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## FROM WELFARE TO RIGHTS: AN ANALYSIS ON ANIMAL CRUELTY IN INDIA

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### ABSTRACT

This research paper examines the evolving discourse on animal cruelty in India through the lens of a gradual shift from a welfare-based approach to a rights-oriented framework. Traditionally, Indian law has treated animals under a welfare paradigm, primarily reflected in the Prevention of Cruelty to Animals Act, 1960, which focuses on preventing unnecessary suffering rather than recognizing inherent rights of animals. However, recent judicial developments, particularly through expansive interpretations of Article 21 of the Constitution, have begun to acknowledge animals as sentient beings entitled to dignity and protection. This paper critically analyzes the adequacy of existing legal mechanisms, highlighting significant gaps in enforcement, outdated penalties, and institutional inefficiencies. It further evaluates the role of the judiciary in advancing animal rights jurisprudence, often compensating for legislative inertia by introducing progressive principles such as the doctrine of *parens patriae* and the recognition of animals' intrinsic worth. Additionally, the paper explores international developments and comparative perspectives to assess how India can transition towards a more robust rights-based model. By integrating legal analysis with ethical considerations, the study argues that mere welfare measures are insufficient to address systemic cruelty and calls for comprehensive reforms, including stricter penalties, better enforcement mechanisms, and explicit recognition of animal rights. The paper ultimately contends that a paradigm shift towards a rights-based approach is essential for ensuring meaningful and lasting protection of animals in India.

**Keywords:** Animal Cruelty, Animal Rights, Animal Welfare, India, Prevention of Cruelty to Animals Act, 1960, Article 21, Judiciary, Legal Reform, Sentient Beings.

## Introduction

The discourse on animal cruelty in India has undergone a profound transformation, evolving from a predominantly welfare-oriented approach to an emerging rights-based framework. Historically, Indian law conceptualized animals as property, deserving protection only insofar as they served human interests. This anthropocentric orientation, inherited largely from colonial jurisprudence, limited legal concern for animals to the prevention of gratuitous cruelty rather than recognition of intrinsic value. However, with the development of constitutional jurisprudence, environmental ethics, and global awareness regarding animal sentience, Indian law has gradually begun to acknowledge animals as beings capable of suffering and, therefore, deserving of legal protection grounded in dignity.

The Prevention of Cruelty to Animals Act, 1960 (PCA Act) remains the central statute governing animal welfare in India.<sup>1</sup> While it marked a significant step forward in codifying protections against cruelty, it is fundamentally rooted in a welfare paradigm. The Act aims to reduce unnecessary suffering but permits the continued use and exploitation of animals for human purposes, including agriculture, entertainment, and scientific experimentation. This limitation has increasingly come under scrutiny, particularly in light of judicial developments that recognize animals as sentient beings entitled to a degree of dignity and protection.

This paper argues that while India has made notable progress through judicial activism and evolving ethical standards, the existing framework remains inadequate. It contends that a transition from welfare to rights is essential for meaningful protection of animals and that such a transition requires comprehensive legislative reform, institutional strengthening, and societal transformation.

## Chapter 1: Historical Evolution of Animal Protection in India

The roots of animal protection in India can be traced to a deep and enduring ethical tradition that emphasizes non-violence, compassion, and coexistence with all living beings. The principle of *ahimsa*, central to Hindu, Buddhist, and Jain philosophies, reflects a moral commitment to minimizing harm and recognizing the intrinsic interconnectedness of life. In Hindu thought, the concept of *dharma* extends beyond human obligations to include duties toward animals and nature, often reflected in scriptural injunctions that discourage violence

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<sup>1</sup> Prevention of Cruelty to Animals Act, No. 59 of 1960, INDIA CODE (1960).

against living beings.<sup>2</sup> Similarly, Jainism elevates *ahimsa* to its highest ethical principle, prescribing strict vegetarianism and careful avoidance of harm even to the smallest organisms.<sup>3</sup> Buddhism, while less absolute in its prescriptions, promotes compassion (*karuna*) and non-harm as essential virtues, emphasizing the moral consequences of cruelty.<sup>4</sup> These traditions collectively cultivated a cultural ethos that valued animal life and discouraged unnecessary suffering.

Despite this rich philosophical and ethical foundation, pre-modern Indian legal systems did not translate these moral principles into enforceable rights for animals. The protection of animals remained largely within the realm of personal morality and religious practice rather than formal legal obligation. Kings and rulers were occasionally advised, through texts such as the *Arthashastra*, to regulate the treatment of animals, particularly those used for agriculture and warfare, but such measures were primarily driven by economic and administrative considerations rather than recognition of animal rights.<sup>5</sup> Consequently, while cruelty was morally discouraged, it was not systematically regulated or penalized through a coherent legal framework.

The advent of colonial rule marked a significant turning point in the legal treatment of animals in India. The British administration introduced codified laws that sought to regulate various aspects of public life, including the treatment of animals. The Indian Penal Code, 1860, represented one of the earliest formal attempts to address animal cruelty within a statutory framework. Sections 428 and 429 of the Code criminalized acts such as killing, maiming, or rendering animals useless, thereby providing a legal remedy against certain forms of cruelty.<sup>6</sup> However, these provisions were fundamentally limited in scope and intent. They were primarily designed to protect property interests rather than to safeguard animal welfare as an independent concern. The classification of animals as property meant that the harm caused to them was viewed through the lens of economic loss to their owners rather than as a moral wrong against the animals themselves.

This property-based approach reflected the broader colonial legal philosophy, which prioritized order, economic efficiency, and administrative control over ethical considerations. The

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<sup>2</sup> S. Radhakrishnan, *Indian Philosophy* (1923).

<sup>3</sup> Padmanabh S. Jaini, *The Jaina Path of Purification* (1979).

<sup>4</sup> Damien Keown, *Buddhism: A Very Short Introduction* (1996).

<sup>5</sup> Kautilya, *Arthashastra* (R. Shamasastry trans., 1915).

<sup>6</sup> Indian Penal Code, No. 45 of 1860, S 428–429.

protection afforded under the Indian Penal Code was therefore selective and conditional, extending primarily to domesticated or economically valuable animals. Stray animals, wildlife, and those without clear ownership often fell outside the ambit of legal protection, highlighting the inherent limitations of this framework. Moreover, the requirement of proving ownership and economic loss in many cases made it difficult to secure convictions, thereby reducing the deterrent effect of the law.

In addition to the Indian Penal Code, colonial authorities enacted specific legislation aimed at preventing cruelty to animals, influenced by developments in England. The Cruelty to Animals Act of 1876, for instance, regulated the use of animals in scientific experimentation, reflecting growing concerns about animal suffering in laboratory settings.<sup>7</sup> While such laws represented an acknowledgment of animal welfare concerns, they remained narrowly focused and did not establish a comprehensive or rights-based approach. Instead, they reinforced the notion that animal protection was subordinate to human interests, particularly in areas such as science, industry, and agriculture.

The limitations of colonial legislation were further compounded by weak enforcement and lack of public awareness. The absence of dedicated institutions for animal welfare meant that enforcement was largely dependent on general law enforcement agencies, which often lacked the resources or inclination to prioritize such cases. Consequently, acts of cruelty frequently went unreported or unpunished, perpetuating a culture of neglect and indifference.

The enactment of the Prevention of Cruelty to Animals Act, 1960, marked a significant departure from the colonial approach by establishing a more comprehensive statutory framework aimed explicitly at preventing cruelty.<sup>8</sup> The Act reflected post-independence India's commitment to aligning its legal system with evolving ethical standards and international developments in animal welfare. One of its most notable features was the establishment of the Animal Welfare Board of India (AWBI), which was tasked with advising the government on animal welfare issues, promoting awareness, and ensuring the implementation of legal provisions.<sup>9</sup> The creation of such an institutional mechanism signaled a recognition of the need for dedicated oversight and advocacy in this area.

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<sup>7</sup> Cruelty to Animals Act, 1876 (U.K.).

<sup>8</sup> Prevention of Cruelty to Animals Act, No. 59 of 1960, INDIA CODE (1960).

<sup>9</sup> Id. S 4.

The PCA Act also introduced a detailed enumeration of acts constituting cruelty, including beating, kicking, overloading, confining animals in inadequate spaces, and failing to provide sufficient food, water, or shelter.<sup>10</sup> By explicitly defining cruelty, the Act sought to provide clarity and facilitate enforcement. It also regulated specific activities such as animal experimentation and the use of performing animals, thereby addressing areas that had previously been inadequately governed. In doing so, the Act expanded the scope of legal protection beyond the narrow confines of property-based considerations.

However, despite these advancements, the PCA Act remained firmly rooted in a welfare-oriented approach. It did not recognize animals as holders of legal rights but rather as beneficiaries of human responsibility and compassion. The Act permitted the continued use of animals for various purposes, including agriculture, transport, entertainment, and scientific research, provided that certain standards of care were maintained. This approach reflected the prevailing utilitarian philosophy, which sought to balance human interests with the need to minimize animal suffering.<sup>11</sup> While such a framework represented progress compared to earlier laws, it fell short of addressing the deeper ethical questions surrounding the exploitation of animals.

One of the most significant criticisms of the PCA Act relates to the inadequacy of its penalties. The fines prescribed for acts of cruelty are minimal and have remained largely unchanged since the Act's enactment, rendering them ineffective as a deterrent.<sup>12</sup> In many cases, the cost of compliance with animal welfare standards exceeds the potential penalties for violations, creating a perverse incentive structure that undermines the objectives of the law. This issue has been widely recognized by scholars, activists, and policymakers, leading to calls for substantial amendments to strengthen the punitive provisions.

Another limitation of the PCA Act lies in its enforcement mechanisms. While the establishment of the AWBI was a positive step, the Board's advisory nature limits its ability to ensure compliance. Enforcement responsibilities are largely delegated to local authorities and law enforcement agencies, which often lack the necessary resources, training, and motivation to effectively address animal cruelty.<sup>13</sup> The absence of specialized enforcement agencies further

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<sup>10</sup> Id. S 11.

<sup>11</sup> Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (1789).

<sup>12</sup> Law Commission of India, Report No. 261 (2015).

<sup>13</sup> Id.

exacerbates this problem, resulting in inconsistent implementation across different regions.

Moreover, the welfare-oriented framework of the PCA Act allows for the continuation of practices that may be inherently cruel, provided they fall within the bounds of legal exceptions. For instance, certain forms of animal use in entertainment and agriculture are permitted despite evidence of significant suffering. This highlights the inherent tension within the welfare model, which seeks to regulate rather than eliminate exploitation. The inability of the Act to address systemic cruelty in industries such as factory farming and animal entertainment underscores the need for a more robust and rights-based approach.

The transition from colonial, property-based protections to a welfare-oriented statutory framework represents an important stage in the evolution of animal law in India. However, it also reveals the limitations of incremental reform in addressing deeply entrenched practices and attitudes. While the PCA Act laid the foundation for modern animal protection, its shortcomings have become increasingly apparent in the face of contemporary challenges. The persistence of cruelty, coupled with growing awareness of animal sentience and ethical considerations, has created a pressing need for further reform.

In this context, the shift toward a rights-based framework represents a logical and necessary progression. Such a framework would move beyond the limitations of welfare by recognizing animals as entities with inherent value and legal entitlements. It would also align Indian law with global trends and ethical developments, reflecting a more holistic understanding of human-animal relationships. The historical evolution of animal protection in India, from ancient ethical traditions to colonial legislation and post-independence reforms, thus provides a crucial foundation for understanding the current discourse and the need for transformative change.

## **Chapter 2: The Welfare Paradigm: Structure and Critique**

### **A. Philosophical Foundations**

The welfare model of animal protection in India is deeply rooted in utilitarian ethics, a philosophical framework most prominently associated with thinkers such as Jeremy Bentham. Utilitarianism evaluates actions based on their consequences, particularly in terms of

maximizing overall happiness and minimizing suffering.<sup>14</sup> In the context of animal welfare, this approach acknowledges that animals are sentient beings capable of experiencing pain and pleasure, and therefore their suffering must be taken into account in moral and legal decision-making. Bentham's famous assertion—"the question is not, Can they reason? nor, Can they talk? but, Can they suffer?"—laid the intellectual groundwork for recognizing animal suffering as morally significant.<sup>15</sup>

However, while utilitarianism marks a significant departure from earlier anthropocentric models that entirely excluded animals from moral consideration, it does not necessarily advocate for the recognition of animal rights. Instead, it permits the use of animals for human purposes so long as such use does not result in unnecessary or excessive suffering. This conditional acceptance of animal exploitation forms the philosophical basis of the welfare paradigm, which seeks to regulate rather than abolish practices involving animals.<sup>16</sup> Consequently, the welfare model operates within a framework that balances human interests—such as economic development, scientific advancement, and cultural practices—against the need to minimize harm to animals.

In India, this philosophical orientation is reflected in the legal structure governing animal protection. While the recognition of animal sentience aligns with both utilitarian ethics and traditional Indian values of compassion, the absence of a rights-based framework means that animals are not treated as independent legal subjects. Instead, they remain objects of regulation, with their interests mediated through human-centered considerations. This approach inherently limits the scope of protection afforded to animals, as their welfare can be overridden by competing human interests deemed more significant.

Moreover, utilitarianism itself has been subject to critique for its inability to provide absolute protection to vulnerable beings. Critics argue that by allowing the suffering of some to be justified by the greater good, utilitarianism fails to safeguard the fundamental interests of individuals, including animals.<sup>17</sup> In the context of animal welfare, this translates into a legal framework that permits practices such as intensive farming, animal experimentation, and entertainment involving animals, provided they are conducted within prescribed limits. The

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<sup>14</sup> Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (1789).

<sup>15</sup> *Id.*

<sup>16</sup> Peter Singer, *Animal Liberation* (1975).

<sup>17</sup> Tom Regan, *The Case for Animal Rights* (1983).

philosophical foundation of the welfare model, therefore, while progressive in recognizing animal suffering, remains insufficient for ensuring comprehensive protection against cruelty.

## **B. Legal Structure under the PCA Act**

The philosophical underpinnings of the welfare model find concrete expression in the Prevention of Cruelty to Animals Act, 1960, which serves as the primary legislative instrument for animal protection in India.<sup>18</sup> The Act represents a significant advancement over earlier legal frameworks by explicitly addressing cruelty and establishing institutional mechanisms for its prevention. However, its structure reflects the limitations of the welfare paradigm, as it focuses on regulating human conduct rather than recognizing animal rights.

One of the key features of the PCA Act is its detailed enumeration of acts constituting cruelty. Section 11 of the Act identifies various forms of mistreatment, including beating, kicking, overloading, confining animals in inadequate spaces, and failing to provide sufficient food, water, or shelter.<sup>19</sup> By codifying these acts, the legislation seeks to provide clarity and facilitate enforcement. Additionally, the Act regulates specific activities such as animal experimentation through the establishment of committees responsible for overseeing the ethical use of animals in scientific research.<sup>20</sup> It also addresses the use of performing animals, requiring registration and imposing restrictions on practices that may cause harm.

Another important aspect of the PCA Act is the creation of the Animal Welfare Board of India (AWBI), which functions as an advisory body tasked with promoting animal welfare, advising the government on policy matters, and ensuring the implementation of legal provisions.<sup>21</sup> The establishment of such an institution reflects an acknowledgment of the need for specialized oversight and advocacy in the field of animal protection.

Despite these advancements, the legal structure of the PCA Act is fundamentally limited by its welfare-oriented approach. The Act does not confer enforceable rights upon animals, nor does it recognize them as legal persons. Instead, it imposes duties on humans to treat animals humanely, thereby framing animal protection as an extension of human responsibility rather

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<sup>18</sup> Prevention of Cruelty to Animals Act, No. 59 of 1960, INDIA CODE (1960).

<sup>19</sup> *Id.* S 11.

<sup>20</sup> *Id.* S 15.

<sup>21</sup> *Id.* S 4.

than as a matter of justice owed to animals themselves. This distinction is crucial, as it determines the scope and effectiveness of legal protection.

Furthermore, the Act contains several exceptions that permit the use of animals for various purposes, including agriculture, transport, and scientific experimentation. These exceptions reflect the utilitarian balancing of interests that underpins the welfare model, allowing practices that may involve significant suffering so long as they are deemed necessary or beneficial to humans.<sup>22</sup> As a result, the legal framework often fails to address systemic forms of cruelty that are embedded within these permitted activities.

The enforcement mechanisms under the PCA Act also reveal structural limitations. While the Act provides for penalties in cases of cruelty, these penalties are minimal and often insufficient to deter violations.<sup>23</sup> Moreover, enforcement is largely dependent on local authorities and law enforcement agencies, which may lack the resources, training, or motivation to prioritize animal welfare. The absence of specialized enforcement bodies further exacerbates these challenges, leading to inconsistent implementation across different regions.

### **C. Critique of the Welfare Model**

The welfare paradigm, as embodied in the PCA Act, has been subject to extensive criticism for its inability to effectively address animal cruelty in contemporary India. One of the most significant shortcomings of this model is the inadequacy of penalties prescribed for violations. The fines imposed under the PCA Act are nominal and have not been substantially revised since the legislation's enactment in 1960.<sup>24</sup> In many cases, the penalties are so low that they fail to act as a deterrent, effectively allowing offenders to continue engaging in cruel practices without significant consequences. This issue has been widely acknowledged by the Law Commission of India, which has recommended substantial increases in penalties to reflect the seriousness of animal cruelty.<sup>25</sup>

In addition to inadequate penalties, the welfare model suffers from weak enforcement mechanisms. Enforcement agencies, including the police and municipal authorities, often lack

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<sup>22</sup> Id. S 11–28.

<sup>23</sup> Id.S11.

<sup>24</sup> Law Commission of India, Report No. 261 (2015).

<sup>25</sup> Id.

the necessary resources and training to effectively implement animal welfare laws.<sup>26</sup> Cases of cruelty are frequently underreported, and even when reported, they may not be pursued with the urgency or seriousness they deserve. This lack of enforcement undermines the credibility of the legal framework and perpetuates a culture of impunity.

Another critical limitation of the welfare paradigm is its inability to address systemic exploitation of animals. Industries such as factory farming, animal entertainment, and commercial breeding involve large-scale use of animals under conditions that often result in significant suffering. While the PCA Act regulates certain aspects of these industries, it does not fundamentally challenge their existence or the underlying practices that cause harm.<sup>27</sup> This regulatory approach allows systemic cruelty to persist, as long as it falls within the bounds of legal exceptions.

The anthropocentric bias of the welfare model further exacerbates these issues. By prioritizing human interests over animal well-being, the framework inherently limits the scope of protection afforded to animals. Decisions regarding the use of animals are often guided by considerations of economic benefit, cultural tradition, or scientific advancement, with animal welfare treated as a secondary concern.<sup>28</sup> This bias is evident in the numerous exceptions and allowances within the PCA Act, which permit practices that would otherwise be considered cruel.

Moreover, the welfare model fails to adequately recognize the intrinsic value of animals as individuals with their own interests and experiences. By treating animals as objects of regulation rather than subjects of rights, the framework denies them the legal standing necessary to challenge practices that cause harm. This limitation has significant implications for the development of animal law, as it restricts the ability of courts and policymakers to address cruelty in a comprehensive and principled manner.

The inadequacy of the welfare paradigm has led to increasing calls for a transition toward a rights-based approach that recognizes animals as holders of legal entitlements. Such an approach would shift the focus from regulating human conduct to protecting the inherent interests of animals, thereby providing a stronger and more consistent basis for addressing

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<sup>26</sup> Id.

<sup>27</sup> Food and Agriculture Organization, *The State of Food and Agriculture* (2019).

<sup>28</sup> Upendra Baxi, *The Supreme Court and Politics*, 7 *Econ. & Pol. Wkly.* 221 (1980).

cruelty. While the welfare model has played an important role in advancing animal protection, its limitations highlight the need for a more robust framework that reflects contemporary ethical and legal developments.

### **Chapter 3: Constitutional Framework and Animal Protection**

#### **A. Fundamental Rights and Directive Principles**

The Indian Constitution, though primarily designed to safeguard human rights, contains several provisions that indirectly extend protection to animals by embedding values of environmental preservation, compassion, and ecological balance. These provisions, found within both the Fundamental Rights and the Directive Principles of State Policy, as well as the Fundamental Duties, collectively create a constitutional ethos that supports the humane treatment of animals and discourages cruelty.

Article 21 of the Constitution guarantees the right to life and personal liberty, and over time, its interpretation has expanded far beyond mere physical survival to include the right to live with dignity, a healthy environment, and ecological balance.<sup>29</sup> This broad interpretation has enabled courts to incorporate environmental and animal protection within the ambit of fundamental rights, thereby elevating these concerns to a constitutional level. Although animals are not explicitly recognized as rights-holders under Article 21, the judiciary has increasingly interpreted the provision in a manner that acknowledges the interconnectedness of human life, environmental sustainability, and animal welfare.

In addition to Article 21, Article 48A, which forms part of the Directive Principles of State Policy, explicitly mandates the State to protect and improve the environment and safeguard forests and wildlife.<sup>30</sup> While Directive Principles are not enforceable in courts, they serve as guiding principles for governance and legislative action. Article 48A reflects a constitutional commitment to environmental conservation, which inherently includes the protection of animals as integral components of ecosystems. This provision has been instrumental in shaping policies and laws related to wildlife conservation and environmental protection.

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<sup>29</sup> INDIA CONST. art. 21.

<sup>30</sup> INDIA CONST. art. 48A.

Complementing these provisions is Article 51A(g), which imposes a fundamental duty on every citizen to protect and improve the natural environment and to have compassion for living creatures.<sup>31</sup> This duty underscores the moral responsibility of individuals toward animals and reinforces the ethical foundation of animal protection within the constitutional framework. Although fundamental duties are not directly enforceable, courts have frequently invoked them to interpret laws and to emphasize the importance of humane treatment of animals.

Together, Articles 21, 48A, and 51A(g) create a constitutional matrix that supports the protection of animals, even in the absence of explicit recognition of animal rights. This framework reflects a holistic understanding of the relationship between humans, animals, and the environment, emphasizing the need for coexistence and mutual respect.

## **B. Expansion of Article 21**

One of the most significant developments in Indian constitutional law has been the expansive interpretation of Article 21 by the judiciary. Initially confined to protection against arbitrary deprivation of life and liberty, Article 21 has evolved into a dynamic provision encompassing a wide range of rights, including the right to a clean environment, the right to health, and the right to live with dignity.<sup>32</sup> This judicial expansion has provided a foundation for incorporating environmental and animal protection within the scope of fundamental rights.

In cases such as *M.C. Mehta v. Union of India*, the Supreme Court recognized the right to a healthy environment as an integral part of the right to life under Article 21.<sup>33</sup> Similarly, in *Subhash Kumar v. State of Bihar*, the Court held that the right to life includes the right to enjoy pollution-free water and air.<sup>34</sup> These decisions established a direct link between environmental protection and fundamental rights, thereby creating a legal basis for extending similar protections to animals.

The recognition of animals as part of the broader ecological framework has enabled courts to interpret Article 21 in a manner that indirectly protects animal life. The degradation of ecosystems, destruction of habitats, and exploitation of wildlife have been viewed as threats not only to environmental sustainability but also to human well-being. By addressing these

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<sup>31</sup> INDIA CONST. art. 51A(g).

<sup>32</sup> *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India).

<sup>33</sup> *M.C. Mehta v. Union of India*, (1987) 1 S.C.C. 395 (India).

<sup>34</sup> *Subhash Kumar v. State of Bihar*, (1991) 1 S.C.C. 598 (India).

issues under Article 21, the judiciary has effectively extended constitutional safeguards to animals, albeit indirectly.

A landmark case in this context is *Animal Welfare Board of India v. A. Nagaraja*, where the Supreme Court explicitly recognized animals as sentient beings and emphasized their right to live with dignity.<sup>35</sup> The Court held that the principles of Article 21, when read in conjunction with Articles 48A and 51A(g), impose a duty on the State and citizens to ensure the welfare of animals. This judgment marked a significant step toward bridging the gap between welfare and rights, as it acknowledged the intrinsic value of animals and their entitlement to humane treatment.

The expansion of Article 21 has thus played a crucial role in shaping animal protection jurisprudence in India. By interpreting the right to life in a broad and inclusive manner, the judiciary has created a constitutional foundation for addressing animal cruelty and promoting welfare.

### **C. Judicial Innovation**

The Indian judiciary has been at the forefront of advancing animal protection through innovative interpretations of constitutional provisions. In the absence of explicit statutory recognition of animal rights, courts have relied on constitutional principles to fill the gaps and to develop a progressive jurisprudence that emphasizes dignity, compassion, and ecological balance.

One of the most notable aspects of judicial innovation in this area is the recognition of animal dignity. In *Animal Welfare Board of India v. A. Nagaraja*, the Supreme Court held that animals are entitled to live with intrinsic worth and dignity, and that human beings have a duty to ensure their well-being.<sup>36</sup> The Court emphasized that animals should not be subjected to unnecessary pain and suffering, and that their interests must be taken into account in decision-making processes. This recognition of dignity represents a significant departure from the traditional view of animals as mere property and aligns Indian law with emerging global trends.

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<sup>35</sup> *Animal Welfare Board of India v. A. Nagaraja*, (2014) 7 S.C.C. 547 (India).

<sup>36</sup> *Id.*

Courts have also played a crucial role in restricting cruel practices, particularly those justified on the basis of tradition or economic necessity. Judicial interventions in cases involving practices such as Jallikattu and the use of performing animals have underscored the principle that cultural or economic considerations cannot override the need to prevent cruelty.<sup>37</sup> By prioritizing animal welfare over competing interests, the judiciary has reinforced the importance of humane treatment and set important precedents for future cases.

In addition to protecting individual animals, the judiciary has emphasized the importance of ecological balance and the interconnectedness of all forms of life. Decisions such as *Centre for Environmental Law v. Union of India* have highlighted the role of wildlife in maintaining ecological stability and the need to protect biodiversity.<sup>38</sup> By linking animal protection to broader environmental concerns, courts have adopted a holistic approach that recognizes the interdependence of humans, animals, and ecosystems.

Another significant aspect of judicial innovation is the application of the doctrine of *parens patriae*, which allows the State to act as a guardian for those unable to protect themselves.<sup>39</sup> Courts have invoked this doctrine to justify proactive measures aimed at safeguarding animal interests, particularly in cases where legislative or executive action has been inadequate. This approach underscores the responsibility of the State to protect vulnerable beings, including animals, and reinforces the moral and legal basis for intervention.

Despite these advancements, judicial innovation is not without its limitations. The reliance on judicial interpretation to advance animal protection raises concerns about the separation of powers and the sustainability of reforms that lack legislative backing. Nevertheless, in the absence of comprehensive statutory reform, the judiciary has played a vital role in shaping the constitutional framework for animal protection and in promoting a more compassionate and inclusive legal order.

#### **Chapter 4 : Judicial Activism and Animal Rights Jurisprudence**

The evolution of animal protection in India has been significantly shaped by judicial activism, particularly in the absence of strong legislative reform. Courts have increasingly relied on

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<sup>37</sup> Id.

<sup>38</sup> *Centre for Environmental Law v. Union of India*, (2013) 8 S.C.C. 234 (India).

<sup>39</sup> *Charan Lal Sahu v. Union of India*, (1990) 1 S.C.C. 613 (India).

constitutional principles, ethical reasoning, and international standards to expand the scope of animal welfare and to move incrementally toward a rights-based framework. This judicial engagement has not only filled gaps in statutory law but has also redefined the moral and legal status of animals within Indian jurisprudence.

### **A. Landmark Case: *Animal Welfare Board of India v. A. Nagaraja***

A defining moment in Indian animal rights jurisprudence came with the Supreme Court's decision in *Animal Welfare Board of India v. A. Nagaraja*. In this case, the Court was called upon to examine the legality of the traditional practice of Jallikattu, a bull-taming event conducted in Tamil Nadu. The issue before the Court was whether such practices, often justified on cultural grounds, could be permitted despite evidence of cruelty inflicted on animals.

The Supreme Court, in a landmark judgment, categorically held that animals are entitled to dignity and protection under the law.<sup>40</sup> The Court recognized animals as sentient beings capable of experiencing pain, fear, and distress, thereby acknowledging their intrinsic worth beyond their utility to humans. It emphasized that human beings have a moral and legal duty to ensure the welfare of animals and to prevent unnecessary suffering.

Importantly, the Court interpreted the Prevention of Cruelty to Animals Act, 1960 in light of constitutional principles, particularly Articles 21, 48A, and 51A(g), to conclude that the protection of animals is an integral part of the broader constitutional mandate.<sup>41</sup> By doing so, the Court effectively elevated animal welfare to a constitutional concern, thereby strengthening its legal significance.

The judgment also marked a shift in legal reasoning by moving beyond a purely welfare-based approach toward a more rights-oriented perspective. While the Court did not explicitly grant animals full legal personhood, it recognized their entitlement to live with dignity, thereby laying the groundwork for future developments in animal rights jurisprudence.

### **B. Recognition of the Five Freedoms**

One of the most significant contributions of the *Nagaraja* judgment was the endorsement of

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<sup>40</sup> *Animal Welfare Board of India v. A. Nagaraja*, (2014) 7 S.C.C. 547 (India).

<sup>41</sup> *Id.*

the internationally recognized “Five Freedoms” as guiding principles for animal welfare.<sup>42</sup> These freedoms, originally developed by the Farm Animal Welfare Council in the United Kingdom, include:

1. Freedom from hunger and thirst
2. Freedom from discomfort
3. Freedom from pain, injury, or disease
4. Freedom to express normal behavior
5. Freedom from fear and distress

By incorporating these principles into Indian jurisprudence, the Supreme Court provided a comprehensive framework for assessing animal welfare. The recognition of the Five Freedoms signaled a move toward aligning domestic law with international standards and emphasized the need for a holistic approach to animal protection.

The Court’s reliance on these principles also underscored the importance of considering both the physical and psychological well-being of animals. This broader understanding of welfare goes beyond the mere prevention of physical harm and acknowledges the complexity of animal experiences. It further strengthens the argument for recognizing animals as beings with intrinsic value, deserving of respect and protection.

### **C. Doctrine of *Parens Patriae***

Another important aspect of judicial activism in this domain is the application of the doctrine of *parens patriae*, which empowers the State to act as a guardian for those who are unable to protect themselves. Traditionally applied in cases involving minors or individuals with disabilities, this doctrine has been extended by Indian courts to include animals, recognizing their vulnerability and inability to assert their own rights.

In *Charan Lal Sahu v. Union of India*, the Supreme Court elaborated on the scope of the *parens patriae* doctrine, emphasizing the State’s responsibility to protect the interests of vulnerable

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<sup>42</sup> Id.

groups.<sup>43</sup> Although the case did not directly concern animal welfare, its principles have been invoked in subsequent decisions to justify state intervention in cases of animal cruelty.

In the context of animal protection, the application of *parens patriae* reinforces the idea that the State has a duty to safeguard the interests of animals as part of its broader responsibility to ensure justice and welfare. This doctrine provides a legal basis for proactive measures aimed at preventing cruelty and for judicial intervention in situations where legislative or executive action is inadequate.

The use of *parens patriae* also reflects a shift toward recognizing animals as entities deserving of protection in their own right, rather than merely as objects of human concern. By framing animal protection as a matter of guardianship, courts have strengthened the moral and legal justification for intervention and have contributed to the development of a more inclusive legal framework.

#### **D. Subsequent Developments**

Following the *Nagaraja* judgment, Indian courts have continued to build upon its principles, further advancing animal rights jurisprudence through a series of important decisions.

In *N.R. Nair v. Union of India*, the Kerala High Court upheld restrictions on the use of performing animals, emphasizing the need to prevent cruelty and to ensure humane treatment.<sup>44</sup> The Court recognized that the use of animals in entertainment often involves practices that cause significant suffering and that such practices cannot be justified solely on the basis of economic or cultural considerations.

Similarly, in *People for Ethical Treatment of Animals v. Union of India*, the Supreme Court strengthened protections against animal exploitation by upholding regulatory measures aimed at preventing cruelty.<sup>45</sup> The case highlighted the role of civil society organizations in advocating for animal welfare and demonstrated the judiciary's willingness to support such efforts.

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<sup>43</sup> Charan Lal Sahu v. Union of India, (1990) 1 S.C.C. 613 (India).

<sup>44</sup> N.R. Nair v. Union of India, A.I.R. 2001 Ker. 340 (India).

<sup>45</sup> People for Ethical Treatment of Animals v. Union of India, (2004) 13 S.C.C. 705 (India).

More recently, various High Courts have taken progressive steps toward recognizing the rights of animals. For instance, the Uttarakhand High Court, in *Narayan Dutt Bhatt v. Union of India*, declared animals as legal persons for certain purposes, thereby extending legal protection in a novel and significant manner.<sup>46</sup> Similarly, the Punjab and Haryana High Court recognized the legal status of animals as “juristic persons” and emphasized the duty of citizens to act as guardians.<sup>47</sup> While these decisions are not uniformly binding across the country, they reflect an emerging trend toward recognizing animals as entities with legal standing.

These developments illustrate the dynamic nature of Indian animal law and the crucial role played by the judiciary in advancing protection. By interpreting existing laws in light of constitutional values and ethical considerations, courts have expanded the scope of animal welfare and have laid the groundwork for a more comprehensive rights-based framework.

### **E. Critique of Judicial Activism**

Despite its progressive contributions, judicial activism in the field of animal protection is not without its limitations and criticisms. One of the primary concerns relates to the principle of separation of powers, which requires a clear distinction between the functions of the legislature, executive, and judiciary. Critics argue that by effectively creating new rights and imposing obligations that are not explicitly provided for in legislation, courts may be overstepping their constitutional mandate.<sup>48</sup>

The lack of legislative backing for many judicial pronouncements also raises questions about their sustainability and enforceability. While courts can interpret existing laws and issue directives, the implementation of such decisions often depends on the executive branch, which may lack the resources or political will to ensure compliance. This gap between judicial intent and practical enforcement can undermine the effectiveness of even the most progressive rulings.

Enforcement challenges further complicate the impact of judicial activism. The absence of specialized enforcement mechanisms and the limited capacity of existing institutions mean that many judicial directives remain inadequately implemented. Cases of animal cruelty continue

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<sup>46</sup> *Narayan Dutt Bhatt v. Union of India*, 2018 SCC OnLine Utt 645 (India).

<sup>47</sup> *Karnail Singh v. State of Haryana*, 2019 SCC OnLine P&H 704 (India).

<sup>48</sup> Upendra Baxi, *The Supreme Court and Politics*, 7 *Econ. & Pol. Wkly.* 221 (1980).

to be underreported and insufficiently addressed, highlighting the need for systemic reforms that go beyond judicial intervention.

Additionally, the reliance on judicial activism may inadvertently delay necessary legislative action. Policymakers may become complacent, relying on courts to address issues that require comprehensive statutory reform. This can result in a fragmented and inconsistent legal framework, where protections vary depending on judicial interpretation rather than being uniformly established through legislation.

Nevertheless, despite these criticisms, judicial activism has played an indispensable role in advancing animal rights jurisprudence in India. In the absence of robust legislative reform, courts have acted as catalysts for change, bringing attention to issues of animal cruelty and pushing the boundaries of legal interpretation. The challenge moving forward lies in translating these judicial advances into concrete legislative and institutional reforms that can ensure consistent and effective protection for animals.

## **Chapter 5 : Ethical and Philosophical Dimensions**

### **A. Utilitarianism**

The ethical foundations of modern animal protection discourse are deeply influenced by utilitarian philosophy, particularly as articulated by Peter Singer. Utilitarianism evaluates moral actions based on their consequences, with the central aim of maximizing overall happiness and minimizing suffering.<sup>49</sup> Within this framework, the moral relevance of animals arises from their capacity to experience pain and pleasure. This marks a decisive shift from earlier anthropocentric models that excluded animals from moral consideration altogether. The utilitarian perspective rejects the idea that intelligence, rationality, or linguistic ability should determine moral worth; instead, it emphasizes sentience as the key criterion.<sup>50</sup>

Singer's influential work *Animal Liberation* argues that the failure to extend equal consideration to animals constitutes "speciesism," a form of discrimination analogous to racism or sexism.<sup>51</sup> According to Singer, if an animal can suffer, its suffering must be given equal weight in moral calculations, irrespective of its species. This argument challenges traditional

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<sup>49</sup> Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (1789).

<sup>50</sup> *Id.*

<sup>51</sup> Peter Singer, *Animal Liberation* (1975).

legal frameworks that treat animals as property and calls for a reassessment of practices that cause unnecessary harm, such as factory farming, animal experimentation, and entertainment involving animals.

In the Indian context, utilitarian reasoning has indirectly influenced legal developments by shaping the welfare paradigm embodied in the Prevention of Cruelty to Animals Act, 1960. The Act's emphasis on preventing unnecessary suffering reflects a utilitarian concern for minimizing harm while allowing certain uses of animals for human benefit.<sup>52</sup> However, this approach remains limited in that it permits the balancing of animal suffering against human interests, thereby allowing practices that may cause significant harm if they are deemed socially or economically beneficial.

Critics of utilitarianism argue that its emphasis on aggregate welfare can justify the suffering of individuals if it leads to a greater overall good.<sup>53</sup> In the context of animal protection, this raises concerns about the adequacy of utilitarianism as a foundation for legal reform. While it provides a compelling argument for reducing cruelty, it does not necessarily support the recognition of inviolable rights for animals. As a result, utilitarianism, though instrumental in advancing animal welfare, may be insufficient as a basis for a comprehensive rights-based framework.

## **B. Rights-Based Theory**

In contrast to utilitarianism, rights-based theories of animal ethics emphasize the intrinsic value of animals and argue for the recognition of their moral and legal rights. One of the most prominent proponents of this approach is Tom Regan, who contends that animals are "subjects-of-a-life" with inherent worth independent of their utility to humans.<sup>54</sup> According to Regan, animals possess certain fundamental rights, including the right not to be treated as mere means to human ends. This perspective challenges the utilitarian balancing of interests by asserting that certain forms of exploitation are inherently unjust, regardless of the benefits they may produce.

The rights-based approach has significant implications for legal frameworks governing animal

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<sup>52</sup> Prevention of Cruelty to Animals Act, No. 59 of 1960, INDIA CODE (1960).

<sup>53</sup> Tom Regan, *The Case for Animal Rights* (1983).

<sup>54</sup> *Id.*

protection. By recognizing animals as holders of rights, it shifts the focus from regulating human conduct to safeguarding the interests of animals themselves. This transformation has the potential to fundamentally alter the structure of animal law, moving beyond welfare-based regulations toward a system that prohibits exploitation and ensures respect for animal autonomy.

In India, the influence of rights-based theory can be seen in judicial pronouncements that recognize the dignity and intrinsic worth of animals. For instance, the Supreme Court in *Animal Welfare Board of India v. A. Nagaraja* emphasized that animals have a right to live with dignity and that their interests must be protected.<sup>55</sup> While the Court did not explicitly adopt a full-fledged rights-based framework, its reasoning reflects a shift toward recognizing animals as more than mere objects of human concern.

However, the adoption of a rights-based approach in India faces several challenges. These include the absence of explicit statutory recognition of animal rights, the dominance of economic and cultural considerations, and the practical difficulties of implementing rights for non-human entities.<sup>56</sup> Despite these challenges, the rights-based perspective provides a powerful ethical foundation for advocating stronger legal protections and for reimagining the relationship between humans and animals.

### C. Indian Ethical Traditions

Indian ethical traditions offer a unique and rich foundation for the development of animal protection laws, particularly through the concept of *ahimsa*, or non-violence. Rooted in Hinduism, Buddhism, and Jainism, *ahimsa* embodies a moral commitment to avoiding harm to all living beings and emphasizes compassion, empathy, and respect for life.<sup>57</sup> Unlike Western philosophical frameworks that often approach animal ethics through abstract reasoning, Indian traditions integrate ethical principles into everyday practices, influencing dietary choices, rituals, and social norms.

Jainism, in particular, represents one of the most rigorous expressions of *ahimsa*, prescribing strict vegetarianism and encouraging practices that minimize harm even to microorganisms.<sup>58</sup>

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<sup>55</sup> *Animal Welfare Board of India v. A. Nagaraja*, (2014) 7 S.C.C. 547 (India).

<sup>56</sup> Upendra Baxi, *The Supreme Court and Politics*, 7 *Econ. & Pol. Wkly.* 221 (1980).

<sup>57</sup> S. Radhakrishnan, *Indian Philosophy* (1923).

<sup>58</sup> Padmanabh S. Jaini, *The Jaina Path of Purification* (1979).

Buddhism promotes compassion (*karuna*) and mindfulness, urging individuals to consider the suffering of all sentient beings. Hinduism, while more diverse in its interpretations, also emphasizes the interconnectedness of life and the moral duty to protect animals, often associating certain animals with divine significance.

These traditions have shaped societal attitudes toward animals in India and have contributed to a cultural ethos that values compassion and coexistence. However, the translation of these ethical principles into legal norms has been inconsistent. While *ahimsa* provides a strong moral foundation for animal protection, it has not been fully integrated into the legal framework, which continues to operate largely within a welfare paradigm.

The coexistence of ethical ideals and practices that involve animal exploitation highlights the complexity of the Indian context. Cultural traditions, economic pressures, and social practices often conflict with the principles of *ahimsa*, creating challenges for the implementation of animal protection laws. Nevertheless, the ethical heritage of India offers a valuable resource for advancing a rights-based approach that aligns legal norms with deeply rooted cultural values.

#### **D. Anthropocentrism vs. Biocentrism**

The debate between anthropocentrism and biocentrism lies at the heart of contemporary discussions on animal ethics and law. Anthropocentrism places humans at the center of moral and legal consideration, viewing animals primarily in terms of their utility to human beings. This perspective has historically dominated legal systems, including that of India, where animals have been treated as property and their protection has been justified in terms of human interests.

In contrast, biocentrism advocates for the recognition of all living beings as possessing inherent value, independent of their usefulness to humans.<sup>59</sup> This perspective challenges the hierarchical view of life that prioritizes human interests and calls for a more inclusive approach that respects the rights and well-being of animals. Biocentrism emphasizes the interconnectedness of ecosystems and the need to protect all forms of life as part of a broader commitment to environmental sustainability.

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<sup>59</sup> Paul Taylor, *Respect for Nature* (1986).

The shift from anthropocentrism to biocentrism is increasingly reflected in legal and ethical developments worldwide. In India, this shift can be observed in judicial decisions that recognize the intrinsic worth of animals and emphasize the importance of ecological balance. The recognition of animals as sentient beings and the incorporation of environmental principles into constitutional interpretation signal a move toward a more inclusive and holistic framework.

However, the transition to a biocentric approach is not without challenges. Economic interests, cultural practices, and entrenched legal norms often resist changes that prioritize animal welfare over human benefit. Balancing these competing interests requires careful consideration and innovative policy solutions that reconcile ethical imperatives with practical realities.

Ultimately, the ethical and philosophical dimensions of animal protection highlight the need for a paradigm shift in legal thinking. While utilitarianism has played a crucial role in advancing welfare-based protections, and rights-based theories offer a compelling vision for recognizing animal rights, the integration of these perspectives with Indian ethical traditions and biocentric principles can provide a comprehensive foundation for reform. Such an approach would move beyond the limitations of anthropocentrism and toward a legal framework that acknowledges animals as independent moral subjects deserving of dignity, respect, and protection.

## **Conclusion**

The transition from a welfare-based framework to a rights-oriented approach marks a fundamental transformation in the legal and moral status of animals in India. The Prevention of Cruelty to Animals Act, 1960 undeniably laid the foundational structure for addressing cruelty and institutionalizing animal welfare.<sup>60</sup> However, its welfare-centric design, rooted in utilitarian balancing, has proven inadequate in confronting the scale and complexity of contemporary challenges, including industrial exploitation, systemic cruelty, and weak enforcement. The Act's limited penalties, reliance on human-centered considerations, and absence of enforceable rights for animals underscore the urgent need for reform.<sup>61</sup> While it represents an important historical milestone, it cannot, in its present form, serve as a comprehensive legal instrument for ensuring meaningful protection.

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<sup>60</sup> Prevention of Cruelty to Animals Act, No. 59 of 1960, INDIA CODE (1960).

<sup>61</sup> Law Commission of India, Report No. 261 (2015).

Judicial activism has played a transformative and indispensable role in bridging these gaps. Through progressive interpretations of constitutional provisions, particularly Articles 21, 48A, and 51A(g), courts have elevated animal protection to a matter of constitutional significance.<sup>62</sup> Landmark decisions such as *Animal Welfare Board of India v. A. Nagaraja* have recognized animals as sentient beings entitled to dignity and intrinsic worth, thereby reshaping the legal discourse from mere welfare toward rights.<sup>63</sup> The incorporation of international principles, such as the “Five Freedoms,” and the application of doctrines like *parens patriae* have further strengthened this evolving jurisprudence.<sup>64</sup> These judicial developments reflect a broader ethical shift toward acknowledging the moral standing of animals and the responsibility of the State and society to protect them.

However, reliance on judicial innovation alone is neither sufficient nor sustainable. The absence of explicit legislative backing for many of these principles creates uncertainty and limits their practical implementation. Enforcement remains inconsistent, and institutional mechanisms often lack the capacity and authority to effectively address violations.<sup>65</sup> Moreover, concerns regarding the separation of powers highlight the need for a more balanced approach in which the legislature takes an active role in codifying and strengthening animal protection laws. Without comprehensive statutory reform, the gains achieved through judicial intervention risk remaining fragmented and unevenly applied.

A transition toward a rights-based framework offers the most promising path forward. Such a framework would recognize animals as entities with inherent value and legal entitlements, thereby shifting the focus from regulating human conduct to safeguarding animal interests. This approach would align Indian law with evolving global standards and ethical perspectives, which increasingly emphasize the intrinsic worth of non-human life.<sup>66</sup> It would also provide a more coherent and consistent basis for addressing cruelty, ensuring that protections are not contingent on human utility or economic considerations.

To achieve this transformation, a multi-dimensional strategy is required. Legislative reform must prioritize the amendment of the PCA Act to incorporate stricter penalties, clearer

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<sup>62</sup> INDIA CONST. arts. 21, 48A, 51A(g).

<sup>63</sup> *Animal Welfare Board of India v. A. Nagaraja*, (2014) 7 S.C.C. 547 (India).

<sup>64</sup> *Id.*; *Charan Lal Sahu v. Union of India*, (1990) 1 S.C.C. 613 (India).

<sup>65</sup> Law Commission of India, Report No. 261 (2015).

<sup>66</sup> Tom Regan, *The Case for Animal Rights* (1983).

definitions of cruelty, and recognition of animal rights in appropriate contexts.<sup>67</sup> Institutional strengthening is equally crucial, including the empowerment of bodies such as the Animal Welfare Board of India and the creation of specialized enforcement mechanisms. Public awareness and education must also play a central role in fostering a culture of compassion and responsibility, ensuring that legal reforms are supported by societal change.

Ultimately, the shift from welfare to rights represents more than a legal adjustment; it signifies a deeper moral and philosophical reorientation in the relationship between humans and animals. By embracing a rights-based paradigm grounded in constitutional values and ethical principles, India has the opportunity to lead by example in advancing animal protection. Such a transformation would not only ensure meaningful and lasting safeguards for animals but also reaffirm the nation's commitment to compassion, justice, and the dignity of all living beings.

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<sup>67</sup> Draft Prevention of Cruelty to Animals (Amendment) Bill, 2022.