideas for improving animal law, contributed to by a community of experts. As of 8 September 2020, 42 of these experts are from Europe, 25 from North America, 11 from Australasia, 7 from Asia, 7 from Africa (4 in South Africa), 5 from South America, and 1 from the Middle East. Female presenting experts make up the majority of the group but there are only around 12 people of colour. Similarly lacking in diversity, the MPI section on global animal law is staffed exclusively by white Europeans, though with a good gender balance.

Another institutional example is the Center for Animal Law Studies at Lewis & Clark Law School in Portland, Oregon. The Centre considers itself a global institution working

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on a global phenomenon. They acknowledge that animals “don’t necessarily recognize borders or cultures” and they imply that animal lawyers don’t either. While this may raise initial concern regarding extraterritoriality, the Center clarifies that they engage with a “global network of animal lawyers”, doing particularly good work, like introducing the Kenya Legal Project on animal law, which aims to “develop relationships with and offer assistance to Kenyan lawyers, judges, and other wildlife professionals.”

I spent a semester at the Center as a visiting fellow and can confirm their dedication to educating the next generation of animal lawyers from across the globe. However, I did find marginal perspectives were lacking in course syllabi.

I see two indicators of potential directions of travel right now, with one indicating business as usual and one creating space for better diversity and inclusion and active effort toward decolonization. The World Federation for Animals (WFA) is a new organization that was created in 2021, which acts as an example of the former. Their goal is to amplify and coordinate the influence of the animal protection movement on the “global stage” by providing a “big tent uniting the movement”, promoting a “holistic approach”, and a “unified global representation”. WFA communicates its goals as oriented toward homogenization, to the exclusion of local considerations and the potential for coloniality. The board of WFA has a good gender balance but has significant deficiencies in geographic diversity. There are 12 members from Europe, 4 from the US, 1 from Asia, 1 from Africa and 1 from Australasia. In contrast, the Global Research Network (GRN) Thinktank on Animals and Biodiversity presents some signs of hope for the future. While the thinktank’s fellows are all based in Europe, the homepage for the network’s thinktanks states that their goal is to fill a gap in the global policy space “by engaging voices from around the world (in particular scholars for whom English is not a first language and minority, female, LGBTQ, disabled, refugee academics)”. It is also particularly striking, given the landscape of a lack of diversity, to see that the GRN’s fellows represent a genuine geographical spread that does not overrepresent Europe or North America.

It is consequential that two leading centres on global animal law (the GAL association and the MPI section) are, in fact, largely Eurocentric. More could be done by these centres to reflect on, or at least declare their Eurocentricity, and to improve diversity and inclusion in order to pay mind to global law metatheory and second wave animal ethics. If there is a desire to improve diversity, but this is not immediately possible, options open to these centres include prioritising collaborations and knowledge exchange, improving animal law education across the globe, and enhancing transparency regarding diversity. The alternative is to avoid using global terminology if this does not accurately reflect the work being done by these centres because to falsely claim globality facilitates coloniality.

A similar pattern of western-centricity emerges in scholarly conferences and publications. The third iteration of the global animal law conference achieved a decent geographical spread of participants, though Americans and Europeans still outnumber all other participants. However, the decent spread of participants likely owes to the fact that the conference took place in Hong Kong.

179 Ibid., at 3–4.
180 Ibid., at 4.
Regarding publications, a seminal Oxford Handbook on Global Animal Law is due to be published in 2022. The geographical spread of authors heavily emphasizes Europe and North America. There are 49 authors based at European institutions, 20 at North American institutions, 4 at Asian institutions, 2 at African institutions (both in South Africa), 2 at Australian institutions, 1 at a South American institution and 1 at a Middle eastern institution. The handbook does also include country reports and religion reports (those authors are not included in the totals above), which adds to the publication’s global credentials. However, the heavily western focus of the general contributions leaves much to be desired. There are also two published symposiums on global animal law in leading journals. The contributors stem from Europe (10), North America (4), Australasian (1) and Asia (1). Additionally, a Global Journal of Animal Law was founded in 2013. Between issues 1 (2013) and 8 (2020), the journal has presented works by authors with the following nationalities (excluding editors’ forewords): 34 European, 13 North American, 2 Australasian, 2 Asian, 2 Middle-Eastern, and 1 Central American. Additionally, this journal published a special section in 2019 with 13 contributors. This stemmed from a conference. The special section intended to present an international spread of ideas about what animal law is and ought to be. These 13 scholars are all white, coming from Europe or North America. This rather bleak picture of participatory diversity is replicated in wider animal studies and in the animal liberation movement.\(^{185}\) I have two profound concerns. First, this problematic lack of diversity is evident in a scholarly endeavour that professes to be global in scope but, upon investigation, is revealed as deeply western-centric. Revealing this only required looking to the participants in leading organizations and publications. Achieving diversity in this regard is only a first step and a deeper investigation, once this is improved, would have to ensure that participation is genuine, broad, and accessible, and that diversity extends not just to bodies but also to ideas. There should also be critical reflection on gatekeeping and who gets to make the decisions about what policy goals are pursued regarding animal protection.

My second profound concern is that, to my knowledge, no-one has recognized this lack of diversity within global animal law spaces, let alone identified this as problematic. Returning to the Global Journal of Animal Law’s special session, a journal professing to be global, pronouncing scholarship on such a fundamental question to our field as “what is animal law”, ought to do better at presenting diverse opinions or at least recognize the lack of diversity, which they did not. It is unsurprising that the editors found broad convergence amongst the definitions of animal law provided because every contributor shares many very similar life experiences due to their western, white and scholarly, or activist, backgrounds.\(^{186}\) Of particular concern, one contribution entitled “Global Definition of Animal Law” includes no reference to globality, no sense of why this definition ought to be regarded as global, and is openly prefaced by the author stating the piece is “in my opinion”.\(^{187}\) This suggests little thought is given to the consequences of using the word “global”. It is harmful to the integrity of global animal law for personal opinion to be published in a peer-reviewed journal, presented as a “global definition”.

One might critique my conclusions here due to small sample sizes, perhaps suggesting cherry picking. These examples are not unrepresentative for two reasons. First, I focus


\(^{186}\) Sochirca and Kivinen, supra note 9.

upon the leading scholarly spaces within global animal law scholarship; those publica-
tions, organizations, scholars, and research groups that position themselves or could be
regarded as leaders on global animal law. Such leadership spaces and individuals are
small in number; I have mentioned them all here. Second, my analysis would not be
cherry-picked even if we were to look beyond leadership. The demographic of the entirety
of the Global Journal of Animal Law’s publications is evidence of this.

Another potential counterargument might state this scholarship does not profess glo-
bal representation but, rather, takes “global” animal law as its subject. My counterargu-
ment, based in global law metatheory and second wave animal ethics, identifies this
view as harmful. First, the literature largely misconstrues what global law is, preferring
a paternalistic version of Westphalian international law instruments stemming from
the west and entailing coloniality. The literature is therefore not actually talking about
global animal law. It is mostly talking about an ethnocentric kind of international law.
Second, global law metatheory reveals that global lawyers, including academics, are jur-
isgenerative. Thus, the demographics and practices of global animal law scholars cannot
be neatly separated from their subject of study. Because of global law’s future-orientation
and post-Westphalian nature, the “global” moniker attaches to norm-building scholarship
as well as law.

In conclusion, a lack of diversity amongst leaders and wider participants of global ani-
mal law scholarship does not make for very global law. Animal law scholars believe animal
liberation is not a western value. If true, globally spread, diverse representation should be
possible for global animal law scholarship. Diversifying scholarly representation will con-
tribute to a diversification of ideas, which will help tackle ethnocentric conceptions of
globality in global animal law.

In the next section, I argue that the future-visions of some global animal law scholar-
ship displays a lack of diversity in ideas, relying on some first wave animal ethics ideas
and neglecting meaningful consideration of intersectionality and coloniality. I believe
diversifying participation so as to diversify ideas should be central to global animal
law. If this is not immediately possible or practicable, I urge global animal law scholars
toward transparency by labelling their work as “Eurocentric/western perspectives on
international animal law”.

V. Assessing the Intersectional Credentials of Global Animal Law Scholarship

Failing to denounce coloniality or promote diversity and intersectionality are problematic
features of early global animal law scholarship. I believe this lack of diversity in partici-
pation has led to some shortcomings in the ideas propounded by global animal law scholar-
ship. In particular, it heavily features the dominant western approaches to animal law,
including welfarism and animal rights. Alternative second wave ideas have not been given
as much attention. These ideas include: indistinction and flourishing, boundlessness and
prioritization of marginalized Others, and feminist care theory over liberalism.

To support this claim, this section will analyse scholarly proposals for future global
animal law. These proposals have stemmed largely from western scholars and have fea-
tured a preoccupation with international law instruments, neglecting global law connect-
ivity and post-Westphalian legal normativity. I have chosen a representative selection of
scholarly proposals to analyse here. I do not aim for a comprehensive oversight and so, for
example, while international trade law is having a significant impact on the early devel-
opment of global animal law, I chose not to explore that here.188 The literature selected
does not necessarily self-identify as global animal law literature. However, it is clear from

188 On the issue of trade see, for example, Offor, supra note 139.
the outside that it could be said to fall within this area based on the subject matter. The proposals I analyse here recommend: expanding existing legal frameworks (the World Organization for Animal Health (OIE) and compassionate conservation) and creating new legal frameworks (treaty-making and a UN declaration on animal welfare).

A. Expanding Existing Frameworks

Owing to its existing work on animal welfare, the OIE is a likely site of further development of international governance of animals.\(^{189}\) The OIE incorporated animal welfare into the scope of its work in 2002, after a unanimous vote.\(^{190}\) It adopted a mandate on animal welfare and established an Animal Welfare Working Group.\(^{191}\) This has resulted in the inclusion of a new chapter in the terrestrial and aquatic health codes on animal welfare.\(^{192}\) These standards are not binding on the OIE membership, thus avoiding a regulatory approach to animal welfare.\(^{193}\) The OIE hosts workshops and conferences to build capacity of national regulators to adopt the relevant standards.\(^{194}\) It also has a series of cooperation agreements with regional bodies aimed at developing regional animal welfare strategies.\(^{195}\)

Benefits to pursuing further protection of animal interests through the OIE are that it is politically powerful and it has near universal membership.\(^{196}\) However, the OIE is a sub-optimal choice. The OIE’s codified standards merely list considerations, falling short of prohibiting harmful practices.\(^{197}\) Relying on the OIE for international governance of animals may encourage domestic legislators to go no further than the OIE’s welfarist, utilitarian norms that are incapable of opposing animal use for human ends and inconsistent with second wave animal ethics.\(^{198}\) OIE animal welfare protection would be slow to develop or would stagnate because of the OIE’s close relationship with industries and governments that benefit from permitting animal harm.\(^{199}\) Additionally, the OIE’s director general states it could not achieve significant animal welfare advancement acting alone.\(^{200}\)

The OIE’s scope is restricted to domesticated species, excluding wild animals and entrenching a harmful wild/domestic dichotomy which is inconsistent with second

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\(^{189}\) Otter, O’Sullivan, and Ross, supra note 14 at 53.

\(^{190}\) Von Keyserlingk and José Hötzelm, supra note 54 at 185.


\(^{193}\) Peters, supra note 63 at 14.


\(^{196}\) Otter, O’Sullivan, and Ross, supra note 14 at 65.

\(^{197}\) Favre, supra note 131 at 252; WHITE Steven, “Shifting Norms in Wild Animal Protection and Effective Regulatory Design” in Scholtz, supra note 51, 180 at 200.

\(^{198}\) Otter, O’Sullivan, and Ross, supra note 14 at 67.

\(^{199}\) Otter, O’Sullivan, and Ross, supra note 14 at 67.

wave animal ethics. Further, the OIE is conceptually restricted from tackling welfare issues that do not relate to health. Animal health is a subset of animal welfare: poor welfare may not impact health, but poor health always entails poor welfare. If an OIE-centric approach is pursued, governance gaps should be filled with improved legal responses to welfare issues facing animals living in the wild. Though, this pairing still leaves governance gaps through which vulnerable animals would fall because dichotomising wild and domestic animals and associated legal regimes is oversimplified. This is why second wave animal ethics rejects such dichotomies.

As it stands, environmental law instruments contribute to the governance of wild animals’ lives. However, deeply anthropocentric and British colonial roots within environmental law have facilitated its general disregard of animal welfare. Scholars increasingly link environmental protection and animal welfare in legal studies and environmental law has gradually shifted toward ecocentrism. However, environmental law still largely neglects sentient animals’ interests. Animal lawyers conceptualize conservation law as anthropocentric (as do critical environmentalists), utilitarian and lacking in compassion. Environment law currently conceptualizes conservation as the “preservation, maintenance, sustainable utilization, restoration, and enhancement of a natural resource or the environment”. This orients species preservation only as a tool to safeguard the health and enjoyment of future generations of humans. Animal welfare is merely “peripheral” to this. Thus, choosing conservation as a tool to regulate animals currently entails conceptualising animals as resources. This is irreconcilable with animals’ “intrinsic value” and with second wave animal ethics. Conservation ought to promote respect for individuals that are integral to a species’ survival. Conservation that neglects individuals is self-defeating because it facilitates dispositions towards treating animals instrumentally.

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201 Offor, supra note 20 at 288.
203 Peters, supra note 63 at 13.
209 Scholtz, supra note 207 at 468.
210 Schaffner, supra note 208 at 12.
211 SCHOLTZ Werner, “Introduction” in Scholtz, supra note 51, 1.
212 Schaffner, supra note 208 at 8.
213 Defined as the value “an entity possesses of itself, for itself, regardless of the interests or utility of others” in BOWMAN Michael, DAVIES Peter, and REDGWELL Catherine, eds., Lyster’s International Wildlife Law, 2nd ed. (Cambridge: Cambridge University Press, 2010) at 63.
214 Bilchitz, supra note 208 at 211 and 230.
For these reasons, there is growing scholarly support for a compassionate turn in conservation to enable individual organisms to flourish\textsuperscript{216} and as a moral imperative due to animal sentience.\textsuperscript{217} This would recognize the significance of ecosystems as well as “the value of the individual”, mandating that individuals not be harmed for the sake of the collective.\textsuperscript{218} It would require that “no harm” be done, that “individuals matter”, and that we strive for “peaceful coexistence”.\textsuperscript{219} Compassionate conservation has a deliberative function, aiming to resolve tensions between individual and species interests “in the best way possible”.\textsuperscript{220} While compassionate conservation complies with many second wave imperatives, its potential to take animal interests seriously, in practice, remains to be seen.

Compassionate conservation is critiqued for imposing normativity on marginalized groups.\textsuperscript{221} However, such arguments rely on incorrect assumptions that are elsewhere negated: compassion for animals is not antagonistic to human rights; animal ethics and law need not be universal and non-contextual; and current conceptualizations of conservation are not immune to reconstruction. Such critiques typically stem from traditional conservationists who fail to acknowledge that such a colonising impact has already been imposed through conservation law. This critique is too weak to condemn compassionate conservation.

Compassionate conservation is a favourable response to welfare issues facing animals living in the wild for three reasons. First, it recognizes the artificiality of the wild/domestic dichotomy. This dichotomy’s prevalence owes, in part, to a gendering of animals. Wildlife is regarded with male “ruggedness and autonomy”, domestic animals with female “dependency and interconnectedness”.\textsuperscript{222} This conceptualization results in the assumption that wild animals simply need to be left alone in order to flourish. However, wild and domestic animals are not dichotomous: house mice and wild animals kept as pets are liminal. Further, human impacts on wild animals’ lives grow through climate change, wild encroachment, and inappropriate domestication. It is insufficient to leave wild animals alone. No animal is untouched by human impacts on the environment. Thus, they all require consideration in environmental policy setting.

Second, human concerns regarding animal welfare and conservation naturally converge and normatively align more than is typically recognized.\textsuperscript{223} In particular, conservation norms have evolved from assigning instrumental value to wildlife, to recognising and protecting wildlife’s intrinsic value.\textsuperscript{224} Both protect a non-human Other.\textsuperscript{225} Both re-conceptualize property to contest exploitative, entrenched social and legal norms.\textsuperscript{226} Practically, most individuals who care about the environment also care about the welfare

\textsuperscript{216}Bowman, Davies, and Redgwell, supra note 213 at 672.
\textsuperscript{217}Wallach et al., supra note 207 at 1260.
\textsuperscript{218}Scholtz, supra note 207 at 473–4; and Wallach et al., supra note 207 at 1262.
\textsuperscript{219}Wallach et al., supra note 207 at 1260.
\textsuperscript{220}Bilchitz, supra note 208 at 231.
\textsuperscript{224}Ibid., at 59–62.
\textsuperscript{225}TISCHLER Joyce and MYERS Bruce, “Animal Protection and Environmentalism: The Time Has Come to Be More Than Just Friends” in Abate, supra note 14, 387 at 388.
\textsuperscript{226}Ibid., at 399 et seq; Long, supra note 205 at 426
of animals; many animal advocates are also environmentalists, and vice versa.\footnote{227} The goals of each movement frequently align around overarching desires to “allow species to live free in a natural state”.\footnote{228} It is practically beneficial to blend resources, political efforts, and legal reform on these two issues.\footnote{229} Consequently, arguments to prioritize “protection” over “conservation” are growing.\footnote{230} In law, “protection” has wider scope than conservation.\footnote{231} It can be used to refer to “meaningful conceptual connections between animal welfare and animal conservation”.\footnote{232} It is suggested by Katie Sykes that this conception would constitute “elements of conservation-focused concerns, welfare concerns, and something that does not quite fit into either category: the value of the life of a charismatic individual animal”.\footnote{233}

Third, the neglect of wild animal welfare is increasingly inappropriate. The wild is shrinking, species’ ranges are decreasing, and human-induced climate change is posing ever-increasing threats to wild animal welfare.\footnote{234} Blending welfare and environmental protection would be mutually beneficial.\footnote{235}

In conclusion, animal protection through the OIE and compassionate conservation would align with some imperatives within second wave animal ethics. The OIE’s broad membership facilitates diverse conversations on animal welfare, and recognising wild animal welfare erodes a harmful dichotomy. However, relying upon existing legal mechanisms with anthropocentric roots is suboptimal from a second wave perspective. These frameworks present significant limitations. Offering welfare protection on the basis of domesticated or wild status, rather than flourishing, is harmful. Inter-institutional collaborations could somewhat rectify this, but the literature fails to propose this, due to dichotomous thinking. Additionally, proposals for compassionate conservation stem from white western scholars and the impact of such proposals on minority groups of humans remains unknown. Wider, more diverse scholarly discussion would be required in order to move this idea forward.

### B. Creating New Frameworks

A second proposed approach to fill gaps in animal protection in international law is to develop new frameworks. One prominent approach is to propose a treaty, international organization, or body responsible for animal welfare.\footnote{236} This would avoid the problem of gaps and dichotomization between domesticated and wild species.\footnote{237} However, it presents...
problems of colonial false-globality because treaty proposals have stemmed exclusively from developed, western contexts with inadequate engagement with non-western stakeholders. David Favre, a US-based animal law professor, is the driving force behind a draft International Convention on Animal Welfare: a framework treaty which would be supplemented with subsequent protocols.\(^{238}\) This was very recently revived and relaunched as the Convention on Animal Protection with a new campaign effort set to begin in reaction to the events of COVID-19.\(^{239}\) Favre desires a more “universal view about how to treat animals”.\(^{240}\) This eschews second wave intersectionality and situatedness and frustrates efforts to consider local conditions. The draft treaty recognizes the intrinsic value of life, opposes the unnecessary killing and suffering of animals, and adopts a pragmatic, welfarist orientation.\(^{241}\) Welfarism is deficient under second wave animal ethics. Further, with no country to sponsor it, the original draft treaty did not garner sufficient attention at the U.N. for implementation.\(^{242}\) Thus, while other animal lawyers and activists have drafted new proposals, such as the GAL Association’s draft Convention on Animal Health and Protection, the problem is not the lack of treaty language.\(^{243}\) The problem is the lack of sufficient buy-in from policymakers or powerful lobbying campaigns to spark lawmakers’ interests. Current proposals are concerningly western-oriented. For example, Favre’s proposal universalizes the western welfarist model.\(^{244}\) A draft treaty developed through cross-cultural, global discussion may find wider support. Second wave situatedness and intersectionality imperatives demand broader discussion in these drafting exercises.

Another proposal for a new framework rectifies some of the issues with treaty proposals. This proposal is the movement proposing the adoption of a UN Declaration on Animal Welfare (UDAW) containing non-binding principles on animal welfare.\(^{245}\) The UDAW was proposed by animal welfare organizations worldwide, led by World Animal Protection.\(^{246}\) It applies to domestic and wild species, avoiding dichotomization. The UDAW avoids flaws of the proposed treaties by garnering support from across the globe, including the EU’s ministers of agriculture, the American Veterinary Medical Association, the Islamic Conference on Animal Welfare, the OIE, governments of countries including Cambodia, Fiji, New Zealand, Palau, the Seychelles, Switzerland, and the EU member states, as well as over two million individuals who have signed a petition.\(^{247}\)

The UDAW has been critiqued as vague and unable to impact change in countries with established animal welfare regimes.\(^{248}\) However, the instrument’s power is primarily normative. This is significant for global animal law’s growth. Despite wide support and a light-handed, non-binding approach, the UDAW remains unadopted and campaigning efforts have dwindled. This highlights the importance of wide, diverse support for such

\(^{238}\) Favre, ibid., at 97.
\(^{240}\) Favre, supra note 51 at 91.
\(^{242}\) Favre, supra note 51 at 97.
\(^{244}\) Otter, O’Sullivan, and Ross, supra note 14 at 66.
\(^{246}\) Gibson, ibid., at 542; Otter, O’Sullivan, and Ross, supra note 14 at 67; White, supra note 241 at 395.
\(^{247}\) Gibson, supra note 246 at 546–7 and 551.
instruments. One drawback of UDAW is that it continues the trend of focusing on international law mechanisms to the exclusion of others. Initiatives like this could be improved by considering further multi-scale, relational legal instruments in addition to or in lieu of a universal instrument.

In conclusion, there are normative shortcomings in recommendations to create new frameworks as well as recommendations to expand existing frameworks. The proposals for new frameworks could resolve the wild/domestic dichotomization of a reformist approach and they could avoid the anthropocentrism of existing institutions, such as the OIE. However, the proposals for new frameworks presume the most effective and valuable kind of global animal law would be uniform, aspiring to universal application. These proposals do not include reflections on the problem of coloniality and the potential value of contextual approaches. It is likely that this oversight stems from the lack of diversity amongst those writing on global animal law, as set out in the previous section. Having now made these issues clear, it ought to be possible for global animal law scholars to seek to rectify this situation by injecting new normativity into global animal law studies, inspired by global law metatheory and second wave animal ethics.

VI. Conclusion

Global animal law, as it is emerging, presents with deficiencies from the perspectives of global law metatheory and second wave animal ethics. In response, this article provides a precise conception of global law and a critique of the use of global terminology to refer to universally applied international law. Additionally, this article focuses on the neglect of decoloniality and intersectionality imperatives of second wave animal ethics. These analyses led to the conclusion that global animal law is, at present, not very global; it is western-driven and can facilitate coloniality. Thus, animal law scholars ought to refrain from global language when talking merely about international law for animals, or else they will be falling foul of William Twining’s warning against “globabble”. This will harm the legitimacy and, in turn the effectiveness of global animal law. In addition to avoiding “globabble”, this article has recommended that global animal law scholars explore the opportunities presented by the connectivity and post-Westphalianism of global law.

I believe that effective global animal law ought to entail global multi-speed multilateralism that interconnects hard and soft law, universal, regional, and local standards. This ought to result from negotiation and collaboration, not unilateral imposition. Given the prohibitive difficulty of agreeing a universal animal welfare treaty, soft law and non-universal multilateralism are essential components of global solutions to problems of animal harm. An alternative to this multi-speed multilateralism is proposed by Charlotte Blattner. Blattner advocates for developing animal law through unilateral, extraterritorial measures that would create a “dense, global jurisdictional net of overlapping and concurring laws”. While Blattner’s proposal concerns unilateral measures, she notes that this may activate new collaborative governance which would be required for global governance. This interconnected picture has interesting potential insofar as global law connectivity is concerned. However, Blattner’s proposal is inspired by a view of multilateralism as “uniform and consistent”. I argue, with support from global law

250 Blattner, supra note 25 at 56–7.
251 Ibid., at 314.
252 Ibid., at 403.
metatheory, that multilateralism is capable of and strongest when encompassing diversity and facilitating situated normativity. Blattner’s analysis of the potential for extraterrorism in animal law is excellent. However, I wonder whether a more widely accepted view of global animal law as diverse, interconnected, and post-Westphalian might encourage scholars like Blattner to explore alternate modes of multilateralism.

Now, given that global animal law scholarship is still in its early days, it is up to the scholars writing within this new area to decide upon the way forward. By presenting these scholars with insights from global law metatheory and second wave animal ethics, I hope to have inspired a more critical reflection on the use of global terminology and an interest in exploring issues of diversity and decoloniality from the very outset of global animal law projects. Diversifying participation in global animal law is only the first step and much more work is needed. We will need to work toward deep, broad and meaningful participation that leads to results, ways of working that facilitate the coexistence of different frames, epistemologies and knowledges. We will need to question the gatekeeping functions currently adopted by academics and NGOs, questioning whether and how this truly serves animals and the people that care about them. And we will have to work toward a decolonization of the ideas that we work with, embracing “the end of the cognitive empire”. In addition, we will have to reflect on our own positionality and question the appropriate limits of our participation and what spaces are rightly closed to us. These are difficult questions to tackle but I believe that doing so is not only the right thing to do, but also the only way to ensure effectiveness of global animal law endeavours. I have had the great pleasure of meeting and working with many global animal law scholars and I have no doubt they can meet this challenge.

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