



SENTIENCE AND SUSTAINABILITY: THE NEED FOR ETHICAL AND LEGAL TRANSFORMATION IN ANIMAL WELFARE LAWS

Ms. Shilpa Thakur, PhD Law, Department of Laws Himachal Pradesh University Shimla
thakurshilpa2015@gmail.com

ABSTRACT

Animals are sentient beings, they have the capacity to subjectively feel things such as happiness and sufferings. Animal sentience is to some degree implicitly recognized in animal welfare and prevention of animal cruelty legislation all around the globe. In India, where traditional philosophies like Ahimsa, religious doctrines and constitutional mandates acknowledge animal a sentient being and recognize the intrinsic value rather than instrumental value where they are treated as a resource in them also called inherent value which places them on its own existence. The interconnection between animal welfare and environmental sustainability advocating for conservation oriented approach and ethically driven policies that recognize animals not merely as passive resources, but as active agents of ecological harmony. Drawing upon the philosophical perspectives from natural to utilitarian perspective from anthropocentric to ecopocentric principles there remain a gap between ethical ideas and legal enforcement. In this paper the author analysis the critical evaluations of outdated provisions under Prevention of Cruelty to Animals Act, 1960 with recent judicial pronouncement. By connecting sentience with sustainability this paper calls for transformative legal framework that not only penalizes cruelty but promotes animal well being as integral to ecological resilience and moral progress . in doing so, it envisions an inclusive and ethically grounded future where animal rights and enviournment sustainability are mutually reinforcing pillar of justice.

Keywords: Animal Rights, Ecology, Sentience, Cruelty to Animals, Environmental Sustainability

1.1 INTRODUCTION

All living things have a right to live on this Earth but, we very often become totally insensitive to their pain, only because animals can't speak the language of humans, they don't have a voice. India claims to be home of Ahimsa. The doctrine of Ahimsa places a strong



emphasis on the fact that animals have a soul just like human beings. India is a land where the animals are being worshipped with its deep rooted culture. The Preamble of the Indian Constitution emphasizes justice, liberty, equality, and fraternity. These principles are not limited to human beings alone but extend to all forms of life within the territory of India. By securing justice and ensuring the welfare of all the constitutional framework of India provides a solid foundation for the protection and welfare of animals. The question is to see whether the specific legislation plays a crucial role in defining and enforcing these rights and principles enshrined in the Constitution which lay the ethical and moral groundwork for a society that values the well-being of all living creature¹.

Mahatma Gandhi Stated, 'Ahimsa.' which taught everyone the respect for animals as well as humans, a non-exploitative relationship to the environment, the elimination of poverty, the limitation of personal wealth and possessions and nonviolence applied at all levels of relationships, be it man to man, man to animal, or man to environment.

According to him, "The greatness of a nation and its moral progress can be judged by the way its animals are treated".

Animals contribute immensely to the smooth functioning of ecosystems and the stability of our environment. Their role in maintaining ecological balance and supporting human life is invaluable. Animals act as a worker in our ecology. They help the plants to grow, keep the air and water clean, and provide food to everyone. Without the working of big and small animals nature would not work as it does. Many animals also serve as companions, providing emotional support and joy. The ecosystem thrives on the interconnected relationships between predators and prey, as well as plants and animals. For example, predators like wolves and hyenas control the population of herbivores such as deer and goats. These herbivores feed on plants, and through their respiration and decomposition, contribute carbon dioxide and nutrients essential for plant growth. Plants, in turn, produce oxygen which is vital for all living beings. The decomposition of dead animals enriches the soil, facilitating the growth of new vegetation, thus sustaining the natural cycle.² Pollination, carried out by animals like bees, is another crucial process that highlights the interdependence of life. Bees

¹ David Star Jorden, "Animal Cruelty: A Threat to Wildlife," 19th July 2020. Available at <https://blog.ipeaders.in>, visited on 22-01-2023.

² Earth Reminder, "Importance of Animals to Human and Environment," Available at <https://earthreminder.com>, visited on 13-05-2023.



collect nectar from flowers and inadvertently transfer pollen, enabling the reproduction of plants. This process is vital for the growth of new flora, which contributes to oxygen production and supports life on earth. Disrupting this equilibrium often through human interference leads to severe ecological consequences. For instance, the unchecked killing of predators can result in an overpopulation of herbivores. This imbalance depletes vegetation and disrupts habitats, forcing herbivores to encroach on human settlements, potentially causing destruction to crops. Elephants, for example, can decimate an entire season's worth of crops if displaced from their natural environment. Thus, preserving animal life and preventing harm is essential for maintaining ecological balance. Animals are indispensable to the health and sustainability of the ecosystem emphasizes the need to treat them with care and respect.

The word Animal is derived from Latin word "Animalis", which means having breath and Soul. Traditionally animals are often viewed with extrinsic value, meaning their worth is derived from their utility to humans. Animals are often used as resource by human being for its own benefit such as for experiments, for entertainment and performance, sports, religious and custom, food and consumption etc.

Humans use animals for both practical and symbolic purposes, making them an integral part of culture. Practically, animals provide resources like food and clothing, labor and transportation. In scientific research, animals serve as models in genetics and drug testing. Animals have also been central to artistic expression. Additionally, animals play significant roles in literature, film, mythology, and religion, entertainment and research and education.

Despite the major roles played by animals, everyday, countless animals suffer and die at the hands of the very people who are supposed to care for and protect them. The Act of Human beings are significantly impacting nature, the environment, and animals. Due to technological advancements, industrial growth, and economic gains has led to the depletion of natural resources. The large scale killing of animals and the destruction of vegetation have adversely affected environmental quality.

In literal term, abuse means to inflict someone with pain harm and violence especially regularly and frequently, therefore animal cruelty known as the malpractice of treating animals with cruel, violence, unethical behaviour. Subjecting animals to the environment



where they feel scared, terrorised, unprotected is called animal cruelty. Physical violence, emotional abuse and life-threatening neglect are daily realities for many animals. Animal cruelty encompasses any behavior that causes harm to animals, ranging from unintentional neglect to deliberate acts of violence. Using animals beyond their physical or natural limits or exploiting them unnecessarily also falls under animal abuse.³ People harm animals not out of intent but because they having lack of awareness or fail to consider the consequences of their actions. Acts of animal abuse can include neglect, such as failing to provide adequate food and water, or overt violence like hitting, poisoning, or other deliberate harm intended to cause pain or death⁴.

Animal cruelty refers to acts of neglect or abuse that cause unnecessary pain, suffering, or distress to animals. Neglect includes failing to provide adequate food, water, or medical care, while abuse may involve both physical and psychological harm. Psychological harm can manifest as torment, terror, or distress inflicted on animals.⁵ The concept of animal cruelty is not new. The main goal of animal welfare laws is to promote the humane treatment, care, and protection of animals and preventing acts of cruelty, abuse, neglect, and exploitation.

1.2 Animal Sentience: Scientific and Ethical Foundation

Animal sentience refers to the ability of animals to feel and experience emotions such as joy, pleasure, pain and fear. It is animal's capacity to feel both positive and negative states that drives the animal welfare movement and is the reason why animal protection laws exist. A brief history of the concept of sentience is given. It is pointed out that the idea of sentience, at least in the mammals and birds, was accepted by lay people by the time of the Renaissance and before it was acknowledged by philosophers. It was not until the Enlightenment of the 18th century that philosophers started to accept the notion that animals have feelings. Towards the end of the 19th century, scientists and philosophers had developed a fairly sophisticated concept of sentience. Little consideration was given to sentience by scientists through much of the 20th century due to the inhibiting influence of Behaviourism. In the last

³ Available at: Earth reminder, "Importance of Animals to Human and Environment", <https://www.earthreminder.com>, visited on 12-10-2023.

⁴ Nikhil Yadav, "Cruelty to Animals: Dynamism In Indian Legal System", Protection Dynamism in Indian Legal System, 23, July2020.

⁵ Joshita Mohanty, "Animal Abuse: Study on Inhumanity and Cruelty," Available at <https://blog.ipleader.in>, Visited on 13-05-2024.



quarter of the 20th century, there was a surge of interest in animal sentience, and animal welfare scientists quickly realised that welfare problems can be better tackled with an understanding of how animals feel. Methods to investigate indirectly how animals feel are described and areas requiring further elucidation are listed.

1.3 Philosophical theories on animal rights

The issue of animal rights has emerged as a significant topic in philosophical, ethical, and legal discussions, especially as society becomes more conscious of the mistreatment and exploitation of animals. Various theoretical perspectives on animal rights seek to explore the moral and legal status of animals, questioning how humans ought to treat them and whether they are deserving of protection under law. These theories challenge the long-standing human-centered viewpoint that often reduces animals to objects for human use. Instead, they promote the idea that animals, as sentient beings capable of feeling pain, joy, and other emotions, possess intrinsic worth. While some theories, such as utilitarianism, emphasize the importance of reducing animal suffering, others argue for recognizing animals fundamental rights to life and freedom. These perspectives form the basis for evolving animal protection laws and ethical standards. Gaining insight into these theoretical models is crucial for engaging with current discussions on animal use in areas like food production, scientific research, religious rituals, and entertainment, and for developing more humane and equitable policies toward non-human animals. The theory of animal rights is a complex and multifaceted subject that has been explored in philosophical, ethical, and legal discussions for centuries. Central to the discourse on animal rights are various Ethical and Moral Rights Theories, Environmentalism Theory, Animal Rights Theory

1.3.1 Ethical Theories on Animal Rights

The ethical treatment of Animal has become a prominent issue in contemporary moral philosophy and at the heart of it lies the concept of animal rights which advocates for the recognition of animals as a beings deserving of moral consideration and protection. A key question in animal ethics is the role non-human animals should occupy within an acceptable moral framework. Animals often exist in a gray area of our moral considerations, where we may sometimes attribute them significant moral status and at other times deny them any moral consideration. The ethical implications surrounding animals have been the focus of extensive debate and exploration throughout history. As sentient beings, animals provoke



important questions about their treatment, rights, and the moral duties humans hold towards them.⁶

Ethical theories provide various frameworks to understand and navigate these intricate issues. They encompass a wide array of viewpoints that reflect different cultural, philosophical, and religious traditions. Common themes in these theories include the moral status of animals, the justification for using animals for human benefit, and the responsibilities that humans have toward them. Philosophical discussions regarding the moral standing of animals can typically be categorized into three broad groups: Indirect theories, Direct but unequal theories, and Moral equality theories.⁷

1.3.1.1 Indirect theories

Indirect theories often deny animals the moral status or equal consideration afforded to humans, citing a perceived lack of consciousness, reason, or autonomy. Although these theories may advocate against harming animals, this stance is typically rooted in the idea that doing so would compromise human morality. Prominent philosophers associated with this viewpoint include Immanuel Kant, René Descartes, Thomas Aquinas, and Peter Carruthers, as well as various religious doctrines. The indirect theories can be categorized into several types:

- **Religious Theories**
- **Kantian Theories**
- **Cartesian Theories**
- **Contractualist Theories**

The implications of these theories for the treatment of animals will be examined, followed by a discussion of two common arguments against indirect theories⁸.

1.3.1.2 Religious Theory

⁶ Saskia Stucki, "Towards a Theory of Legal Animal Rights: Simple and Fundamental Rights", Oxford Journal of Legal Studies, Volume 40, Issue 3, pp. 533-540.

⁷ Cigman, Ruth. "Death, Misfortune, and Species Inequality", Philosophy and Public Affairs, (1981), pp. 47-64.

⁸ Fox, Michael A, "Animal Experimentation: A Philosopher's Changing Views", Between the Species, (1987), pp.55-82.



Certain philosophical perspectives argue that animals do not have direct moral consideration due to religious or metaphysical beliefs. The famous proponents of this view was **Aristotle (384-322 B.C.E.)**, who proposed a natural hierarchy among living organisms. According to Aristotle, this hierarchy is based on the inherent abilities of different beings. While plants, animals, and humans all have the capacity to grow and obtain nutrients, only animals and humans are capable of conscious experience. Consequently, plants, being inferior, are deemed to serve the needs of animals and humans. In this framework, humans are considered superior to animals because they possess the capacity for reason, whereas animals are thought to rely solely on instinct. Therefore, Aristotle concluded that the role of animals is to fulfill human needs, a notion he viewed as both natural and beneficial⁹

Christian philosopher follow the ideas of Aristotle and **St. Thomas Aquinas (1225-1274)** argued that only rational beings warrant moral concern for their own sake. According to Aquinas, beings that cannot direct their own actions are mere instruments. He believed this perspective aligns with the idea that God is the ultimate purpose of the universe. Since only humans can comprehend and strive toward this divine purpose, all other beings exist to serve human interests. These hierarchical views persist in justifications for disregarding animal interests based on the food chain concept. In order to follow this reasoning, if one species preys on another, it is considered superior within the food chain, and therefore, the use of one species for its benefit is deemed natural and does not require additional moral justification¹⁰

1.3.1.3 Kantian Theory

This theory is closely linked to Religious Theory. **Immanuel Kant (1724-1804)** developed a significant moral framework emphasizing that autonomy is essential for any being whose interests should be considered in moral evaluations. According to Kant, morally acceptable actions are those that could be universally willed by all rational individuals under similar circumstances. A crucial aspect of his view regarding the moral status of animals is the concept of “Willing.” Kant argued that only humans can detach themselves from these desires and choose among various courses of action. This capacity reflects our will. Since animals lack this ability, they are considered to lack a will and, consequently, autonomy.

⁹ DeGrazia, David, *“Taking Animals Seriously”*, New York, Cambridge University Press, (1996), pp.34-45.

¹⁰ Available at: [https://ovpr.uchc.edu/service/animals, Theories on Animals and Ethics](https://ovpr.uchc.edu/service/animals/Theories_on_Animals_and_Ethics), Office of the Vice President for Research (uchc.edu) visited on 23 Sept, 2023.



Kant contended that the only entity with intrinsic value is one that possesses a good will. Because animals do not have wills, they cannot have good wills, and thus, they hold no intrinsic value.

Kant's approach extends beyond Religious Theories by employing broader philosophical arguments about morality. Instead of merely asserting that it is "natural" for rational beings to use non-rational beings for their purposes, Kant provides a rationale for why rationality and autonomy matter. A theory is classified as a Kantian theory if it identifies characteristics that humans possess but animals do not, justifying the assignment of a higher moral status to humans while denying any moral status to animals. While Kant emphasized the value of autonomy, other interpretations of Kantian theory may focus on attributes such as being a moral agent, the capacity for reciprocal relationships with other humans, the ability to communicate, or self awareness¹¹

1.3.1.4 Casterain Theory

This theory is of the view that denying direct moral consideration to animals stems from the belief that they are not conscious, and therefore ignoring their interests or well-being that would warrant our attention in moral evaluations. The jurists of this theory are of the view that if animals are conscious, we have an obligation to take in to consideration of their interest when making decisions. However, since they are thought to lack welfare, there is nothing directly relevant to consider in our actions toward them. **René Descartes (1596-1650)** Descartes thought that animals were not hugely different from cars or computers; they were mechanical objects and not living subjects. He favoured only human consciousness and avoids giving importance to animals in his theory.¹² Descartes is a critique of animal reasoning powers and according to him reasoning could only apply to human behavior. He argued, however, that two key differences set humans apart, complex behavior Humans exhibit intricate and novel behaviors that arise not merely from simple stimuli but from reasoning about their environment and expressive speech, while some animals can make sounds but such utterance is merely a mechanical. Only human being can speak. His views were grounded in a dualistic philosophy that distinguished between material entities and

¹¹ Francione, G. L. "Animal Welfare and the Moral Value of Nonhuman Animals", Law, Culture and the Humanities, (2010), pp. 24-36

¹² Abbate, C. E. "Animal Rights and the Duty to Harm: When to be a Harm Causing Deontologist", Journal for Ethics & Moral Philosophy, (2020), pp. 5-26.



mental substances. While humans are closely linked to their physical bodies, Descartes believed they are fundamentally identified with their souls, or mental substances that encompass consciousness. He asserted that the complexity of human behavior and speech shows their existence as immaterial substance which animal does not share. He famously claimed that it is more probable that animals do not have immortal souls¹³.

Some philosophers have argued that it is unlikely animals possess immortal souls. Meanwhile, critics have raised concerns about certain arguments used to support the idea that animals are conscious. For example, Peter Harrison has challenged the Argument from Analogy, which posits that because animals and humans share similar behaviors, physical features, and evolutionary backgrounds, it is reasonable to infer that animals are also conscious beings. Supporters of this view emphasize that both humans and animals react in comparable ways to painful stimuli and have similar neurological structures. However, opponents like Harrison and Peter Carruthers maintain that true consciousness depends on the capacity for higher-order thinking thoughts about own thoughts which they argue animals have not been proven to possess. Without definitive evidence of such self-reflective awareness, they question whether animals truly experience consciousness.¹⁴

1.3.1.5 Contractualist Theory

This theory is based on the moral principles by which the individual govern his life in society. John Rawls in his book named *A Theory of Justice* explored the connection of moral status of animals and present his vision of justice and fairness. He criticize utilitarian approaches of justice and argue that individual chose from the behind of veil of ignorance in just society. It is scenario where individuals are unaware of personal details such as gender, age, race, intelligence and abilities. However they do posses general knowledge about psychological, economic, motivational factor of human society. Rawls assume that these hypothetical contractors are primarily self interested and aim to select those rules which would benefit them. These rules only protect those who are rational being. The idea of Rawls theory will apply broadly on all form of morality. Peter Carruthers proposed his view on Rawls theory on moral consideration that excludes animals from direct moral consideration. According to him if we follow the principle of morality, then animals will not have direct

¹³ Ibid.

¹⁴ Samuel kaldas Descartes Cudworth, "*Moral Worth of Animals*," Available at <https://philosophynow.org/issue>, Visited on 12-04-2024.



moral obligation. The contractors, being self-interested and aware that they are human, would not create rules that provide special protections for animals, as doing so would not serve their own interests. Consequently, rational human beings would receive direct moral protection, while animals would be left without such consideration.¹⁵

1.4 Indirect Moral Consideration

The jurists of this theory are in favour of granting some moral consideration to animals but not in favour of granting full moral considerations. The rationale is based on the inability of animals to respect the rights of others and giving equal moral consideration in society to others. The philosophers of this theory is of the view that when a conflict arises between human and animals and giving them precedents over each other than being a sentience of animal warrant a prohibition of causing them some harm but human interests rooted in attributes which take precedents over animals such as rationality, autonomy, self consciousness. Lots of people accept this framework where the acknowledgement of interest of animals in moral way but when the conflict arises then interests of animals are considered less significant than those of humans.¹⁶

1.4.1 Direct Moral Status

In order to support this view there are two view which are supporting the notion that animals possess direct moral status:

1. If a being is sentient,
2. Most animals are sentient.

“Sentience” is defined as the capacity to experience positive or negative awareness. Positive experiences include pleasure, joy, and contentment, while negative experiences encompass pain, suffering, and anxiety. Jurists supporting this perspective argue that the capacity to experience pleasure and pain is morally significant and that there is no justified reason to ignore the experiences of any sentient being. Critics of indirect theories often highlight their limitations, particularly when it comes to granting moral consideration to animals. For example, individuals who believe that humans with severe cognitive

¹⁵ Swanson Jennifer, “Contractualism and the Moral Status to Animals,” University of Miami, Vol. 14, 2011, Issue 1. pp. 1-10.

¹⁶ Feinberg Joel, “The Rights of Animal and the Unborn Generation,” Atlanta University of Georgia Press Ltd. (2017).



impairments possess inherent moral worth may find that indirect theories fail to adequately account for their ethical treatment. Likewise, those who view actions such as torturing a pet for entertainment as intrinsically wrong may feel that indirect approaches cannot convincingly explain why such behavior is morally objectionable. Consequently, such concerns often lead to support for theories that advocate for the direct moral status of animals.¹⁷

1.4.2 Denial of Moral Status

A common argument for denying animals the same moral status as humans is based on traits believed to be unique to human beings. Philosophers who hold this view often make the following claims:

1. Only humans possess rights.
2. Only humans are rational beings.
3. Only humans have moral responsibilities.

According to this perspective, even if animals do not have rights, we may still have moral duties toward them. The significance of rights lies in their ability to protect sentient beings from being used merely as a means to an end. If someone has a right, it cannot be violated simply to produce better overall outcomes. However, when it comes to beings without rights such as animals, according to this view our obligations can be overridden for the greater good. For instance, while I may generally have a duty not to damage someone's property, that duty could be overridden if breaking that property is necessary to save a human life. Similarly, while harming animals should generally be avoided, some argue that minimal harm may be justified if it leads to significantly better consequences overall.¹⁸

1.4.3 Human a Rational Being

Some philosophers argue that only human beings due to their rationality, autonomy, and self-awareness are entitled to full and equal moral consideration. This perspective does not imply that animals can be treated without concern; rather, their capacity to feel pain and experience suffering warrants moral attention. The recognition of animals as sentient beings

¹⁷ Horta Oscar, "What is Speciesism, *Journal of Agriculture and Environmental Ethics*," (2010) pp. 243-266.

¹⁸ James Fieser, "Bradely Dowden, "Animal and Ethics," Internet Encyclopedia and Philosophy, Available at: <https://iep.utm.edu.>, visited on 11-01-2024.



is a key reason behind efforts to prevent their suffering. However, when human and animal interests come into conflict, advocates of this view maintain that human interests should generally take priority. One reason for this prioritization is that humans, unlike animals, are capable of moral reasoning and ethical decision-making. This moral capacity is important because it enables individuals to act beyond self-interest, sometimes even sacrificing their own well-being for the sake of others. In contrast, animals, lacking such moral agency, typically act in pursuit of their own needs, even if it may negatively impact others.¹⁹

1.4.4 Moral status to Animals

There are certain ethical theories which advocate for granting animals equal moral consideration and direct moral status, arguing that animals, like humans, deserve to be treated as ends in themselves rather than as mere means to an end. These theories often draw on analogies that highlight the similarities between animals and vulnerable human populations, such as infants or individuals with severe cognitive disabilities. The central argument is that if we afford moral status to these humans despite their limited rational or communicative capacities, then it would be inconsistent to deny similar moral status to animals who possess comparable levels of sentience and cognitive function.

Prominent philosophers such as **Peter Singer** and **Tom Regan** have been at the forefront of advancing these arguments. Peter Singer, through his utilitarian framework, emphasizes the principle of **equal consideration of interests**, arguing that the ability to suffer or experience pleasure not intelligence or species membership is the key criterion for moral concern. Therefore, causing unnecessary suffering to animals is morally indefensible, just as it would be if inflicted on a human. On the other hand, Tom Regan, adopting a **rights-based approach**, maintains that animals are **subject to life** with beliefs, desires, memories, and a sense of the future and thus possess inherent value. As such, they are entitled to rights similar to those of humans, including the right not to be harmed or exploited.

These perspectives challenge the traditional anthropocentric moral hierarchy by asserting that there is **no morally relevant difference** that justifies privileging human interests over those of animals. According to these theories, ethical obligations such as avoiding harm, promoting well-being, and respecting autonomy should extend not only to

¹⁹ Warren, Mary Anne, "Difficulties with the Strong Animal Rights Position", *Between the Species*, (1987), pp. 161-73.



humans but also to non-human animals. Consequently, practices like factory farming, animal experimentation, and the use of animals for entertainment come under serious ethical scrutiny, as they often violate the principle of equal moral consideration.²⁰

1.4.5 Equal consideration of interest

With the rise of the animal rights movement in the United States and Europe, **Peter Singer** played a transformative role in shaping the ethical discourse surrounding animals through his influential book *Animal Liberation*. Singer challenges the prevailing belief that the interests of animals should be subordinate to those of humans. He argues that such biased treatment risks justifying discriminatory practices among human beings themselves, thereby contradicting the foundational principle of human equality.

Singer asserts that animals and humans share equal interests, particularly in their capacity to experience pleasure and pain. He critiques the commonly held assumption that rationality elevates humans above animals, pointing out that not all human beings possess rational capacities—such as individuals with profound cognitive impairments or mental illness. If rationality were to be the basis for moral status, then some humans would also fall outside the moral community, undermining the very idea of equal human rights.²¹

Instead, Singer proposes that **animals have** the ability to feel pleasure and suffer pain and they must be added in moral consideration. From this standpoint, animals must be given equal moral consideration. He maintains that the lives of non-self-conscious beings can only be ethically ended if their lives are genuinely worth living and their deaths are painless. Singer particularly condemns certain forms of animal experimentation, arguing that the suffering caused, especially in cases like cosmetic testing, cannot be justified under the **Principle of Equal Consideration of Interests**. He contends that if society finds it morally unacceptable to experiment on severely cognitively disabled human infants, then it is equally unacceptable to perform such experiments on animals. He even suggests that if human health is truly at risk, using human volunteers in ethically regulated trials would be more scientifically and morally consistent.

²⁰ Tom Regan and Peter Singer, “*Animal Rights and Human Obligation*,” Cambridge University Press, 1989, Phillpaper, 2017.

²¹ Wilson, Scott, “*Carruthers and the Argument From Marginal Cases*”, *The Journal of Applied Philosophy* 18 (2001), pp. 135-47.



In contrast, **Tom Regan**, another eminent philosopher, offers a **rights-based approach** to animal ethics. Regan disputes the idea that animals possess only an indirect or secondary moral status. While acknowledging the importance of Singer's work, Regan criticizes the **utilitarian** foundation of Singer's arguments, which focus primarily on minimizing suffering rather than recognizing individual moral worth.²²

Regan's central argument rests on the concept of **inherent value**. He posits that any being who is a subject to life which means they possess beliefs, desires, perceptions, memories, and a sense of the future holds inherent worth. Such beings should not be used merely as means to an end, but should be respected as ends in themselves. According to Regan, this inherent value forms the basis of rights that cannot be overridden, even in pursuit of the greater good.

While Regan acknowledges that rights are not absolute and may, in extreme circumstances, come into conflict, he firmly believes that the prevailing treatment of animals is deeply unjust. Practices such as **raising animals for food**, regardless of how humanely they are treated or slaughtered, fundamentally violate their moral status by using them as mere tools for human benefit. In summary, both Singer and Regan advocate for a radical shift in our ethical and legal treatment of animals. While Singer emphasizes equal consideration based on sentience and suffering, Regan grounds his approach in the recognition of inherent value and rights each contributing significantly to the foundation of modern animal rights theory.²³

1.5 Environmental Ethics Theory

Environmental Ethics emerged as a different field during 1970. This branch of applied ethics focuses on the moral relationships between humans and non-human animals. The main contemporary issues in animal ethics include the use of animals for experimentation, factory farming, food sources, recreation, and practices like cloning. These topics raise fundamental questions about speciesism, the moral status of non-human animals, and concepts of equality, rights, and justice for animals.

Current debates in animal ethics revolve around the institutional exploitation of animals, particularly as sources of food, scientific research, clothing, and entertainment. In

²² Steinbock, Bonnie, "Speciesism and the Idea of Equality", *Philosophy* 53 (1978), pp. 247-56.

²³ Peter Singer, "Animal Liberation: The Definitive Classic of the Animal Movement", 1975. pp.46-50.



contrast, environmental ethics provides a broader framework for understanding the moral relationship between humans and the natural environment. While animal ethics emphasizes the welfare and rights of individual animals, environmental ethics takes a more holistic approach, focusing on ecosystem preservation, protection of endangered species, pollution, and the depletion of natural resources²⁴.

The main question is the discussion on relationship between animal ethics and environment. Some moral philosophers is of the view that the two domains are fundamentally distinct in their ideologies, while others contend that both share a non-anthropocentric viewpoint despite their differences. For our purposes, it is more productive to treat animal ethics as an independent discipline.²⁵

1.5.1 Anthropocentric Theory

Anthropocentrism is of the view that humans are superior to all other living beings, prioritizing human perspectives and interests above those of animals and the natural world. Human is holding all intrinsic moral value and animals. This means that animals are not considered to have rights and moral status in their own right, but rather are viewed as resource for human interest. They often justify the use of animals for human purpose such as food, clothing, entertainment, or experimentation. Kant is holding anthropocentric approach argued that animals do not have agency and can only be protected for fulfilling the human needs. This worldview can take various forms and degrees, with some experts arguing that it contributes to environmental degradation. However, many contend that it is not anthropocentrism itself but rather a short-sighted approach to resource use that leads to environmental harm, as the health of the environment is crucial for human survival. Additionally, some argue that anthropocentrism is part of human nature, as people have historically relied on human use of natural resources for their benefit.²⁶

²⁴ Christopher O. Akpan, Joseph N. Ogar, Samuel A. Bassey, "Examining the Ethics of Research in Animal Experimentation", Bulletin of Pure and Applied Sciences, Vol.39A, No.1, January-June 2020, pp. 230-241

²⁵ Anuja Elizabeth Jacob, "Jurisprudential Status of Animals," Volume5, Issue5, International Journal for Law Management and Humanities, (2021).

²⁶ Adam Weitzenfeld and Melanie joy, "An Overview of Anthropocentrism, Humanism, Speciesism in Critical Animal Theory," Vol.448, (2014), pp.3-27.



1.5.2 Biocentric Theory

This theory emphasizes the value of all living organisms, asserting that every life whether human or natural holds equal importance. This perspective prioritizes the natural world and evaluates issues like climate change based on their impacts on living beings, such as species migration and alterations in wildlife behavior. Biocentrism tends to dismiss non-living elements of the environment as secondary, focusing instead on the significance of individual organisms²⁷

1.5.3 Ecocentric Theory

Ecocentrism expands on this idea by considering the ecosystem as a whole, recognizing the interconnectedness of both living and non-living components. It attributes intrinsic value to all aspects of nature, encompassing biocentrism and other perspectives like zoocentrism²⁸. This holistic viewpoint contrasts sharply with anthropocentrism, which places human beings at the center of value considerations. Ecocentrism seeks to understand the Earth's biodiversity and ecological integrity in a more comprehensive manner, advocating for a shift in worldview that could help address the environmental crisis. Unlike anthropocentrism, ecocentrism regards human influence on the ecosystem as just one part of a larger system, emphasizing the importance of maintaining ecological balance²⁹

1.6 Animal Right Theory

Animal rights jurisprudence encompasses the legal framework of animal's rights and duty of human being towards them. This area of law has evolved significantly, shifting from viewing animals solely as property to recognizing them as sentient beings with their own interests and welfare. The legal acknowledgment of animal rights is a relatively recent development, shaped by changing public perceptions, scientific advancements, and the advocacy efforts of animal rights supporters. Understanding the historical context is essential for establishing the current jurisprudential status of animals. This involves examining the

²⁷ PP. Mitra, "An Introduction to Animal Laws in India," Thomson Reuters Legal, (2019), pp.40-50.

²⁸ What is the difference between Anthropocentric, Biocentric and Ecocentric, Available at: <https://pediaa.com/what-is-the-difference-between-anthropocentrism/>, visited on 13,05,2022.

²⁹ Available at, <https://lawsikho.com/course/certificate,Anthropocentric v. ecocentric approach to the environment>, visited at 21-6-2023.



philosophical perspectives of past thinkers and the evolution of laws and precedents that have contributed to contemporary views on animal rights³⁰.

The belief of human treatment of animals are rooted in the belief that animals should be treated humanely and shielded from unnecessary suffering. While animal welfare laws aim to protect animals from cruelty and neglect, they do not confer inherent rights upon them. Over time, the legal status of animals has transitioned from mere property status to acknowledgment of their sentience and welfare needs. Various philosophical approaches, including anthropocentrism, biocentrism, and ecocentrism, have informed discussions about the moral and legal status of animals.

In India, this evolution has been supported by both the judiciary and the legislature, drawing parallels between animal rights and human rights. Recognized rights for animals may include the right to life, liberty, and protection from exploitation.

As animal rights gain prominence, there is a pressing need for a legal theory that articulates animal rights as legal rights. While there exist a rich array of moral and political theories regarding animal rights, the specific legal foundations of these rights remain largely unexplored. Initially framed as moral rights, animal rights are increasingly being considered for legal recognition. This shift felt the need for legal institutionalization to ensure that animals receive adequate protection, as moral rights alone may not suffice in practical terms. Legal rights would be bolstered by the law's enforcement mechanisms, providing a more robust framework for animal protection³¹.

In light of this, it is essential to rethink and reconstruct animal rights within the legal context, moving beyond simply transposing moral claims into legal terms. Different theories on animal rights, each with unique implications, contribute to this ongoing discourse³².

1.6.1 Natural Law Theory

Natural law theory traditionally holds that animals do not deserve direct moral consideration, often basing this view on religious or philosophical interpretations of a

³⁰ Kristen stilt, "Right of Nature, Right of Animal," Harvard Law Review, Volume134, March (2024).

³¹ Jayasankaran Nambiar A.K., "Close Encounters of the Quadruped Kind: Towards a Duty Based Approach to Human Animal Conflict Resolution in India," Journal of Indian Law Institute, Volume64, Oct.-Dec.2022, pp.429-435

³² Saskia stucki, "Towards a Theory of Legal Animal Rights: Simple and Fundamental Rights," Oxford Journal of Legal Studies, Vol.40, 26-06-2020.



divinely or rationally ordered universe. Aristotle (384–322 B.C.E.) introduced the idea of a natural hierarchy among living beings, suggesting that while plants, animals, and humans all share basic functions like growth and nourishment, only animals and humans possess consciousness. He believed that plants exist to serve animals and humans, and animals, in turn, exist to serve humans, with reason-endowed humans occupying the highest place in this hierarchy. His concept of *telos* (purpose) supports the notion that animals exist to fulfill human needs.³³ Building upon Aristotle's views, St. Thomas Aquinas (1225–1274) argued that only rational beings capable of self-governance deserve moral consideration. Since animals cannot direct their actions rationally, he regarded them as instruments created for human use, lacking intrinsic moral worth. Immanuel Kant (1724–1804) also emphasized rational autonomy as the basis of moral status, asserting that although animals and humans both have desires, only humans can reflect on those desires and make moral choices. While denying animals inherent moral status, Kant maintained that treating animals with kindness reflects positively on human character. Similarly, Hugo Grotius viewed animals as tools for human benefit, denying them any rights. René Descartes advanced the notion of animals as automata mechanical beings without consciousness or the capacity for suffering justifying their use for human ends.³⁴ Thomas Hobbes rejected the idea of animal rights, reasoning that animals cannot consent or participate in contracts due to their lack of language and understanding, thus excluding them from moral consideration. John Locke saw animals as natural resources akin to land or plants, subject to human ownership under natural law. In contrast, Jean-Jacques Rousseau adopted a more compassionate stance, recognizing that animals, like humans, possess the capacity for feeling. While he did not advocate for full moral equality between animals and humans, Rousseau believed animals deserved a degree of moral concern and humane treatment, and he argued for their protection. This historical exploration of natural law theory illustrates a range of perspectives on the moral and legal status of animals from complete denial of moral standing to cautious advocacy for their welfare.³⁵

³³ David Grumett, "Aristotle's Ethics and Farm Animal Welfare", *Journal of Agricultural and Environmental Ethics*, Vol. 32, Issue 2, pp. 321-333.

³⁴ Jonathan Birch, "The Place of Animal in Kantian Ethics", Oxford University Press, 2018, pp. 252-260.

³⁵ Peter Singer, Yuval Noah Harari, "Animal Liberation Now, the Definitive Classic Renewed", 1975, pp. 35-39



1.6.2 Utilitarian theory

Utilitarianism significantly influences our moral obligations toward nonhuman animals, often aligning with the principles of other ethical theories. This framework advocates for considering the interests of all sentient beings, not just humans, leading to the conclusion that we must reject practices that exploit animals, as the suffering they cause far outweighs any benefits to humans. Furthermore, utilitarianism encourages us to be mindful not only of the well-being of current beings but also of future generations, urging us to minimize the potential suffering of animals that may exist in the future.

Jeremy Bentham established a key aspect of utilitarian thought by introducing the sentience criterion for moral consideration. He argued that the pain and suffering of animals should be included in our ethical calculations, which has since been embraced by subsequent utilitarian thinkers. In the 1970s, Peter Singer emerged as a pivotal figure in applying utilitarianism to animal rights, highlighting the need to treat animal suffering with the same seriousness as human suffering.

In contrast to utilitarianism, deontological ethics focuses on adherence to universal moral rules and duties, often prioritizing the rights and autonomy of individuals. A fundamental principle of deontology is the Doctrine of Doing and Allowing, which suggests that actively causing harm is generally harder to justify than permitting harm to occur³⁶.

Utilitarianism is a normative ethical theory centered on maximizing overall happiness or utility, defining actions as morally right if they promote the greatest good for the largest number. Key philosophers associated with this theory include Jeremy Bentham and John Stuart Mill, who laid the groundwork for utilitarian thought in the 18th and 19th centuries. Various interpretations of utilitarianism exist, some of which prioritize minimizing suffering over maximizing happiness. This approach, known as negative hedonistic utilitarianism, posits that reducing suffering is more critical than increasing happiness, reflecting a suffering-focused ethical stance.

Despite its advocacy for considering all sentient beings, utilitarianism often places human interests above those of animals, even in cases where animal suffering is less severe or shorter in duration. This bias is an example of speciesism, which treats human suffering as

³⁶ Killoren, D. and Streiffer, R., "Utilitarianism About Animals and the Moral Significance of Use", *Philosophical Studies*, (2020), pp. 1043-1063.



more significant than that of nonhuman animals. From a utilitarian perspective, this discrimination is morally indefensible, similar to the critiques leveled by other ethical frameworks³⁷.

1.7 Religious Theory on Animal Rights

Animal protection law has a long and established history in India, rooted in ancient traditions. This can be observed at the constitutional level, where environmental law often reflects a more developed and significant role compared to other legal areas. While many constitutions adopt an anthropocentric view of the environment, India has various laws and organizations dedicated to the welfare of non-human entities. Moreover, religious teachings from traditions such as Hinduism, Sikhism, Jainism, Buddhism, Christianity, and Islam include provisions that promote the well-being of animals and nature³⁸.

1.7.1 Hinduism

Hinduism teaches that the five fundamental elements space, air, fire, water, and earth originate from prakriti, or primal energy. Each element possesses its own life and form, highlighting the interconnectedness and interdependence of all components of the environment. Hindus hold plants and animals in high regard, emphasizing the importance of respecting nature for collective prosperity. Similarly, Sikhism encourages harmony with the environment, including both plants and animals. The Sikh scriptures poetically describe air as the Guru, water as the father, and earth as the great mother, further emphasizing the sanctity of nature³⁹.

Central to these teachings is the principle of Ahimsa, or non-violence. The Yajnavalkya Smṛti warns that those who harm protected animals face dire consequences in the afterlife, reinforcing the idea that respect for life is paramount. Hinduism adopts an ecocentric perspective, promoting equality among all living beings and treating nature and all forms of life with reverence.

While traditional legal theories often exclude non-human entities from being recognized as legal subjects, emerging concepts of animal rights and earth jurisprudence

³⁷ Animal Ethics, "*Introduction To Wild Animal Suffering: A Guide To The Issues*", Oakland Animal Ethics Accessed on 26 July 2023.

³⁸ Silva Carlos, "*Biocentrism in Green Ethics and Philosophy and a Zoo Guide*," Sage Publication Inc., pp. 57.

³⁹ Pramatha Nath Bose, "*A History of Hindu Civilization During British Rule*," Vol. 1, (2015), p. 65.



challenge this anthropocentric view. These newer frameworks advocate for ecocentric or biocentric approaches that seek to establish legally recognized rights for animals and the environment.

1.7.2 Jainism

Ahimsa, or non-violence, is a foundational principle in Jainism that extends beyond merely refraining from harming humans. It encompasses the intention to avoid causing physical, mental, or spiritual harm to all aspects of nature. Compassion is essential to the practice of non-violence in Jainism, urging individuals to adopt a compassionate outlook towards all forms of life. This ancient teaching emphasizes the interconnectedness of nature, asserting that neglecting the environment is tantamount to neglecting oneself. Self restraint is another significant Jain principle, advocating for the responsible use of nature's resources and a reduction of personal needs wherever possible. Gandhi, a notable advocate of Jain philosophy, expressed this sentiment by saying, that we have enough in this world for human needs but not for human desires.

1.7.3 Buddhism

Buddhism is of the view that all living beings have equal value and promotes the idea that humans do not hold superiority over other creatures or nature. The teachings of this theory encourage a shift from a mindset of domination over nature to one of collaboration with it. The theory is of the view that there is a harmonious relationship between environment and animals. This perspective advocates for ecological mindfulness, addressing issues like biodiversity loss. Adhering to the Five Precepts, pursuing the Noble Eightfold Path, and understanding karma are all ways through which Buddhists seek to achieve harmony with nature, acknowledging the interdependence of all beings.⁴⁰

1.7.4 Christianity

There is a connection between humanity and the earth, highlighting that humans originate from the soil and will ultimately return to it such as, ashes to ashes, dust to dust. The belief that God created humans from the earth underlines the sacredness of all creation, reinforcing the idea that humanity is part of a larger ecological system. All living organisms

⁴⁰ Sangeeta Taak, "Animal Protection Laws in India and one Right Approach: An Analysis", Forensic Research & Criminology International Journal, Volume 11(2023).



are seen as praising God, and harming them disrupts this natural expression of reverence. The Quran and Hadiths include several teachings that determine the importance of environmental conservation and the need to respect the natural world. Islam promotes a holistic view of the environment, framing it as a divine gift that should be protected and preserved for future generations.⁴¹

1.8 The legal framework in India: Gaps and Challenges

1.8.1 Concept of Animal Cruelty in India

The concept of animal moral and ethical rights has developed as accordingly as the society developed. According to Vedic philosophy, there are 8.4 million species of living beings in creation, including 400,000 species of humans. All of these beings were created by God, and the soul undergoes a process of transmigration, moving from one body to another. The belief is that humans evolved from animals through this process, with the human body considered the highest form. The soul experiences various forms across the plant and animal kingdoms before finally reaching a human existence. In this view, animals are part of the same developmental cycle as humans.

The Vedic literature contains different views on animal sacrifices. Some texts suggest that animal sacrifices, especially for rituals, are a part of religious practice, while others argue that animal killing is wrong. In the context of sacrifices, animal is not truly killed but rather given a new life. Some traditions propose that the animal may be reincarnated as a different animal, or in some cases, immediately elevated to a human form. However, there are varying opinions among sages, with some advocating for animal sacrifice in specific rituals and others condemning it entirely.⁴²

Animal sacrifices were a significant part of ancient Vedic practices and are mentioned in texts of **Yajurveda**, and **Ashwamedha**, involved the ritual killing of animals, including horses and elephants, by rulers like those from the Gupta, Chalukya, and Chola dynasties. In the **Mahabharata**, the Hindu deity Krishna teaches that humans should take only what is necessary for survival from the Earth. **Karma** of being is a belief that actions affect the

⁴¹ Available at, <https://lawsikho.com/course/certificate,Anthropocentric v. Ecocentric Approach to the Environment>, visited on 21-6-2023.

⁴² Sawarnendu Chakaraborty, "History of Animal keeping in India and its Socio Economic Applicability in 21st Century," British Journal of Philosophy, Sociology and History, Vol.3, Issue1, 29-04-2023.



afterlife and it discourages ritual animal sacrifices, which are now seen as outdated and inhumane by most Hindus⁴³.

In the **Rigveda**, animals were regarded as a form of wealth. The Aryans, who were the dominant group in this era, kept their cattle in pastures near their homes. They cleared forests to allow grazing for their animals. Cows were milked multiple times a day, while male animals were castrated, and oxen were used for agricultural transport. The Aryans mainly preferred cows, and buffaloes were not commonly utilized. They also kept dogs for guarding their homes and hunting wild boars. Sheep were raised for their wool, and goats for their milk. Oxen were used for plowing fields and irrigation. The Rigveda also mentions the use of barley, sugarcane, and leftover sesame seeds from oil extraction to feed the animals⁴⁴.

In the **Post-Vedic Period**, with the emergence of epics like the **Ramayana** and **Mahabharata**, as well as the **Puranas**, Hinduism began to evolve in complex ways. These texts focus on Hindu gods, goddesses, and their devotees but also provide rich details on rituals and sacrifices. They feature gods and goddesses in animal forms, highlighting their deep connection to the animal world. For example, **Lord Vishnu** incarnated as a fish, tortoise, boar, and half-man, half-lion (Narasimha). **Lord Shiva** appeared as a mythical creature with multiple horns and legs. **Hanumana in the form of monkey** and **Ganesha**, the elephant-headed god, are worshipped as deities. **Adishesha**, the serpent, symbolizes time and is associated with Vishnu. The mythical bird **Jatayu** and the monkey king **Sugriva** also have significant roles in the epics. Animals like **Nandi**, the bull (vehicle of Shiva), **Airavatha**, the elephant (vehicle of Indra), and **Garuda**, the eagle (vehicle of Vishnu), are important figures in Hindu mythology.

The **Indus Valley Civilization** showed early evidence of animal domestication. The Harappa culture domesticated animals such as dogs, humped bulls, cattle, and cats. The **Maurya Dynasty**, also placed great importance on elephants, particularly for military purposes, as elephants were easier to capture and tame compared to horses. Emperor **Ashoka** of the Mauryan Empire implemented laws that protected wildlife and prohibited the killing of

⁴³ Ibid

⁴⁴ Lakshmi Narayan Chaurvedi, "Teachings of Bhagavad Geeta," Sterling Publication Pvt. Ltd., University of Virginia, 1991, pp. 110-115.



certain animal species, highlighting his commitment to preserving both animals and the environment⁴⁵.

The followers of Buddha followed the principles of Ahimsa, non violence and gave important to life and the need of expiation for killing of animals. Central to these principles is the practice of **ahimsa** (non-violence) and compassion toward animals, which are key to spiritual development. Spiritual growth of Buddhism is connected to the renunciation of desires, the practice of non-violence, compassion, karma, and loving-kindness. The Buddhist belief that sufferings of one being leads to another's suffering is deeply embedded in the doctrine of karma and rebirth, reinforcing the need to treat all living beings with kindness and respect.

In **Jainism**, a way of life and a religion, non-violence is a central tenet. Jains have long adhered to practices such as vegetarianism, yoga, meditation, and environmentalism. At the heart of Jain philosophy is the belief that every living being possesses an eternal and divine soul. This belief leads Jains to respect and honor all forms of life through principles such as **Non-Violence, Non-Absolutism, and Non-Possessiveness**⁴⁶.

During **medieval India**, from the decline of the Gupta Empire in the 6th century to the rise of the Mughal Empire in 1526, animals were primarily used for military purposes, transport, labor, food, religious rituals, and recreation. Hunting was a popular activity among Mughal rulers and nobility, often viewed as a sport and a sign of power, but sometimes leading to unnecessary harm and killing of animals. While some Mughal rulers treated their elephants with great respect, as these animals were important for warfare and had symbolic significance, others subjected them to harsh conditions, particularly during military campaigns or public events. Animal sacrifices were also common in various religious and cultural practices of the time. While some communities may have followed more humane methods, others engaged in cruel practices during such rituals⁴⁷.

During the British colonial period in India, which began with the Company rule in 1757 and lasted until 1947, the use of animals evolved primarily to meet the military and

⁴⁵ Nanditha krishna, "Sacred Animal of India," Penguin books publication, New Delhi India, 2010, pp.10-15.

⁴⁶ Christopher Jain Miller, Jonathan Dickstein, "Jain Veganisim: Ancient Wisdom, New Opportunities", Vol. 12, Issue 7, 20th Feb. 2021.

⁴⁷ Ayush Chandra, "Animal Law Protection Laws in India," Legal Onus Law Journal, 15th Dec. 2024. Available at: <https://legalonus.com/animal-law-protection>, visited on 11-03-2023.



economic needs of the British Empire. The British were less concerned with the welfare of the general Indian population, but they took necessary steps for animal management when it served their interests. They set up research institutions to prevent animal epidemics, ensuring the health of the livestock on military farms. These institutions developed several vaccines and treatments for animal diseases and also contributed to the establishment of formal veterinary education in India⁴⁸.

Britishers established the first slaughterhouse in India in 1760, and by 1910, there were 350 slaughterhouses across the country.⁴⁹ Animal experimentation began in India in the 1860s when new drugs from Britain were tested on animals. The Indian Penal Code, 1860, includes provisions related to offenses against animals under the category of offenses relating to property, Section 428 and Section 429 applies to offences involving animals. Later on Colesworthey Grant founded the first Indian Society for the Prevention of Cruelty to Animals (SPCA) in 1861 in Calcutta. This organization successfully campaigned for anti-cruelty legislation in the 1860, leading to its extension across India in 1890. After India's independence, This Act was replaced by The Prevention of Cruelty to Animals Act, 1960 and several other important laws followed, such as, Wildlife Protection Act 1972, and various rules are framed for the protection of animal rights. The PCA Act 1960 remains India's primary national animal welfare law, criminalizing cruelty to animals while allowing certain exceptions for animals used for food and scientific experimentation.⁵⁰

Similarly the Indian Constitution is unique in both its spirit and content. While it draws from various global constitutional models, it remains a distinct creation by its framers. Article 21 of the Indian Constitution guarantees the Right to Life, stating that no person shall be deprived of their life or personal liberty. This protection extends not only to humans but also to animals. The Directive Principles of State Policy in Part IV, specifically Articles 48 and 48A, outline the state's responsibility to preserve and improve animal breeds, prohibit animal slaughter, and protect the environment and wildlife⁵¹.

⁴⁸ Om Prakash, "Wildlife Destruction: A Legacy of Colonial State in India," Indian History Congress, Vol. 67, 2006-2007, pp. 692-702.

⁴⁹ Ujwala Chintara, "The History of Animal Welfare Laws in India," Stray Animal Welfare of India, 11-09-2024.

⁵⁰ Madhvi Sudan, "The Evolution and Impact of Animal Welfare Laws in India: A Legal and Ethical Analysis," JETIR, Vol.12, Issue 1, Jan, 2025.

⁵¹ Mehak Jain, "A Detail study of Prevention of Cruelty to Animals Act, 1960," Available at: <https://www.wipleader.com>, visited on 13-05-2023.



The Fundamental Duties, added by the Constitution 42nd Amendment Act of 1976, include Article 51A(g), which requires every citizen to safeguard and enhance the natural environment. Articles 246 and the Seventh Schedule grant Parliament and state legislatures the authority to enact laws aimed at preventing cruelty to animals and protecting wildlife. Additionally, Article 243W and the Twelfth Schedule empower municipalities to create laws for managing cattle pounds and preventing cruelty to animals⁵².

1.9 Role of Indian Judiciary on sentience being

Animal Welfare Board of India vs A Nagarajan and others⁵³

The Jallikattu sports in the name of culture celebrated annually in the state of Tamil Nadu during the Pongal festival in January, came under legal scrutiny when its constitutional validity was challenged before the court. An old practice of Jallikattu, where people release of strong and aggressive bulls into a crowd of participants, who attempt to tame or hold onto them as part of a competitive ritual. Winners are rewarded based on their ability to hold onto the bull and reach a designated endpoint. This led to multiple reports surfaced highlighting the cruel treatment of bulls during the event. These accounts detailed instances of physical abuse and mistreatment by participants, prompting animal welfare organizations and activists to intervene. In response, several animal rights groups advocated for a total prohibition on Jallikattu, citing severe cruelty and violation of animal rights. The person who are strong believers of customs are against its ban and arguing that it was an integral part of Tamil cultural heritage and religious tradition. They claimed that prohibiting the event would infringe upon their fundamental rights enshrined under Articles 21 right to life and personal liberty, Article 25 freedom of religion, and Article 26 freedom to manage religious affairs of the Indian Constitution. They further asserted that Jallikattu was essential for preserving native cattle breeds in Tamil Nadu, which are known to be more resilient and cost-effective for local farmers.

The Board on protection of rights subsequently approached the apex court seeking a complete ban on the practice. However, the Supreme Court, while acknowledging the cultural significance of Jallikattu, is of the view that while traditions and customs must be respected,

⁵² Hariom Tiwari, "Regulations Governing Animal Rights in India," Indian Journal of Integrated Journal of Law, Vol. 3, Issue 1, pp.1-13.

⁵³ **AIR (2014) 7 SCC595.**



they must not come at the cost of animal welfare. Therefore, Jallikattu was allowed to proceed, subject to strict guidelines intended to minimize cruelty and ensure the humane treatment of the animals involved Court.⁵⁴ The apex court also help that only Board for the welfare of animal would be regulatory authority to oversee the event and to ensure that animals used in it would be treated humanely. The sports can only be conducted if there is proper safety to animals and participants' also. In the event of any mistreatment or accidents, the Board was empowered to take appropriate legal action depending on the severity of the situation. In 2011 the ministry of enviournment impose total ban on this event because it cause suffering and extreme pain to animals. Despite this, the practice continued with support from the Tamil Nadu State Government who have enacted a local law at state level named Tamil Nadu Regulation of Jallikattu Act. Such act has legitimized the event. The traditional sport persisted annually, with bulls continuing to be used, often facing cruel treatment.

However, the supreme court in 2014 decaled the state legislation of Taim Nadu as unconstitutional and unreasonable. The Court emphasized that while the Constitution upholds both collective rights and individual liberties, it also imposes a duty to respect the rights of all living beings. It held that every species, including animals, is entitled to life and security under the law. The court interpreted this article very broadly and stating that the term "life" extends beyond human life to include all forms of life that contribute to the ecological balance necessary for human survival. Therefore, any interference with the natural environment or cruelty towards animals violates the right to life guaranteed under Article 21 of the constitution.⁵⁵The judgment significantly expanded the scope of Article 21 of the Indian Constitution by affirming that the right to life is not limited to human beings but also includes animals.

The Supreme Court acknowledged that animals are sentient beings capable of experiencing pain and suffering, and therefore, they too deserve the right to live with dignity and be protected from cruelty. By extending the interpretation of "life" to encompass animal life, the court emphasized the moral and legal obligation to prevent unnecessary harm to animals and ensure their well-being.

⁵⁴AlsafaUmmer, "case comment: animal welfare board of india and anr. v. union of india and anr." Journal of Legal Research and Juridical Sciences, vol. 2 issue 4.

⁵⁵Maneka Gandhi, Ozair Husain, Raj Panjwani, " *Animal Laws in India*,"Universal Law Publication, Second Edition,p.184.



1.10 Need of Amendment of PCA Act,1960

The Animal Cruelty Act of 1960 continues to exist on the statute books without meaningful amendments. Does this suggest that the need for rethinking animal protection and welfare is unnecessary, and that the provisions created for a different era remain appropriate to uphold in our contemporary secular democratic society. The government has recently proposed the **PCA (Amendment) Bill, 2022**, aiming to revise the existing **Act**, which has been in place for over six decades. India continues to depend on the PCA Act, 1960 to address cases of animal cruelty, even though societal perspectives, scientific advancements, and global animal welfare norms have evolved significantly. Introduced over sixty years ago, the Act was a crucial step in establishing legal measures for animal protection. However, with only a few amendments over time, its provisions have become outdated and insufficient to tackle modern-day challenges.

A major drawback of the Act is the insufficient penalties, which fail to serve as an effective deterrent against cruelty toward animals. In many instances, offenders face only minimal fines, weakening the enforcement of the law. Additionally, rapid urbanization, illegal wildlife trade, uncontrolled animal breeding, unethical animal testing, and increasing cases of pet and livestock abuse highlight the urgent need for a stronger legal framework.

At present, comprehensive legal reforms are essential to introduce stricter penalties, enhance enforcement mechanisms, and align India's animal protection laws with global standards. Strengthening the legal system will not only ensure better implementation but also encourage a more compassionate and ethical treatment of animals across the country.

Recognizing animals as Sentience Being who are capable of experiencing emotions, pain, and suffering is crucial for ensuring their protection from cruelty and exploitation. Their well being should not be viewed merely as an ethical obligation but as a fundamental responsibility that impacts society, the environment, and the economy. When animals are treated with compassion and their rights are safeguarded, it fosters a more humane and sustainable coexistence between humans and nature.

Protecting animal welfare is directly linked to public health, biodiversity conservation, and economic stability. Mistreatment of animals, whether in industries, urban settings, or the wild, can lead to ecological imbalances, increased disease transmission, and a decline in agricultural productivity. Livestock, for instance, forms the backbone of rural



livelihoods, and their poor treatment can negatively affect food security and economic growth. Similarly, wildlife plays a crucial role in maintaining ecosystems, and their protection ensures the sustainability of natural resources.

Thus, strengthening legal frameworks, raising awareness, and enforcing stricter policies are necessary steps toward ensuring the rights and well-being of animals. A society that prioritizes animal welfare reflects progress in ethical values and sustainable development, contributing to the overall growth and harmony of the nation.⁵⁶

1.11 Recommendations

- The current state of animal welfare laws in India highlights a significant deficiency in the deterrent effect of the Prevention of Cruelty to Animals Act, 1960 (PCA Act). The legislations in India should abide by the constitutional principles which impose duty on every citizen to have compassion towards animals, and follow the rules of justice and equity.
- It defined the term ‘animal’ as any domestic or captured animal. This meant that it excluded animals other than domestic and captured animals from its ambit, such as, stray animals, who in fact, face the most amount of cruel and inhuman treatment, birds which have not been domesticated etc.
- The PCA Act lacks provisions that ensure fundamental rights for animals, such as the right to reproduction, mental well-being, a clean environment, and security in old age. For example, draught animals are frequently abandoned after years of service. To address this, a mandatory provision should be introduced to guarantee lifetime protection for all animals, including schemes for animal insurance. This would ensure a dignified existence for animals throughout their lives. Animal testing of products on animals such as cosmetics and other products often subjects animals to inhumane practices such as blinding, poisoning, or burning. Consumers should be encouraged to support cruelty-free products. Making human life better should not be justified in torturing animals
- The use of animals for research and scientific development cause inhuman treatment which should be minimised and govt should opt such methods which can ensure well

⁵⁶ Saravya V., Meghna Chokravorty, “The Limit of Animal Rights: Exploring the Case For Multispecies Justice”, ILI Law Review, Special Issue, 2023.



being of animals in research and minimize their sufferings . A balance of scientific human goals and animals rights must be maintained. A man made alternative solution should be followed for development rather than animals. Such as draizer test and LD50 test cause extreme pain, and death in week. Such tests are unjustifiable.

- An alternative methods such as computational, biochemical, cell based model, organ on chip, system that can replicate human biology have been shown in some cases to perform the same on better than standard animal models. Non animal methods for development can reduce the use of animals and increase the human relevance of models in health effects testing.
- Provide the AWBI with sufficient funding and resources to effectively carry out its mandate, including personnel, equipment, and infrastructure, Strengthen state-level animal welfare boards and agencies to effectively implement the Act and address regional issues. The AWBI should have the authority to directly investigate complaints, initiate prosecutions, and impose penalties for violations of the Act, ensuring that it is not solely reliant on the police and state authorities for enforcement. The AWBI should conduct regular public awareness campaigns to educate the public about animal welfare
- Section 3 casts a duty on the persons in-charge or in care of animals to prevent the infliction upon such animals, of unnecessary pain or suffering. Such analysis implies that section 3 is a preventive provision, which casts no right on the persons in-charge or in care of animals, but only imposes duties and obligation, but the positive duties that may allow for animals to live a better and more dignified life are few and clearly not given enough importance.
- Section 11 of the PCA Act are categorized as bailable offences. Therefore the fact that the offences are predominantly bailable, and the amount for bail can be considered 'pocket-change', defeats the entire purpose of bail. Bail is reserved for those criminal acts that are considered to not be grave or severe.
- Because of rising cases of animal cruelty, various nations are creating special Animal Welfare Courts to deal with it. So, the country like India where the animals



were worshipped also needs to set up a special court to deal with such issues. This is the high time for such changes without any delay.

- Section 11 of PCA did not specifically mention punishment for animal experimentation, the section is exhaustive not inclusive and did not cover other types of cruelty cases such as, including cruelty emanating from animal training, involvement of animals in sports or activities leading to cruelty, killing of animals due to superstitious beliefs, extracting parts of animals, harming aquatic life, and electrifying fences in order to harm animals.
- Using of animal for food and agriculture in order to satisfy basic human need is justified under the act but we should also take in to consideration that animals are sentience being and subject to suffering and pain so we should find alternative methods and stop such method which causing unnecessary suffering to animals. Thus, what is relevant is a balancing of the interests of humans and those of non-humans.
- Section 11(1)(g) makes it an offence if the owner of a dog that is habitually chained up or kept in close confinement, neglects to exercise or cause to be exercised reasonably. Section 11(1)(h) also makes it an offence if the owner of any animal fails to provide it with sufficient food, drink or shelter. The positive duties owed by humans, animals have corresponding positive liberties, such as, the right to be exercised or properly fed. However, it must be noted that the PCA majorly incorporates negative duties that humans owe to non-humans, but very few positive duties that may achieve for animals better and more dignified conditions of living. Section 28, of The Prevention of Cruelty to Animals (PCA) Act, 1960, allows any animal to be killed in any manner for religious purposes. The exemption given for animal sacrifice goes against the very purpose of the PCA Act, as it causes unnecessary pain and suffering to animals and is outdated in a modern society and this provision should be removed.
- Governments should include animal welfare education programs in school and institutions for compassion and empathy for animals from an early age. These programs can raise awareness about animal rights, responsible pet ownership, and the importance of treating animals with kindness and respect.



- Police officers, animal control officers, and judicial officers must complete mandatory training on animal welfare laws and their enforcement. Such training will help ensure cases of animal cruelty are properly investigated, perpetrators are held accountable and appropriate punishments are imposed.
- In corporate animal welfare education into school and college curricula to promote awareness and empathy among young people, Organize Awareness Campaigns, Conduct regular public awareness campaigns to educate people about the importance of animal welfare and the consequences of cruelty, Leverage social media platforms to reach a wider audience and spread messages about animal welfare.
- Establish More Shelters and build and maintain more animal shelters and rehabilitation centers to provide care for animals in need. Upgrade Existing Facilities to ensure that existing shelters and facilities meet adequate standards of hygiene and care. Provide Veterinary Services and facilities with qualified veterinarians and necessary medical equipment.
- Regularly review and update animal welfare laws to address emerging challenges and ensure they are in line with international standards.
- Collaborate with NGOs: Work closely with animal welfare NGOs to leverage their expertise and resources. Engage with industries such as agriculture, pharmaceuticals, and entertainment to promote ethical practices and animal welfare standards

1.12 Conclusion

The debate on animal welfare in India reflects a rich confluence of ethical thought, spiritual traditions, constitutional mandates, and the gradual evolution of legal norms. Philosophical approaches ranging from utilitarian reasoning to ecocentric perspectives affirm the inherent value of animals; however, statutory provisions such as the Prevention of Cruelty to Animals Act, 1960, have become outdated and fall short in responding to present-day concerns. Recognizing animal sentience necessitates a paradigm shift away from a purely anthropocentric outlook towards one that respects animals as vital contributors to ecological harmony.



Although recent judicial interventions have begun to affirm the sentient nature of animals and extend certain rights to them, a significant divide remains between these ethical insights and their consistent implementation. To close this gap, there is an urgent need for holistic legislative reforms that impose stronger deterrents, broaden the ambit of protection, and integrate animal welfare within wider frameworks of environmental sustainability.

Safeguarding animals is thus not merely an ethical responsibility but also an essential component of ecological stability and sustainable progress. A forward-looking legal architecture, inspired by moral philosophy and rooted in constitutional values, can steer India towards a future where compassion, justice, and sustainability reinforce one another. In doing so, such reforms would uphold the dignity of animals while fostering a balanced and enduring coexistence between human society, the animal world, and the environment.