

THE EMERGING PARADIGM OF ANIMAL WELFARE JURISPRUDENCE: A COMPARATIVE STUDY OF GLOBAL APPROACHES AND INDIAN LAW

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Abstract

Jurisprudence related to the welfare of animals has become a significant development in contemporary law. The trend of humane treatment of animals is being considered in many legal systems. In most cases, it can be said that this field of law stresses the shift towards ecocentric, compassion-focused, or any other more humane approaches. In this paper, a comparative study of the international approaches to the welfare of animals is made, based on the fact that animals are not only becoming property, but they are also sentient beings that require dignity, care, love, and protection. At the international level, such tools as the Universal Declaration on Animal Welfare, guidelines of the European Union, and judicial rulings of many jurisdictions have contributed greatly to the recognition of the animal rights and the respective duties of states. Animal welfare legislation in India is based on the constitutional provisions and the statutory schemes. Still, it is the active involvement of the Indian courts. It has prompted this discussion as has been seen through historic rulings that establish the intrinsic worth of the animal life. More so, has extended the concept of basic rights to include non-human beings and imposes duties not only to the state, but also to citizens. This paper posits that India is progressively advancing towards an emergent jurisprudence of animal welfare that resonates with global trends while remaining anchored in indigenous constitutional principles. This paper adopts a doctrinal and analytical approach to examine the evolving landscape of animal welfare jurisprudence.

Keywords: *Animal Welfare, Global Approaches, Indian Judiciary, Jurisprudence, Legal Paradigm.*

INTRODUCTION

The debate on the welfare of animals has undergone a massive transformation over the past few decades that has seen the departure of the traditional idea of animals as commodities that humans can exploit to instead of viewing them as living beings that have the capability of experiencing ache, pain and overall well-being. The transformation has also brought about a major change in the law whereby the anthropocentric perception of the law has been changed to the wider and more eco- and bio-centric legal perception. This change is demonstrated through the presence of the new paradigm of jurisprudence regarding the welfare of animals. With the emerging issues of ethical treatment, sustainable co-existence and ethical duties of humans to animals, this is being translated into the international legal instruments, regional legal systems and national legal legislation on the global scale that has resulted in the creation of the law of animal welfare. The global consensus has been formed through the resolution of the United Nations General Assembly on the Universal Declaration on Animal Welfare and the regulations that the European Union has formed on the subject of animal

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welfare. The practice of human treatment of animals is still being advanced to create comprehensive legal practice and precedents in many countries, including the United Kingdom, Australia and the United States, and has created a legal framework of industries that use animal products and the legal personhood of animals in some circumstances. All this demonstrates that the problem of animal welfare is not a peripheral issue anymore, but it has evolved into a central point of discussion of the human rights, the environmental law and the sustainable development discourse. Within Indian jurisprudence, the constitutional and statutory provisions, customs and judicial activism have interacted in a unique way regarding the development of animal welfare. The Constitution of India, through Articles 48A and 51A(g), imposes obligations on both the State and citizens to protect and enhance the environment while demonstrating compassion for all living creatures. Legislation such as the Prevention of Cruelty to Animals Act, 1960 and the Wildlife Protection Act, 1972, establishes statutory foundations for the protection of animal life. In other words, Animal Welfare Law in India is rather developed through the decisions of the judges over the years rather than the development of laws by the elected members of the legislative body (government). Due to the emergence and expansion of the law by the judges, they have extended the protection of the constitutional principles and ethics to animals as well. Specifically, they have also highlighted that animals need to be treated with respect, love, and care and with dignity and regard to their innate worth. The judges have not only used the present laws regarding animals but have supposed that there is a positively binding duty on humans to safeguard the honor and lives of the entire animals. In a number of cases, judges have treated animals as legal persons and have consequently put into question the conventional, Anthropocentric premises of the law. Although the world has improved, there are still the formidable obstacles posed to the transformative potential of animal law in India and other nations.

Statement of Problem

Every creature is fit to fit somewhere in the ecosystem, and each has a specific role to play in ensuring balance in the natural environment through offering the balance necessary to keep the natural environment running. Animals also play a critical role in the provision of this balance. Animals play a significant role in ensuring the stability of the ecosystem, and also assist in the overall well-being of the environment. Nevertheless, animals are being exploited, abused and disenfranchised leading to most of the animals being treated cruelly and inhumanly in most parts of the world. The animal welfare law in India is not a new term. Instead, it has been developed through the course of time, the interpretation of the current laws in terms of judicial decisions, legislative acts and judicial ruling. Nevertheless, the legislation of animal welfare has serious shortcomings; the most conspicuous one in implementation of the law and disparity in the interpretation of the law across various courts across the nation. This process is made difficult by the appearance of new ideas about the legal position of animals and their rights. These difficult principles bring about legal and ethical problems that are complicated and exist within the law. Thus, there is need to critically examine the legal framework that concerns animal welfare jurisprudence in India as it is in the context of what is happening in other countries of the world to identify whether animals are adequately safeguarded and give animals dignity.

Research Objectives

- a) To elaborate Animal Welfare Legislations in India.
- b) To analyse the level of implementation of the Central legislation concerning animal welfare in India.
- c) To highlight the role of the judiciary towards animal welfare in India.

Research Questions

- a) What are the sources of animal welfare jurisprudence on Indian landscape?
- b) Are the existing animal welfare legislations adequate for the protection and preservation of animals?
- c) Is there any relation between the effective implementation of judgments of the courts and politics?

REVIEW OF LITERATURE

P.P. Mitra (2011): The author in his book has discussed how animals are essential throughout human life and are utilised for agricultural purposes, carriage purposes, pets as companions, in sport, circuses or zoos for entertainment, scientific experiment, etc. From the beginning of the human race, animals are the need for human beings. Further, all kinds of laws related to animals and their rights were discussed by the author.¹

Maneka Gandhi, Ozair Hussain, and Raj Panjwani (2011): The authors have experienced that several queries have been raised about animals' legal rights and that these shall not be confined to mankind only, but shall be stretched to non-human beings also. In India, several animals are regarded as sacred and are being worshiped but their living conditions and health remain unattended, as that is confined only to the favourite pets. Parliament, after taking into consideration the misery of animals, passed the first legislation, i.e. the Prevention of Cruelty to Animals Act, 1960. Further, for the protection of wild animals, another legislation, i.e. the Wildlife Protection Act, 1972, came into existence. Even the Constitution of India was amended by the 42nd Amendment Act, 1976 and Articles 48A and Article 51A(g) were introduced in the Constitution. Further, this book has referred to several principles or guidelines that should be followed with regard to the welfare of animals.

Arjya Majumdar, Debosmita Nandy, and Swayambhu Mukherjee (2013): The authors address the laws, which govern the usage of natural resources such as animals, plants, natural habitats, and wildlife. India has laws that are associated with environmental protection and wildlife and ecosystem management. The international wild life treaties and how they are related to the legislations that have been introduced in the other places affects how such laws are made and their effectiveness. Evolution of these laws in the country has also been influenced by the changes in the International Environment.

Siddhartha Sarkar (2019): The author highlights the shocking scale of the illegal trade of wildlife, stating that it is currently regarded as one of the largest illegal businesses in the world (only second to drugs). The incentive structure in this trade is distorted since it is a great reward with little risk of punishment in the event of its detection. Examples of crime

¹P.P. Mitra, *An Introduction to Animal Laws in India* (Universal Law Publishing Co Ltd, India, 4th edn., 2011).

that the majority of the community would have considered to be bad. and are heavily punished do not always evoke the same emotional response as wildlife crimes; therefore, the lack of social stigma will lead some to believe it is less of an issue than what it actually is, resulting in the laws designed to eliminate these issues losing their efficiency.²

Anandan R.S (2020): In the last few months, examples of cruelty towards animals have been mentioned by the author in this article, of which an instance is of a pregnant Elephant killed in the Wayanad district of Kerala by an allegedly pineapple filled with explosives. The author has cited to form a definition of animal well-being as an animal that is free from suffering (such as by being in pain or being thirsty or hungry) and is safe and healthy. Wildlife is also being highlighted by the author as a further indication of how many wild animals are becoming extinct. In order to address the issue of cruelty to animals, various laws exist, but they have not been effective; such as indicated in real life examples.³

Udit Raj Sharma and Shreshth Srivastava (2023): This study is an insightful and detailed exploration of the acceptance of animal sentience in Indian legal principles, with an aim to help bring together the areas of judicial cases, cultural beliefs, constitutional analysis and global development. There have been major contributions to the discussions about animal rights in India as a result of the researcher's comprehensive analysis of judicial patterns and potential solutions.⁴

Joyce D'Silva (2023): The author has examined the relationship between religious beliefs and animal welfare by looking at the doctrines and tradition of the major religions globally. The author discusses how each of the different belief systems influences a person's relationship with animals, sometimes inciting kindness toward those beings while other times legitimising their usage. By using biblical concepts and examples from contemporary society, this research establishes an ethical and comparative basis for analysing the ideas of protection and dignity of animals, both in society as a whole and within legal systems.⁵

Trusha Modi and Shaun Star (2024): This article explores perceptions of the ideological conflict between ecocentricity and anthropocentricity. To do this, it has employed an analytical approach, reviewing the case of Animal Welfare Board of India v. Union of India and Anr (the Jallikattu II case) in order to provide an appraisal of these two ideologies (and thus assist in developing an understanding of their differences in relation to animal welfare), outlining contemporary Indian animal welfare jurisprudence, and outlining Sikh law principles regarding animal welfare.⁶

Shreerangam Barai (2024): In addition, this article provides an organised and cohesive overview of how animals are perceived in India and what type of legal protections exist for animals in India, how other countries address these two ideological perspectives in relation to animals, the law in these countries, as well as the cultural perspectives surrounding animals. To achieve a holistic understanding of the issue, evolving jurisprudential

²Siddhartha Sarkar, *Wildlife Trafficking: A Crime against Environment* (Gyan Publishing House, Delhi, 2019).

³Anandan R.S, "Animal Welfare Laws in India: Through the Constitutional Spectrum" *E.G.L.J.* (2020).

⁴Udit Raj Sharma & Shreshth Srivastava, "Determining Contours of Section 28 of the Prevention of Cruelty to Animals Act, 1960" *ILL Law Review* (2023).

⁵Joyce D'Silva, *Animal Welfare in World Religion: Teaching and Practice* (Routledge, London, 1st edn., 2023).

⁶Trusha Modi & Shaun Star, "A Critical Analysis of the Animal Welfare Board of India v. Union of India (Jallikattu II Case): Evolution of Animal Rights Jurisprudence in India" 15(1) *Jindal Global Law Review* (2024).

developments surrounding animals are being used. In this way, the contribution of this article to the contemporary debate regarding animal rights extends well beyond simply describing the issue; it also provides a meaningful contribution to the contemporary discussion around animal rights through its examination of judicial activism and recommending actionable paths forward for reform.⁷

INTERNATIONAL PERSPECTIVES ON ANIMAL WELFARE

The global importance of the topic of animal protections is clear. But so far, there have been no successful worldwide solutions. Animal suffering is a worldwide phenomenon; and it happens in many forms. The extinction of wild species is occurring at an alarming rate, and domestic animals are being subjected to great exploitation. "Animal Protection" was proposed for adoption at the first international conference on animals by Professor Favre in 1989. At that time, government commitments to this original draft were not received appropriately by the Convention. The Universal Declaration on Animal Rights (UDAR) was also announced at the UNESCO Conference in 1978 and has yet to gain any serious level of recognition within most of the nations that were present at that conference. The recognition of Animals and Nature at the 1982 World Charter for Nature by the United Nations for the first time establishes value for Animals and states that all forms of life have an intrinsic right to exist and to be valued, regardless of any usefulness or benefit they provide to humanity. In addition to the establishment of this intrinsic value animals must adhere to some standard of morality by all human beings towards all living beings as well (Earth Charter Initiative - 2000). Animal Welfare has become a stand-alone and separate area of focus for International Law.⁸

At present, the welfare of animals is not governed by a single International Legal Instrument. Possible frameworks that could find out the deficiencies in global animal welfare protection include a Universal Declaration on Animal Welfare, the entrenchment of OIE Animal Health Standards, and an International Convention for the Protection of Animal Welfare. Although new frameworks for global animal protection are under development, they may still fail to set up a comprehensive and enforceable global protection regime.⁹ The Convention on Biological Diversity (CBD) exemplifies the characteristics typical of prevailing conservation treaties and notably lacks provisions specifically addressing the welfare of individual animals. Moreover, the CBD contains stipulations that may conflict with the welfare considerations of individual animals (for instance, Article 8(h) obligates contracting parties to prevent the introduction of, control, or eradicate alien species that pose threats to ecosystems, habitats, or species). The campaign advocating for the adoption of the Universal Declaration on Animal Welfare (UDAW) by the United Nations is spearheaded by the World Society for the Protection of Animals (WSPA).¹⁰ Even though the animals are among those impacted by armed conflicts, International Humanitarian Law (IHL) does not directly deal with the issue of their protection. Animals are not directly recognised as

⁷Shreerangam Barai, "Sentient Beings: Recognizing Animal Rights in Legal Jurisprudence of India" II (7) *International Journal for legal research and Analysis* (2024).

⁸*Ibid.*

⁹Steven White, "Into the Void: International Law and the Protection of Animal Welfare" 4 *GlobalPolicy* 391-397 (2013).

¹⁰*Ibid.*

civilian objects or as components of the natural environment. They are indirectly referenced. At present, non-human entities are categorised as legal objects in almost all legal jurisdictions. In recent times, many countries, including Germany, Switzerland, and Austria, have amended their Civil Codes. The legal status of animals has been recognised by these nations under their individual systems; animals have been declared to not be treated as possessions and therefore won't be governed by laws that govern possessions.

Other countries globally are working to change the legal status of specific types of animals, and have agreed to create intergovernmental agreements called 'Universal Declaration of Animal Welfare' (UDAW), in an effort to prove that animals have some level of consciousness and can therefore feel. This accord has been shaped in order to help prevent cruelty and mitigate suffering among animals, and will set out sufficient guidelines as to how they should be cared for. Besides this declaration, there are few conventions for animal's welfare like the UNEP Biodiversity Convention, 1992; the Convention for the Regulation of Whaling, 1931; the UN Convention on Animal Health and Protection; the Convention on Biological Diversity Act, 1992 seeks to protect the variety of species on earth in every way and to make sure that the diversity continues to maintain the life support systems of the earth.¹¹ Several international organisations perform a crucial role in advancing animal welfare, including World Animal Protection, the World Organisation for Animal Health (OIE), the International Fund for Animal Welfare, Humane Society International, and International Animal Rescue. These bodies seek to embed the notion of animal well-being within public policy and global governance. The OIE Guidelines articulate five internationally recognised animal welfare freedoms, namely freedom from hunger and thirst; freedom from fear and distress; freedom from physical and thermal discomfort; freedom from pain, injury and disease; and freedom to express normal behaviour.¹² These principles, commonly referred to as *Brambell's Five Freedoms*, were subsequently incorporated into the United Kingdom's Farm Animal Welfare framework and have influenced international welfare standards. In addition, instruments of global conservation policy are represented by the Convention on the International Trade of Endangered Species of Wild Fauna and Flora, 1973, that is recognized worldwide for creating an international framework that regulates the make use of wildlife and what is widely regarded as one among other effective methods to conserve endangered species.¹³

Peace on Earth is one of the primary goals of the United Nations. Although this intention can be restricted to individuals, there is no need to restrict this to human beings when it comes to thinking about the manner in which the welfare of wildlife can be maintained and enhanced. India has coalesced to be a signatory country to many global regulations that have the objective to safeguard wildlife with the purpose of signing treaties. Through these treaties, India has obligated herself to adopt international standards in the conservation of the wildlife, conservation of habitats and biodiversity. India has had a number of major treaties to be involved with. The older treaties are concerned with protection of animals and plants. Other treaties are associated with the regulation of commerce and nations as far as the exploitation

¹¹ *Karnail Singh v. State of Haryana*, Criminal Appeal No.36 of 2003 (2019).

¹² *Ibid.*

¹³ Sabine Brels, "A Global Approach to Animal Protection" 20 *Journal of International Wildlife Law & Policy* 105-123 (2017).

of wildlife is concerned including marine mammals. Furthermore, there are numerous universal agreements on various issues that reflect India's involvement in developing a global treaty regime to address wildlife and environmental protection. These global treaties include treaties that protect wetlands, cultural and natural heritage; endorse protection of endangered species, migratory wildlife, the Antarctic ecosystem and biodiversity. Together, these treaties represent India's involvement in the progression of the worldwide treaty framework to promote the conservation of wildlife and wildlife habitat. Based on the worldwide treaty framework regarding the safeguard of animals, it can be believed that since the very start, there have been efforts to protect the wildlife that nature has provided to this country; extra efforts have been taken since India became independent..¹⁴

INDIAN PERSPECTIVE ON ANIMAL WELFARE

Unlike its European Counterparts, the Indian legislative system is silent on the animal's legal status, even though the Indian' Constitution has put the State under a duty to defend the animals and take measures for their welfare.

Constitutional Position of Animals in India

The Constitution of India reflects a commitment to the ethical treatment of animals by recognising their protection as a civic responsibility. While Part III of the Constitution guarantees fundamental rights necessary for human dignity and development, Article 21 has acquired particular relevance in the discourse on animal welfare. Traditionally understood as safeguarding life and personal liberty, Article 21 has been judicially described as a procedural safeguard of the highest constitutional value and has been expansively interpreted by the Supreme Court of India to include rights such as food, shelter and education.¹⁵ Extending this interpretative approach, the Court in *Animal Welfare Board of India v. A. Nagaraja*¹⁶ acknowledged that the right to life is not exclusively human-centric and observed that every species is entitled to life and security, subject to lawful human necessity.

The Directive Principles of State Policy (DPSP) are articulated in Part IV of the Constitution, serving as the foundational framework upon which states construct laws and policies. In contrast to the fundamental rights, the DPSP lacks enforceability within any judicial forum. Nonetheless, states must incorporate these principles when enacting laws aimed at establishing a Constitution that embodies a just society. Three specific directive principles underpin the state policies concerning animal welfare in India, articulated as follows: "The state shall seek to plan agriculture and animal husbandry along modern and scientific lines and shall in especially take measures towards the preservation and bettering of the breed and against slaughter of cows and calves and other milch and draught cattle."¹⁷ Additionally, "The state shall strive to protect and improve the environment and to preserve the forests and wildlife of the country."¹⁸ This exact proviso was introduced by the 42nd Amendment in 1976, thereby imposing a duty upon the state to safeguard both the

¹⁴Kusum Pal, *Wild Life Protection: A Legal Critique with Special Reference to Punjab, Haryana and Union Territory of Chandigarh* (2011) (Unpublished Ph.D. thesis, Panjab University Chandigarh).

¹⁵The Constitutional Scheme of Animal Rights in India, *available at*: <https://www.animallaw.info> (last visited on December 30, 2024).

¹⁶(2014) 7 SCC 547.

¹⁷ The Constitution of India, art. 48.

¹⁸ The Constitution of India, art. 48A.

environment and wildlife. The fundamental responsibilities of Indian citizens are enshrined in Article 51-A (Part IV-A) of the Constitution. This Article was instituted through the 42nd Amendment of 1976 to align the Indian Constitution with Article 29(1) of the Universal Declaration of Human Rights. Although Fundamental Duties lack enforceability in courts, they are frequently referenced in the interpretation of constitutional and related issues. Remarkable consideration has been devoted to the term 'humanism,' which encompasses multiple interpretations but is increasingly recognised as an inclusive sensibility towards all species.¹⁹ Article 51-A (g) imposes an obligation on Indian citizens to safeguard and enhance the natural environment while exercising compassion for all living beings. In relation to animal rights, specific considerations have been designated within the State and Concurrent Lists. Item 14 of the State List delineates that states possess the authority to preserve, protect, and enhance livestock, prevent animal diseases, and enforce veterinary training and practice. Within the Concurrent List, both the central and state governments are empowered to legislate regarding: 1) Item 17: Prevention of cruelty to animals. 2) Item 17-B: Protection of wild animals and birds.²⁰

The Prevention of Cruelty to Animals Act, 1960

Animals are also capable of perceiving both physical and psychological suffering, as they are classified as sentient beings. This planet is a shared habitat for all creatures, encompassing humans, animals, and others. Animals are employed from corner to corner in various sectors, including agriculture, transportation, entertainment, clinical, and domestic purposes. Consequently, to maximise utility, animals have frequently been subjected to exploitation through coercive practices and the infliction of undue suffering. In India, the Prevention of Cruelty to Animals Act, 1960 (PCA Act) was enacted. This legislation serves "to prevent the imposition of unnecessary pain or suffering on animals and for that purpose to amend the law relating to the prevention of cruelty to animals."²¹ The PCA Act constitutes central legislation that prohibits the imposition of unnecessary pain or suffering upon any animal. The PCA Act was passed with the intention of protecting animal welfare and, presumably, curing some mischief and long-standing customs. It also aims to implement some sort of reform based on ecocentric principles, acknowledging the inherent value and worth of animals, summarising all acts of needless suffering or cruelty, and assuring penalty for those who engage in such behaviour.

The Wild Life (Protection) Act, 1972

Concerning richness in species, India is and continues to be among the most important nations and it contributes 8% of the global biological diversity.²² Significant legislative and policy method have been undertaken in India to safeguard wildlife and their natural habitats, recognising that the conservation of forests and wilderness areas is intrinsically linked to long-term water and food security. A central pillar of this framework is the Wildlife (Protection) Act, 1972, enacted by Parliament under Article 252 of the Constitution following

¹⁹*Karnail Singh v. State of Haryana*, Criminal Appeal No. 36 Of 2003 (2019).

²⁰Overview of Animal Laws in India, *available at*: <https://www.animallaw.info/> (last visited on November 30, 2024).

²¹The Prevention of Cruelty to Animals Act, 1960 (Act 59 of 1960).

²²Kusum Pal, *Wild Life Protection: A Legal Critique with Special Reference to Punjab, Haryana and Union Territory of Chandigarh* (2011) (Unpublished Ph.D. thesis, Panjab University Chandigarh).

resolutions from eleven States, to establish a uniform national regime for wildlife conservation. The Act incorporates a dual conservation approach by extending protection to specified endangered species irrespective of their location, while simultaneously safeguarding all wildlife within designated protected areas. Subsequent constitutional developments further strengthened this framework, as the insertion of Entries 17-A and 17-B into the Concurrent List by the Forty-Second Constitutional Amendment empowered Parliament to legislate directly on wildlife matters.

The purpose and scope of the legislation have been definitively elucidated by the Supreme Court of India in the landmark case of *State of Bihar v. Murad Ali Khan*, which states, "the underlying policy and objectives of wildlife legislation are deeply rooted in a historical context and stem from a growing cognizance of the urgent necessity to rectify the significant ecological disruptions caused by the exploitative actions of humanity against nature. The current state of ecological imbalance and the resulting environmental degradation is so dire that, unless prompt, resolute, and effective measures are implemented, the damage may become irrevocable. The conservation of biodiversity, with particular emphasis on certain species that are facing extinction at a distressingly rapid pace, has emerged as an imperative and urgent requirement for the sustenance of human existence, and these legislative measures are indicative of a critical predicament arising from a prolonged history of indifference towards the substantial threats posed to humanity by environmental degradation."²³

ROLE OF JUDICIARY IN ANIMAL PROTECTION

The judiciary in India has consistently recognised the inherent right of all species to exist.²⁴ Interestingly, judicial discourse for a long time did not acknowledge the tension between the inherent right of animals to live and their treatment as property under the law. Further, the courts refrained from examining whether such a right could be recognised as one carrying legislative or constitutional protection. This resistance can be explained by the dominant strategy of treating animals only as the beneficiaries of humanistic treatment, but not as possessors of claim-rights, which will prevent a radical reconsideration of Indian animal rights jurisprudence. The case however observed a landmark case change in the case of *Animal Welfare Board of India v. A. Nagarajan*. In a radical act of interpretation, the Supreme Court noted that, although legally an animal could be treated as property, it has an inherent right to life and dignity and this right is realized in the Prevention of Cruelty to Animals Act, on top of the constitutional framework.

In *Kennel Club "of India v. Union of India*, the petitioner challenged the validity of cosmetic surgery practices, such as tail docking and ear cropping, performed on puppies of some breeds by licensed veterinary surgeons. It was opined that such non-therapeutic procedures, at the request of the pet owners, exposed such animals to unnecessary suffering and were thus cruelty, within the meaning of, the term cruelty in Section 11 of the Act, prevention of Cruelty to Animals, 1960. The petitioner also took an international comparative supporting approach, especially the prohibition of such in the United Kingdom, and a regulatory move

²³Paramjit S. Jaswal, NishthaJaswal, *et.al.*, *Environmental Law* 282-283 (Allahabad Law Agency, Faridabad, Haryana, 4th edn., 2015).

²⁴*Centre for Environment Law v. Union of India* (2013) 8 SCC 234.

by the Veterinary Council of India, and a disciplinary move by the Animal Welfare Board of the same country of India. The Madras High Court, however, dismissed the challenge and affirmed the permissibility of the practices in question. The Court reasoned that cosmetic procedures undertaken by duly qualified veterinary surgeons did not amount to cruelty or mutilation under the Act and remained within the domain of owner discretion. It further clarified that neither the Animal Welfare Board of India nor the Veterinary Council of India was vested with statutory power to restrain veterinary surgeons from performing such procedures on particular dog breeds.²⁵ The Court, in the case of *Karnail Singh v. State of Haryana* recognised an animal as a person and bearer of rights in the eyes of the law.

CONCLUSION

It is known that all living creatures hold a unique utility in the ecosystem, and an equal share is provided by the ecosystem to every creature. There was no need for the State to come up continuously with the legal framework if humans might have understood this for some time. When society feels there is a call for something, it will usually initiate the establishment of a legal framework through its government. After discovering the reasons behind animal extinction/ endangerment, society established laws for animal welfare through legislation enacted by the legislature. Animal welfare has federal and state laws but even still, there is no sufficient protection and care of animals, and a great number of animals experience either cruelty or mistreatment. The poaching of wildlife and the poaching of animals are still a problem. It will not be enough of solutions to simply add more legislation as a remedy. The two main animal welfare legislations must cover all the facets of all the animals and they must be implemented appropriately. With reference to animal welfare, all animals including feral, domesticated, wild, and those existing in an environment should be guarded and defined by the Indian Federal Law. Also, the latest tendencies in the field of jurisprudence of animal welfare reflect the ability of the state to establish liberal and flexible types of law over animals. The Prerogative case of the Supreme Court in the case of *Re: City Hounded by Strays, Kids Pay Price* has placed new emphasis on the judicial control of the problem of stray dog management. Such dogs require the humane treatment, sterilisation and immunization that the Animal Birth Control Rules that will be in force today and new policies, including the recently passed Animal Birth Control Rules, 2023, which will see to it that street animals are governed in a more systematic and welfare oriented manner. The latest decisions have strengthened the principles of compassion, dignity and strict execution of the statutory guarantees developed under the Constitution. All these changes point to the fact that it is not just symbolic protection anymore but the real manifestation of the protection with the obvious gaps in its enforcement and the evident necessity to coherent implementations of the policies and further judicial monitoring.

²⁵W.P.No.1750 of 2012 (2013).

Table 1: Research Question and Objective 01

Research Question	Research Objective
What are the sources of animal welfare jurisprudence on Indian Landscape?	To elaborate Animal Welfare Legislation in India.

Law derives from multiple sources in India, including the Constitutional provisions, statutory enactments, customary practices and judicial pronouncements. Besides these primary sources, a substantial body of subordinate legislation exists in the form of rules, regulations and by-laws. Animal Welfare Laws are established by not simply Central and State Governments but also Local Authorities. The Constitution of India recognizes Animal Welfare under Part IV - Directive Principles of the State Policy; Articles 48 and 48(A). The Constitution requires by law; Article 51A (g and h) that all citizens have a duty to care for animals and demonstrate compassion towards all living things. The Constitution's Article 21, the procedural Magna Carta that provides a Citizen's legal right to live and have personal freedom; has been interpreted through the Courts to include both human & animal lives.

Judicial orders concerning Animal Welfare are legally binded by the Constitution's Articles 141 & 144; therefore an authority is required by law to enforce these orders. The Constitution empowers the Legislature and Parliament through Article 246 and the 7th Schedule to create Animal Cruelty related legislation and protect wildlife. Article 243G & the 11th Schedule of the Constitution empowers Panchayats with the right to create legislation concerning animal husbandry, dairy & poultry, while Article 243W & the 12th Schedule empowers Municipalities to create legislation concerning cattle pounds and animal cruelty prevention.. Although several State-level enactments address animal protection and welfare, the principal central legislations in this field are the Prevention of Cruelty to Animals Act, 1960 and the Wildlife (Protection) Act, 1972. In addition, animal welfare finds recognition under other legal regimes, including penal provisions such as Section 325 of the Bharatiya Nyaya Sanhita and principles developed under the law of torts.

Table 2: Research Question and Objective 02

Research Question	Research Objective
Are the existing animal welfare legislations adequate for the protection and preservation of animals?	To analyse the level of implementation of the Central Legislation concerning animal welfare in India.

The Prevention of Cruelty to Animals Act, 1960, was passed to prohibit the infliction of unnecessary agony and misery upon animals and constitutes legislation specifically directed towards animal welfare. Similarly, the Wild Life (Protection) Act, 1972 was introduced to ensure the protection and conservation of wildlife, curb illegal trade and trafficking of wild animals, and safeguard endangered species. The Constitution (Forty-Second Amendment) Act, 1976 marked a significant advancement by laying a constitutional foundation for animal protection in India. The recognition of duties relating to animal welfare within the

Constitution has helped in the enactment of protective legislation both at the Central and State levels, most notably the Prevention of Cruelty to Animals Act, 1960 and the Wildlife (Protection) Act, 1972. Eventually, Indian courts have also added to the gradual development of animal law through judicial interpretation. Despite these developments, the expansion of animal law in India remains incomplete. Constitutional provisions concerning the protection of animals largely operate as guiding principles rather than enforceable legal rights. Further, the penalties prescribed under the Prevention of Cruelty to Animals Act, 1960, are inadequate to effectively deter acts of cruelty, and weak enforcement coupled with statutory loopholes often allows offenders to evade liability. Thus, there is an urgent need for complete legislative reform to build up the animal protection regime in India. Notwithstanding the existence of welfare laws, incidents of cruelty against animals continue to occur daily, many of which remain unreported.

Table 3: Research Question and Objective 03

Research Question	Research Objective
Is there any relation between the effective implementation of judgments of the Courts and politics?	To highlight the role of the judiciary towards animal welfare in India.

The judiciary of India has periodically assumed huge responsibilities to assist them in filling the voids present in veterinary welfare laws, and in doing so, they have made available legal protection to animals in an expressive manner. In the decision made by the Supreme Court in *State of Uttar Pradesh*, the defendant in a case of Animal Cruelty will not be entitled to custody of the animals until the trial is completed; during the time that the defendant is considered an accused, and pending trial, the animals will be in the custody of the nearest gaushala or pinjrapole. In the ruling made by the Bombay High Court in *People for the Ethical Treatment of Animals v Union of India*, it was resolute that all films wishing to exploit animals while making such films must obtain a "No Objection Certificate" from the Animal Welfare Board of India as a condition precedent to being certified by the Central Board of Film Certification. The *Gauri Maulekhi* case ruled by the Supreme Court of India in 2014 was a pointer to a high level of gunning down of cow smugglers before the Gadhimai festival, which involves the sacrificial slaughtering of bulls. Besides that, the Supreme Court of India in *Animal Welfare Board of India v. A. Nagaraja* (2014) considered that bulls could not be considered as being part of a performing animal. Other activities that are also banned are jallikattu and other animal racing and fighting.¹ *The cases discussed above show how serious the judiciary is in conserving a very valuable element of the environment, that is, animals. On the other hand, the judicial system prohibited Jallikattu, which believed that this was quite an inhumane act of mistreating animals to have fun. Moreover, on its other side, it made the people of Haryana loco parents.*² *There is a great difference in this respect. In India, there appears to be no desire to make animal law and its intentions firmer. In 2009,*

¹ *Animal Welfare Board of India v. A. Nagaraja* (2014) 7 SCC 547.

² *Karnail Singh v. State of Haryana*, Criminal Appeal No. 36 of 2003 (2019).

*the legislature of Tamil Nadu enacted an Act (TNRJ), however that only regulated Jallikattu in the state of Tamil Nadu. Unluckily, the Supreme Court decided in favor of AWBI v. Jallikattu. Nagaraja.*³ The dichotomous relationship that exists between law and animals is laying adverse precedent regarding animal welfare, thereby supporting the legal status of animals. This is another backward connection to the status of animals. Under Article 48 of the Constitution of India, the State shall provide for the organisation of agricultural, to-the-end-of-the-earth (i.e. modernised) and scientific animal husbandry and protect all types of cattle. It also mandates the prohibition of animal slaughtering of cows, calves and other milch and draught cattle to protect and enhance agricultural productivity.⁴ The judiciary and legislature should adopt a middle path wherein animal welfare will be secured and fundamental rights will also be protected.

³ (2014) 7 SCC 547.

⁴ The Constitution of India, art. 48.