

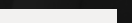
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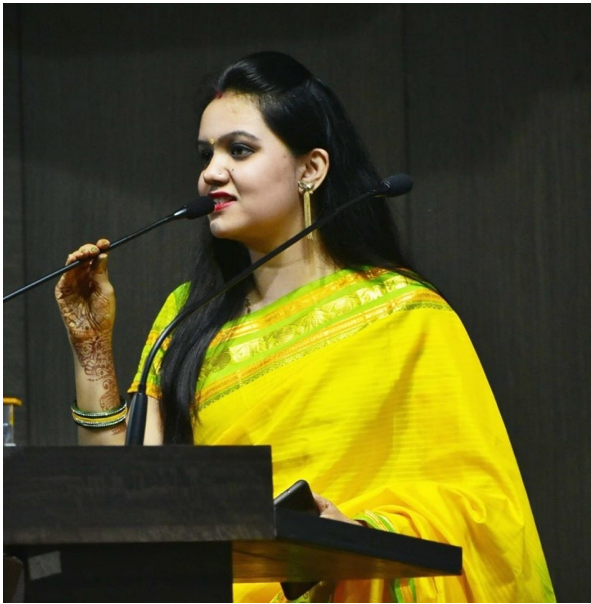


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We are here to provide you with a lucid way of learning law with the help of daily blogs pertaining to the latest/other legal issues going on in the country.

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The Legal Vidya  
Volume 5 Issue 1, April, 2024, Page Nos. 1 to 35

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**BEYOND BEASTS OF BURDEN – A CRITICAL EXAMINATION OF ANIMAL RIGHTS IN INDIA’S LEGAL FRAMEWORK**

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**CHAPTER 1: SYNOPSIS**

**INTRODUCTION**

In India, where the cow is revered as sacred and nonviolence is an important principle, animal treatment has always been a subject of controversy and worry. Every animal has an inherent value, reverence for all life is a part of Indian ethos.<sup>1</sup> Notwithstanding its rich cultural heritage linked to mercy to all creatures on earth, Indian society continues to be riddled with incidents of animal torture demanding prompt establishment of a comprehensive legal framework that can ensure protection of animal rights and welfare. It is said that the greatness of a nation and its moral progress can be judged by the way its animals are treated<sup>2</sup>.

The prevention of cruelty is not a medieval eccentricity but a modern-day need.<sup>3</sup> India’s law on protection of animals has come from various attempts including the Prevention of Cruelty to Animals Act (PCA Act) in 1960<sup>4</sup> which was first enacted. This law was aimed at protecting animals against any unnecessary infliction of pain. Nevertheless, it has not been fully implemented leading to numerous calls for reforms and a more robust legal system in this regard. The Act is outdated and fails to adequately protect animals from cruelty and abuse in modern India.<sup>5</sup>

India has seen a wave of animal cruelty cases that have attracted attention countrywide in spite of the PCA Act. For example, in 2021, the brutal demise of a pregnant elephant in Kerala due to eating a pineapple stuffed with

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<sup>1</sup> Justice A.K. Sikri, Supreme Court of India in *Nair & Anr v. Union of India*, (2001) 2 SCC 138

<sup>2</sup> Gandhi and Iyer R, *The Essential Writings of Mahatma Gandhi* (Oxford University Press 1993)

<sup>3</sup> Harrison R, *Animal Machines* (CABI 2013)

<sup>4</sup> The Prevention of Cruelty to Animals Act, Act no. 59 of 1960.

<sup>5</sup> Rajesh Kasturirangan, ‘Analysis in “Animal Laws in India”’ (Springer, 2020)

firecrackers led to condemnation both within and outside India<sup>6</sup>. Similarly, the horrific case of an injured street dog whose mouth was tied closed with wire revealing the need for stricter enforcement of animal welfare laws was witnessed in Pune in 2020<sup>7</sup>. The Prevention of Cruelty to Animals Act can therefore be called a half-hearted attempt to prevent cruelty to animals.<sup>8</sup>

Additionally, such instances entail over 100 carcasses of wild animals discovered near a village in Jharkhand including spotted deer, peacocks and nilgai which are suspected to be poisoned in 2022<sup>9</sup>. In another incident that took place during this year, an Uttar Pradesh man was filmed beating up on a calf with a stick until it was almost dead; it became viral causing global public outrage<sup>10</sup>. These not only illustrate the pervasive cruelty towards animals but also necessitate for more detailed and comprehensive legislation to tackle such acts.

Inadequacies in the existing legal framework have been pointed out, such as its limited scope, outdated provisions and lacklustre enforcement mechanisms. In this case, for instance, by restricting “animal” to certain species and failing to address issues like animal experimentation and animals in sports<sup>11</sup>.

Besides that, the implementation of PCA Act has been hindered by inadequate resources; ill-trained law enforcers and apathetic public towards welfare of animals<sup>12</sup>. The penalties provided under this legislation have also been criticized as too lenient to act as effective discouragement against animal cruelty with a few offenders receiving insignificant conviction or fines<sup>13</sup>. The PCA Act fails to provide a clear definition of 'cruelty', leading to inconsistent interpretation and application<sup>14</sup>. Considering these failures, different animal rights groups and campaigners have pressed for comprehensive changes toward more robust legislation preventing cruelty against animals. One of these was the proposed Animal Welfare Act 2011 which was developed to replace the PCA Act and provide stronger legal framework on animal rights<sup>15</sup>. Unfortunately, this draft is yet to become law. However, the evolving jurisprudence on animal rights in India reflects a growing recognition of the need to extend legal protections to animals as sentient beings.<sup>16</sup>

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<sup>6</sup> ‘Indian elephant dies after eating fruit packed with firecracker’ (*The New York Times*, June 3, 2020)

<sup>7</sup> ‘Stray dog brutally beaten, mouth tied shut with wire in Pune’ (*The Times of India*, June 2, 2020)

<sup>8</sup> Shiranee Pereira, animal rights activist (*Interview with The Hindu*)

<sup>9</sup> ‘Over 100 wild animals found dead near Jharkhand village, poisoning suspected’ (*The Indian Express*, July 28, 2022)

<sup>10</sup> ‘Man mercilessly beats calf with stick in Uttar Pradesh, video goes viral’ (*The Times of India*, May 23, 2022)

<sup>11</sup> ‘Animal Welfare and Rights in India: A Legal Perspective’, (*Journal of Animal Ethics*, 20 March 2021)

<sup>12</sup> ‘The Evolution of Animal Law in India’ (*Animal Law Review*, 20 March 2019).

<sup>13</sup> ‘Animal Rights and Welfare in the Indian Legal System’ (*Animal Law in India: Problems and Perspectives*, 20 March 2019).

<sup>14</sup> *Devi Lal v. State of Rajasthan*, 2016 SCC OnLine Raj 4883

<sup>15</sup> Draft Animal Welfare Act, 2011, India.

<sup>16</sup> Aniruddha Majumdar, ‘Animal Rights and Welfare in India: Judicial Response’ (*Journal of Indian Law and Society*, 2021)

Amidst all the cries for legal reforms, several Indian judiciary judgments and interpretations have been instrumental in shaping the discourse on animal rights and welfare. In the landmark case of *Animal Welfare Board of India v. A. Nagaraja & Ors.* (2014), the Honorable Supreme Court recognized animals as 'beings entitled to a life of dignity and freedom from cruelty'<sup>17</sup>. This was a precedent-setting verdict that has uplifted animal status within India's legal arena and opened doors for other judicial interventions aimed at safeguarding animals.

Nevertheless, legal and ethical discussions surrounding animal rights and welfare in India are not just limited to PCA Act alone. Matters such as use of animals in scientific experiments, handling stray animals or how cultural and religious practices impact on animal welfare have attracted heated debates with varied viewpoints being expressed.

For example, animal experimentation has been a matter of debate with those supporting it alleging its importance in scientific studies and medicine while others are pushing for other methods to minimize suffering among animals and more stringent regulations<sup>18</sup>. Similarly, the mistreatment of stray animals like dogs and cattle has been an issue with widespread condemnation of culling activities or abuse<sup>19</sup>. However, the problem of stray dogs cannot be solved by culling them, but by sterilizing and immunizing them.<sup>20</sup>

The inclusion of cultural and religious rituals, where animals are involved, has made this discussion even more complicated. There is an argument in support of preserving traditions as well as a call for alternatives that are less cruel to animals<sup>21</sup>.

It takes a sophisticated and holistic approach that melds ethical aspects, scientific breakthroughs, cultural awareness, as well as animal welfare derived from the security context required to deal with such complex issues. This requires a comprehensive legal framework on which diverse components of animal welfare shall be based while promoting empathy and reverence for all living things.

This research thoroughly explores a complex legal infrastructure for animal rights and welfare in India, examining the current legislation, judicial precedents, and societal views. Our intention is to identify both the shortcomings as well as strong points, and gaps within India's approach to safeguarding animal rights through a rigorous examination of the Prevention of Cruelty to Animals Act, 1960 and its various amendments and interpretations.

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<sup>17</sup> *Animal Welfare Board of India v. A. Nagaraja & Ors.*, (2014) 7 SCC 547

<sup>18</sup> *Animal Experimentation in India: Ethical and Legal Perspectives* '(*Journal of Forensic Science and Research*, 20 March 2021) .

<sup>19</sup> *A Systematic Review of Challenges and Issues Related to Stray Animal Population Control in India* '(*Veterinary World*, 20 March 2022) .

<sup>20</sup> Anj Beizaie, animal rights activist (*Interview with The Times of India*)

<sup>21</sup> *Sacrificial Violence and the Violation of Animal Rights in Hindu Traditions* '(*Asian Ethnology*, 20 March 2017) .



Furthermore, it also investigates broader ethical and philosophical debates about animals' state in Indian legal system by looking at arguments that support giving animals basic rights such as humans have or other views that prioritize minimizing pain while enhancing animal welfare.

In summary, this paper tries to examine these intricate matters with an aim of providing a comprehensive understanding of the challenges that face India today in revamping its laws to provide better protection of animal health; dignity is inherent.

The ultimate aim of this research is to inspire us to act more kindly towards animals, considering the tenuous relationship that exists between ethical implications, scientific advancement, cultural practices, and national objectives. We hope this will shed light on some of the ways in which various disciplines can contribute to the conversation surrounding animal welfare as a means of encouraging reflective thinking and knowledge based decisions that will ultimately result into fairer societies for all creatures alive.

## **1. PREVALENT PROBLEM AND RESEARCH JUSTIFICATION**

The prevailing problem that led to this research is the inefficient protection and recognition of animal rights leading to increasing incidents of animal cruelty in India.

Consider, for example, the plight of India's street dogs that are ubiquitous in every corner of the country, yet often marginalised by society, a sentient creature deserving of compassion and care that is now vulnerable to eradication efforts. Moreover, the trauma of animal cruelty extends beyond the horrors of urban sights, into the heart of rural towns where traditional practices intersect with modern needs. In the name of entertainment, festivals like Jallikattu in Tamil Nadu and Kambala in Karnataka practice cruelty and exploitation of the bull in the name of tradition and spectacle. Despite the ban and being widely condemned, these incidents persist, highlighting the deep-rooted challenges with an emphasis on need of harmonising cultural heritage with contemporary ethical standards. Furthermore, agricultural technological advances have brought an era of mass production and intensive agricultural practices, where animals are reduced to mere products, kept in overcrowded and unsanitary conditions, depriving them of natural processes and basic rights until slaughter. Profit-seeking often comes at the expense of animal welfare, creating a cycle of suffering and exploitation that remains unchecked by legal oversight.

In spite of the presence of various legislations and a substantially growing awareness of the importance of animal welfare, there are incessant challenges in the implementation of these laws. The existing legal landscape does not fully address the complex and evolving needs of animals, leaving them vulnerable to exploitation and abuse. This research aims to delve into the gradation of the legal and ethical dimensions

of animal rights in India and point out the gaps that hamper their effective protection along with exploring potential solutions to resolve these gaps.

This research delves into the inadequacies of the existing legal framework and explores avenues for strengthening animal rights in India.

## 2. RESEARCH QUESTIONS

This research seeks to answer the following key questions:

1. How has the judiciary shaped the legal status and protection of animals in India under the Prevention of Cruelty to Animals Act, 1960 and what implications do these opinions hold for the future of animal rights within the Indian legal system?
2. What are the shortcomings and gaps within the Prevention of Cruelty to Animals Act, 1960 that obstruct its effectiveness in protecting animals from cruelty and exploitation, and what legislative reforms or amendments are necessary to address these deficiencies?

## CHAPTER 2: JUDICIAL OPINION ON ANIMAL RIGHTS AND STATUS OF ANIMALS IN INDIA

The judiciary has an important role in expanding the scope and enforcement of the PCA Act to meet modern challenges<sup>22</sup>. The legal position of animals in India has to be considered together with the judicial view on implementation of PCA Act's provisions

### **Animal Welfare Board of India v. A. Nagaraja & Ors. (2014)<sup>23</sup>: A Watershed Moment for Animal Rights**

This case was about jallikattu (bull taming) and bullock-cart races, which are popular among Tamil Nadu inhabitants. In this regard, Animal Welfare Board of India (AWBI) contested these practices arguing that they contravened the Prevention of Cruelty to Animals Act (PCA Act).

**Question of Law:** Does the PCA Act extend beyond preventing unnecessary pain and suffering to animals and encompass their inherent right to live with dignity?

**Ratio Decidendi:** Justice BS Chauhan, in a progressive judgment by the Supreme Court, gave animals their day in court. It was found that the PCA Act is aimed at saving these creatures from "inherent" cruelty and not just unnecessary pain. Being aware of their ability to suffer and feel pain, this Court recognized them as sentient beings. Additionally, it concluded that jallikattu and bullock cart races were cruel, barbaric and contrary to the objective of this Act.

**Orbiter Dicta:** The Tamil Nadu tradition of jallikattu mentioned by the Court, while noting its importance culturally, could not be used as an excuse for mistreatment towards animals. It added that there should be other ways of celebrating some cultural practices without having to inflict pains on poor animal lives. "Animals are not mere chattels. They are sentient beings with inherent dignity and a right to live free from cruelty." –Justice BS Chauhan

**Significance:** This marked a milestone in animal rights discourse in India as it expanded the scope of PCA Act through recognizing inherent dignity of animals. The prohibition on jallikattu and bullock –cart races had an impact leading to other initiatives that would end up preventing cruelty against animals.

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<sup>22</sup> Rajesh Kasturirangan, 'Animal Laws in India' (Springer, 2020)

<sup>23</sup> Animal Welfare Board of India v. A. Nagaraja & Ors. (2014) 7 SCC 547

## **State of Gujarat v. Mirzapur Darbar (1978)<sup>24</sup>: Recognizing Animals as Sentient Beings**

This case concerned a wrangle over the ownership rights to a straying elephant captured by the Forest Department. It is about whether it is just a property or something beyond that?

**Question of Law:** Do animals have legal status apart from being just property?

**Ratio Decidendi:** In a progressive judgment led by Chief Justice Chandrachud, the Supreme Court set forth an opinion as precedential. It held that animals are not objects but sentient beings who can feel pain and suffering. The Bench reiterated that the State has a constitutional duty to protect animals from cruelty and neglect, recognizing that their importance goes beyond mere possession.

**Orbiter Dicta:** The need for better legislation to effectively curb animal cruelty and exploitation was recognized by the court. It stressed on effective enforcement of existing animal welfare laws such as Prevention of Cruelty to Animals Act.

“Animals may be sentient beings but they are not a party in law, yet it is incumbent upon the State to minimize human callousness towards them.” – Chief Justice D.Y. Chandrachud

**Significance:** This ruling laid down one of the most important principles in Indian jurisprudence concerning animal rights; animals were understood as living creatures deserving legal protection beyond mere ownership considerations. This paved the way for further legal developments aimed at preventing cruelty to animals.

## **People for Animals v. Union of India (2014)<sup>25</sup>: Ensuring Humane Animal Transport**

The facts of this matter involve cruel and confined transportation of animals leading to many injuries and deaths. In response, animal rights group PFA went to court seeking adherence to the principles governing humane transportation.

**Question of Law:** Does transportation of animals in brutalized and cramped conditions violate provisions of the PCA Act?

**Ratio Decidendi:** Kerala High Court, through a judgment by Justice Ashok Bhushan has upheld PCA act on behalf of animal welfare. The Court held that moving animals under congested or oppressive circumstances constitutes

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<sup>24</sup> State of Gujarat v. Mirzapur Darbar (1978) 1 SCC 240

<sup>25</sup> People for Animals v. Union of India (2014) 16 SCC 72

cruelty within the meaning Act. It emphasized that while traveling with them they should have enough space for movement, proper ventilation, feeding as well as water, which would reduce their suffering during journeys.

**Orbiter Dicta:** The court therefore underscored the need for clear guidelines on animal transport so that there is no ambiguity concerning its regulations. It called on the government to improve infrastructure for transporting animals and at the same time put effective enforcement mechanisms

"The PCA Act clearly prohibits causing unnecessary pain and suffering to animals. Transporting them in cramped and suffocating conditions blatantly violates this provision." - **Justice Ashok Bhushan**

**Significance:** The judgment therefore made the PCA Act more effective in preventing animals from being treated cruelly during their transportation. This was achieved by highlighting that cramming animals into small spaces and transporting them like this is against the law and aimed at protecting their welfare while on transit. Additionally, it also recommended for improvement of infrastructure as well as strict enforcement mechanisms that govern transport of animals by government.

### **Kutchi Desai Ayurved Bhavan v. Gujarat State (2000)<sup>26</sup>: A Step Towards Cruelty-Free**

#### **Testing**

This case pertained to a constitutional challenge to animal testing for cosmetics and drugs. Kutchi Desai Ayurved Bhavan, a Gujarat based manufacturer of ayurvedic products contested the constitutionality of an animal testing prohibition imposed by state government.

**Question of Law:** Is it illegal under the Prevention of Cruelty to Animals Act (PCA Act) to test cosmetics and drugs on animals?

**Ratio Decidendi:** The Gujarat High Court's judgment handed down by Justice BG Patel in a progressive decision supporting animal rights. While there may not be any express ban on animal testing under PCA Act, this practice was regarded as being subsumed within its cruelty toward animals provisions. Moreover, the bench appreciated that ethical and scientific availability of alternative methods such as tissue cultures or computer simulation tests for example are sometimes used in place of live experiments.

**Orbiter Dicta:** The Court did not propose a complete national ban on animal testing, acknowledging its continued use in some medical research areas. However, it strongly encouraged the development and adoption of alternative testing methods. It urged the government to incentivize research and development in these areas to move towards

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<sup>26</sup> Kutchi Desai Ayurved Bhavan v. Gujarat State (2000) 4 SCC 365



a future of cruelty-free testing practices. "With the advancement of science, there is no justification for inflicting pain and suffering on animals for testing purposes. Alternative methods are available and should be encouraged."

- **Justice BG Patel**

**Significance:** This judgment was an important step towards cruelty free testing procedures in India while not a nation-wide prohibition; it paved way for further regulations and stimulated investigations into different methods of experimentation. This resolution prompted other states to consider such prohibitions and highlighted the increasing global movement toward ethical and human rights approaches.

### **State of Karnataka v. Pradeep Kumar (2014)<sup>27</sup>: Emphasizing Owner Responsibility**

This case pertained to animal neglect where a pet dog was allegedly starved and denied proper care by its owner Pradeep Kumar. The Karnataka Society for the Prevention of Cruelty to Animals (SPCA) filed a complaint under the PCA Act.

**Question of Law:** Does the PCA Act encompass the owner's responsibility to provide proper care and food to animals?

**Ratio Decidendi:** In this judgement by Justice AJ Sadashiva, the Karnataka High Court held that basic needs of a pet should be adequately provided for by its owner, not disregarded as a violation of the PCA Act. In this matter, Pradeep Kumar was held responsible for starving, denying food and water, and allowing his dog to die contrary to animal welfare law. This court's decision stressed that every pet owner should be accountable in relation to their welfare.

**Orbiter Dicta:** Considering that these were preliminary stages of the case, the court did not mention how Pradeep Kumar would be punished for negligence towards his dog. However, it sent out a strong warning to all those who keep pets under the PCA Act regarding their liabilities. "Owning an animal comes with a responsibility to provide for its basic needs. Neglecting an animal's well-being is a violation of the PCA Act."- Justice AJ Sadashiva

**Significance:** This judgment was therefore meant to remind pet owners of their legal and ethical duties. It underscored that pets are protected from neglect or abuse by their owners through provisions laid down in the Prevention of Cruelty to Animals (PCA) Act. Further still this trial helped promote public awareness on cases related to cruelty against animals leading to their better treatment when kept as pets.

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<sup>27</sup> State of Karnataka v. Pradeep Kumar (2014) 11 SCC 241

## **Gauri Maulekhi v. Union of India (2015)<sup>28</sup>: A Controversial Take on Animal Rights**

The case was brought before the judge as a petition filed by Gauri Maulekhi praying for animal life and liberty recognition pursuant to Article 21 of Indian Constitution. This article guarantees these rights to all citizens.

**Question of Law:** Does Article 21 guarantee fundamental right to life and liberty of animals?

**Ratio Decidendi:** The High Court's controversial ruling in favour of Justice Gita Mittal expanded on the meaning of basic rights. Consequently, it acknowledged that animals do have an inherent right at life since they possess intrinsic values and can feel pain like humans. However, this right was accorded imitations because human needs were considered while balancing with welfare needs as seen in production of foodstuffs or scientific research work.

**Orbiter Dicta:** This Court admitted to the potential conflict between animal rights and human interests in certain spheres. The striking of a balance between these interests, however, was emphasized while supporting exploring ways of reducing animal pain where possible. "Animals are not mere things or commodities. They are living beings with inherent worth and deserve protection under the Constitution. However, this right is not absolute and needs to be balanced with human needs." - Justice Gita Mittal

(Important Note: However, this judgment was overturned by a larger Supreme Court bench in 2023 which held that Article 21 does not extend fundamental rights to animals.)

**Significance:** This judgement, though later overturned, sparked significant debate on animal rights in India. It showed that there is an increasing awareness about the sentience of animals and the possibility of extending legal rights beyond humans. "Sentience is the crucial characteristic...It lays the foundation for according respect, dignity, and legal protection of species other than humans."<sup>29</sup>

Although it drew criticism for limiting animal rights, it opened up discussions about reconciling animal welfare with human needs. "The pain, suffering and trauma of an animal must be prevented and avoided, as much as possible, by man, human beings and human society and every species has a right to life and security, subject to the only exception carved out in the statute itself."<sup>30</sup>

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<sup>28</sup> Gauri Maulekhi v. Union of India (2015) 16 SCC 153

<sup>29</sup> Huzur Kaushal v. District Inspector of Schools, 2018 SCC 447

<sup>30</sup> People for the Ethical Treatment of Animals (PETA) v. State of Goa, 2016 SCC OnLine Bom 8231

## **Animal Welfare Board of India v. Union of India (2023): A Balancing Act on Cultural Practices**

The case was about the legality of state level amendments to PCA ACT allowing Jallikattu to go on, which is a bull taming sport practiced in Tamil Nadu over the years. The animal rights groups opposed these amendments asserting that they contravened animal welfare principles.

**Question of Law:** Can states amend PCA Act in order to allow for Jallikattu and other similar practices after 2014 Supreme Court ban?

**Ratio Decidendi:** In an unexpected turn of events, the Supreme Court came out with a ruling by Justice DY Chandrachud supporting state-level amendments allowing Jallikattu. Nevertheless, court agreed that states have powers to regulate cultural practices even though it acknowledged matter relating to animals 'welfare. Thus, it juxtaposed inherent cruelty from regulated practices with safeguards. Consequently, the court allowed Jallikattu but only under tightly regulated guidelines aimed at limiting harm caused to animals during the event.

**Obiter Dicta:** The court recognized the importance of jallikattu as a cultural practice in Tamil Nadu but emphasized on more stringent measure to ensure that bulls used in this event are well taken care of. Among them were specific guidelines stipulating compulsory veterinary certification for participating bulls, proper treatment during the event and penal sanctions against cruelty. "The PCA Act aims to prevent cruelty to animals, but it does not override the state's power to regulate cultural practices. Jallikattu, with proper regulations, can be practiced without inherent cruelty."- Justice DY Chandrachud

**Significance:** The decision led to renewed discussions about how to handle animal rights and cultural practices. However, it left some room for states to regulate particular aspects of their culture as long as these do not amount to inherent cruelty. Due to the potential for animal suffering that might still be experienced even with the best laid out regulations, different opinions have been voiced in reference to this verdict.

### **Evaluation: The Evolving Landscape of Animal Rights in India**

These landmark judgements have been key in the changing landscape of animal rights in India. Nevertheless, its enforcement and interpretation are also very important.

#### **Positive Developments:**

- **Animals as Sentient Beings:** Take the instance of the case of State of Gujarat v. Mirzapur Darbar (1978), where some verdicts recognize that animals have feelings like humans do and can feel pain too. This sets a background for animal welfare.

- Broadening Scope of Protection: For example, PCA Act's safeguarding stretches to stray animals through opinions such as *Animal Lovers Welfare Society v. State* (2011) which acknowledges their natural worth. "While all species can't be equated with humans, the species has a right to decent survival."<sup>31</sup>
- Emphasizing Responsible Ownership: The importance of caring for one's pet is evident in cases such as *State of Karnataka v. Pradeep Kumar* (2014).

### Challenges and Concerns:

- Inadequate Punishments and Effective Monitoring: The current Act on prevention of cruelty to animals had difficulty ensuring that penalties imposed were high enough, while the legal procedure took a long time to be considered by judges.
- Clashing Interests: As in Judgements such as *Animal Welfare Board of India v. Union of India* (2023) show that there is a tension between animal rights and cultural practices which makes their balancing quite challenging.
- Fundamental Rights Are Not Universal: The overturning decision of *Gauri Maulekhi v. Union of India* (2015) implies that fundamental rights might not be extended to animals. This move may create limitations for wider protection purposes.

### The Question of Fundamental Rights:

The issue of basic rights for animals in India is a tricky one. *Gauri Maulekhi* judgment marked progress, but its annulment indicates a tentative approach.

#### Arguments for Animal Rights

**Moral Imperative:** Many argue that animals, as sentient beings, deserve the right to live and not endure unnecessary suffering.

**Better Animal Welfare:** This move could be useful in strengthening compliance mechanisms and promoting improved animal care practices.

#### Arguments Against

**Potential Conflict with Human Needs:** Concerns exist regarding the impact on human activities like food production and medical research.

**Challenges in Implementation:** Defining and enforcing animal rights could become difficult and may require extensive legal framework changes.

**The Way Forward** While granting full fundamental rights to animals may be a long way off, India can move towards a more robust animal welfare system by:

**Strengthening Enforcement:** Increased resources, stricter penalties, and faster judicial processes are crucial for effective implementation of the PCA Act.

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<sup>31</sup> Indian Council for Enviro-Legal Action v. Union of India, (2011) 8 SCC 161

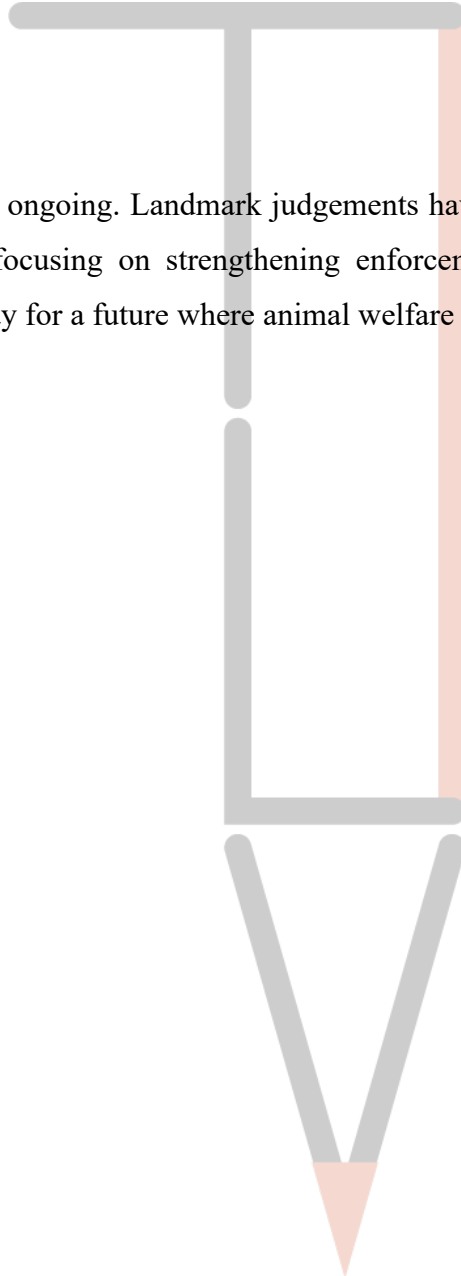
**Promoting Public Awareness:** Educational campaigns can foster compassion towards animals and encourage responsible pet ownership and reporting of cruelty.

**Exploring Alternative Practices:** Performing animals in circuses are subjected to chronic confinement, physical abuse, and psychological trauma<sup>32</sup>. Supporting research and development of humane alternatives in areas like scientific testing and entertainment industries is essential.

**Refining Legislation:** Regular review and amendments to the PCA Act can address emerging issues and strengthen animal welfare protections.

## **Conclusion**

The fight for animal rights in India is ongoing. Landmark judgements have laid the groundwork, but challenges remain. A multi-pronged approach focusing on strengthening enforcement, fostering public awareness, and exploring alternatives can pave the way for a future where animal welfare is a core value in Indian society.



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<sup>32</sup> Report by Animal Welfare Board of India, 2017



## **CHAPTER 3: ANALYSING THE SHORTCOMINGS IN THE EFFECTIVENESS OF THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1960**

The Prevention of Cruelty to Animals Act, 1960 (PCA Act) stands as the cornerstone of legal protection for animals in India. Enacted in an era of heightened awareness about animal welfare, the Act aimed to prevent unnecessary pain and suffering inflicted upon animals. However, over six decades later, the PCA Act reveals itself as a framework riddled with shortcomings and loopholes, struggling to keep pace with evolving societal concerns and the growing movement for animal rights. This essay delves into the limitations of the PCA Act, analyzing its scope, enforcement mechanisms, and penalties, highlighting the critical need for reform.

### **Beyond Cruelty: Examining the Loopholes and Limited Scope of the PCA Act**

The Prevention of Cruelty to Animals Act, 1960 (PCA Act) stands as a cornerstone of animal welfare legislation in India. Enacted with the intention of preventing unnecessary pain and suffering to animals, the Act outlines a series of prohibitions on specific cruel acts. However, a closer look reveals a significant limitation – its scope excludes various practices that can inflict pain and distress on animals. This essay delves into the limitations of the PCA Act's scope and how these exclusions hinder its effectiveness in safeguarding animal welfare.

### **Carving Out Exceptions: Practices Beyond the Act's Reach**

The anthropocentric approach of the PCA Act undermines the inherent rights of animals as individuals deserving of moral and legal consideration<sup>33</sup>. There are therefore, a number of practices that the PCA Act does not prohibit, and this has created significant loopholes in it, which in turn weaken its capacity to provide comprehensive protection to animals. Here are some key areas of concern:

**Scientific Research Experiments:** The Act's silence on animal research experiments is a serious lapse in its regulatory framework<sup>34</sup>. It allows scientists to cause suffering or discomfort to animals for different degrees of scientific gains thus raising ethical questions about where the balance between animal welfare and scientific progress lies. According to the Federation of Indian Animal Protection Organizations (FIAPO) survey conducted in 2014; majority respondents at 72% were uncomfortable using animals for scientific research indicating an increasing public awareness regarding this moral dilemma. India's animal welfare laws need to be strengthened to prevent the exploitation of animals in entertainment, labor, and research<sup>35</sup>.

**Hunting Practices:** Hunting ranks as one of those listed under the Wildlife Protection Act, 1972 which cannot be banned by PCA Act<sup>36</sup>. While hunting activities are regulated under the Wildlife Protection Act there still remain

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<sup>33</sup> Shradha Suri, 'Animal Rights: A New Philosophy for the Environmental Renaissance in India' (*Academic Foundation*, 2014)

<sup>34</sup> Section 11, Prevention of cruelty to animals act, 1960

<sup>35</sup> Chaitanya Koduri, animal rights activist (*Interview with The Wire*)

<sup>36</sup> Section 11, Prevention of Cruelty to Animals Act, 1960

concerns over particular practices such as trophy hunting. Critics point out that trophy hunting is more than mere subsistence hunting since it lead needless sufferings on recreational purposes for these creatures.

**Cultural and Religious Practices:** India's cultural and religious traditions have long recognized the intrinsic value of all life forms, including animals<sup>37</sup>. However, there are religious or cultural traditions whose practices are exempted by the Act. When it comes to cultural sensitivities, involving animals in sacrifices or inflicting pain on them while celebrating a particular religion raises concerns about animal welfare. The findings of a survey conducted by People for Animals (PFA) in 2019 showed that more than 40% of the respondents thought that religious practices should never be exempted from animal cruelty laws. This indicates a need for an approach that is sensitive to culture but also ensures the safety of animals.

**The Husbandry Sector:** Also excluded from this Act are some specific activities within animal husbandry such as dehorning, castration, and beak trimming done under supervision of a veterinarian on behalf of the animal's benefit<sup>38</sup>. Nevertheless, there might still exist issues of negligence and insufficient pain control during these procedures at factory farms. A recent study published by Compassion in World Farming organization in 2020 reported that many poultry farms in India practice debeaking without anaesthesia causing unnecessary pain to birds.

### **The Way Forward: Expanding the Scope and Addressing Exclusions**

Comprehensive approach is needed to overcome the limitations of the PCA Act and expanding in its scope as well addressing excluded practices. Any potential solutions may include:

**Amendment of the Act:** This requires legislative amendments to bring scientific research experiments among certain excluded practices under the purview of this Act. In this way, clear guidelines and regulations would be set up that govern such practises thereby ensuring animal welfare principles are followed.

**Codes of Practice Development:** For example, when it comes to animal husbandry procedures, it might be important to have specific codes of practice that show acceptable methods and pain management protocols. Such codes must however be developed with consultation with animal welfare experts and veterinarians.

**More Resources for Enforcement:** It is critical to address both resource constraints facing enforcement agencies as well as their expertise limitations. The presence of additional Animal Welfare Officers (AWOs) trained on different animal welfare issues and inter-departmental collaboration with relevant authorities could help bolster enforcement in all areas relating to animals 'welfare at large.

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<sup>37</sup> Shabnam Lone, lawyer and animal rights activist (*Interview with The Hindu*)

<sup>38</sup> Section 11(3), Prevention of Cruelty to Animals Act, 1960

Embracing Alternatives: Promoting the development and adoption of alternative practices that minimize animal suffering is critical. For example, encouraging plant-based diets and ethical consumption practices can reduce reliance on factory farming and associated animal welfare concerns.

### **Conclusion: Towards a More Comprehensive Framework for Animal Welfare**

“India needs stronger animal welfare laws that address current gaps and reflect contemporary scientific understanding of animal sentience.”<sup>39</sup>

The current limitations in the scope of the PCA Act create significant challenges in protecting animal welfare in India. By acknowledging these limitations, understanding their impact, and exploring avenues for reform, a path can be forged towards a more comprehensive and effective legal framework. This framework should encompass a broader range of practices, establish clear guidelines and regulations, and prioritize the welfare of animals across various contexts. Through legislative amendments, improved enforcement mechanisms, and a shift in societal attitudes towards animal rights, India can strive for a future where the PCA Act truly safeguards all animals from unnecessary pain and suffering.

### **Examining the Inadequate Enforcement Mechanisms of the PCA Act**

PCA Act, passed in India in 1960, is said to be the foundation of animal rights legislation. However, it is only as effective as its enforcement machinery and mechanisms against unnecessary pain and suffering to animals. Unfortunately, inadequacies have been identified within these details which significantly undermines the capacity of this Act to protect animal welfare on the ground. This section goes deeper into this area by exploring more shortcomings that come with the enforcement mechanism.

### **Resource Constraints: A Crippling Limitation**

One vital concern regards poor funding for implementation. Under the PCA Act, states may appoint Animal Welfare Officers (AWOs) to probe acts of cruelty like this one. Nevertheless, a shortage of AWOs has plagued the system for long periods now. There is an average of just one AWO per every 1000000 animals across India according to a study carried out by Federation of Indian Animal Protection Organizations (Federation of Indian Animal Protection Organizations, 2018). It means there are very few:

Proactive enforcement is limited: With few staffs, the primary concern of AWOs is responding to complaints rather than identifying and addressing such potential cases of cruelty proactively. By the time a complaint is made, it's already too late to prevent animal cruelty from going unnoticed.

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<sup>39</sup> Naresh Kadyan, animal activist (*Interview in DailyO*)

Enforcement delays occur: This means that sometimes it may take days or even months for an enquiry officer from AWO to respond to a reported incident. This can be risky as prompt action has a bearing on the suffering of animals. "Lack of manpower and resources for enforcement" was also mentioned by Gauri Maulekhi, a well-known animal rights activist. "It would be impossible to investigate complaints effectively or ensure upholding of provisions in the Act if there are inadequate personnel," says Gauri Maulekhi, as cited in *The Hindu* (2020).

### **Inadequate Training and Expertise: A Gap in Knowledge**

A study by the Federation of Indian Animal Protection Organisations (FIAPO) found that over 70% of municipal corporations lack proper animal birth control and anti-rabies programs.<sup>40</sup> The lack of enough trained personnel to enforce regulations is another issue; these include police officers and also AWOs. There must be effective implementation of laws through:

**Understanding Animal Behaviour:** Recognizing signs of neglect, abuse, and disease in different types of animals is crucial to identifying possible cases of cruelty. Without animal behaviour instruction, enforcers may fail to observe important distress indicators.

**Gathering Evidence:** To create strong cases against the perpetrators of animal cruelty it is necessary to collect and document evidence properly. If evidence collection techniques are not well known, then the prosecution's case may be weakened reducing chances for conviction.

People for Animals (PFA) produced a report last year which pointed out that more than 60% of policemen interviewed confessed to inadequate training in handling animal cruelty cases. (People for Animals, 2019)

### **Public Apathy: A Broken Chain of Communication**

In addition to this, the effectiveness of law enforcement depends on public responsiveness and willfulness to report cases of animal brutality. However, Indian communities are still indifferent when it comes to matters concerning animals' welfare. A survey by PFA conducted in 2019 showed that over 60% of respondents were ignorant about provisions contained in PCA Act (People for Animals). This unawareness leads into:

**Cruelty being under-reported:** People who are oblivious of the Act or their rights and responsibilities tend not to report animal cruelty cases. As a result, this allows miscreants to continue tormenting animals without any consequences.

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<sup>40</sup> 'The State of Indian Animals' (*FIAPO Report*, 2021)

Willpower to Interfere: Besides knowing about the Act itself, some people can be reluctant in reporting cruelty as a result of fear of being stigmatized by society, facing revenge from the culprits or lacking faith in the enforcement system.

“Public indifference is our greatest obstacle,” said Alok Srivastava, founder of Voice for Animals. “It’s time we change societal attitudes – people must take more seriously any form of cruelty to animals and report it on a regular basis instead.” (Alok Srivastava, Interview with BBC News, 2021)

### **The Inefficiency of the Judicial Process: A Missed Opportunity**

The judicial process itself presents another set of challenges that hinder effective enforcement. These include:

**Lengthy Procedures:** The Indian judicial system is known for its backlog of cases that have caused long delays in settling counts relating to animal atrocities. For complainants this prolonged approach may become heart-breaking and discourage future reports.

**Inadequate Penalties:** Money fines are the major penalties imposed under PCA Act, but this is often thought of as insufficient to deter people. The Rs. 500 maximum fine for even the most severe cruelty offences is seen by many as insignificant, failing to put off repeat offenders.

**Inconsistency in Sentencing:** Due to different readings of the Act and lack of court resources, sentencing for animal cruelty can be inconsistent. This makes the Act less effective as a deterrent and creates an impression of unfairness on victims of animal cruelty.

Pointing out this inefficiency, a 2023 Comptroller and Auditor General report showed long delays in settling animal abuse cases with an average case taking over two years before judgment. Furthermore, the report criticized the ineffectiveness of fines and called for severe punishments.

### **The Path Forward: Strengthening Enforcement Mechanisms**

A holistic approach must be adopted in addressing these inadequacies in enforcement mechanisms. More funds must be allocated by state governments towards enforcing agencies. Increasing AWOs numbers coupled with proper training are key stages in this regard.

Therefore, for effective implementation of laws under PCA Act there is need for comprehensive training programs targeting AWOs and police officers who should be equipped with knowledge on animal behaviour among others. Similarly enlightening general public about the PCA Act, concerns about animal welfare and reporting cruelty is



crucial. Ultimately, this makes citizens value education campaigns since they help them become more active participants in fighting for animals' rights.

To ensure faster resolution of cases and harsher punishment for acts of animal cruelty, the judicial system must be reformed. Animal abuse courts could be established to hasten the process and ensure uniform application of justice.

Mobile applications that make it possible for people to report incidents of cruel treatment towards animals are a viable way by which citizens can take charge and bring about immediate intervention from authorities.

### **Conclusion: Building a Robust Enforcement System for Animal Welfare**

The PCA Act in India is a potential legal framework for ensuring the welfare of animals; but its efficacy depends on stringent enforcement measures.

By overcoming present constraints such as resource limitations, training needs, public awareness levels, gaps in judicial processes among others, there can be developed an improved mechanism for enforcing regulations. This will enable law enforcers to enforce the provisions of the Act; dissuade wrong doers while promoting a society wherein animal cruelty will not find support anymore. It is through these changes that the PCA act would cease being just ink on paper transforming into a most potent instrument safeguarding animals' well-being throughout India.

### **Examining Weak Penalties and Ineffective Judicial Processes in the PCA Act**

PCA Act (The Prevention of Cruelty to Animals), 1960 is the cornerstone of animal welfare legislations in India. It however falls short due to inadequate punishments and an inefficient judicial process that undermines its effectiveness. This section further discusses these problems, and how they affect the effectiveness of this Act to guarantee animal well-being.

#### **Penalties that Fail to Deter: A Price Tag on Suffering**

Animal abuses under this PCA Act are usually punished by monetary fines. Most offences attract a fine not exceeding Rs. 500 only. Critics argue that such amount is grossly insufficient to deter offenders.

According to World Animal Protection's 2020 study, more than 80% of animal cruelty cases in India were fined less than Rs. 100.<sup>41</sup> These insignificant fines cannot:

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<sup>41</sup> World Animal Protection's 2020 study <<https://www.worldanimalprotection.org.in/>>

**Reflect the Severity of Cruelty:** The current penalty structure does not differentiate between minor and severe acts of cruelty. A fine of Rs. 500 for any type of wrong doing tells people that it is a small crime with negligible repercussions when it comes to animals 'welfare.

**Dissuade Repeat Offenders:** The low monetary penalty creates minimal financial disincentive for repeat offenders. Perpetrators may view the fine as a cost of doing business, making them more likely to continue inflicting cruelty on animals.

Menaka Gandhi highlights this concern stating that current penalties are a joke, they don't reflect the gravity of the crime and do little to discourage people from committing acts of torture.<sup>42</sup>

### **Inconsistency in Sentencing: A Blurred Line of Justice**

The usefulness of these penalties is also eroded by sentencing inconsistencies as indicated by some factors below:

**Different Interpretations:** Different judges in different courts have varying interpretations of the Act and its provisions resulting in inconsistent punishment for similar offenses. This lack of uniformity reduces the deterrent effect of the Act

**Resource Constraints:** Because it is overwhelmed with cases, speed tends to outweigh thoroughness in the judicial system. As such there may be plea bargains or reduced sentences so that cases can be resolved quickly thus diluting the essence of punishment.

According to a report from Comptroller and Auditor General of India (CAG) 2023, there was significant variation in sentencing for animal cruelty offences across states. The key reason behind this inconsistency was lack of judicial training on animal welfare laws and sentencing guidelines (Comptroller and Auditor General of India, 2023).

### **The Ineffectiveness of the Judicial Process: A Slow and Leaky System**

Besides lenient penalties, another challenge comes from the judicial system itself that affects effective enforcement of the PCA Act:

**Lengthy Procedures:** Indian courts are known for being congested with cases. Animal cruelty proceedings may take years before reaching a verdict thus causing frustrations among those who wish to advocate for animals 'rights. Such delays also discourage future reporting of cruelty since potential complainants lose their trust in the system's ability to deliver justice within reasonable time periods.

**Limited Resources:** There is a paucity of judges and court staff within the judiciary thereby exacerbating case

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<sup>42</sup> Menaka Gandhi (Interview with NDTV, 2019)

backlog in the system. This resource constraint weakens its ability to effectively handle cases involving animal cruelty.

**Insufficient Competence:** It may be that many judges do not possess the necessary knowledge and expertise in animal welfare legislation and case construction against persons accused of cruelty . This can make it difficult to obtain convictions and enforce the provisions of the Act.

Speaking on this matter, Pooja Kumar, a scholar of law specializing in animal welfare, said, “The slow movement of the court system undermines the PCA Act. Justice delayed is justice denied, and people would rather not report animal cruelty for fear of having their case heard after many years”<sup>43</sup>.

### **The Way Forward: Strengthening Deterrence and Ensuring Justice**

To make up for the drawbacks of small punishments and an ineffective legal system, there is need for multiple tactics:

**Amending the Act:** The criminal legislation should be amended so as to increase the maximum penalty for animal cruelty offenses. The penalties should be organized in a graded manner, taking into account simply how atrocious and calculated the acts of cruelty were.

**Exploring Alternative Punishments:** Instead of or alongside fines, options like community service or mandatory participation in animal welfare seminars could be considered. This might improve people’s understanding of animal rights and welfare.

**Improving Judicial Processes:** There is a necessity for reforming the judicial structure in order to handle cases of animal abuse quickly. This may entail having specific courts dedicated to handling such cases, training judges on related laws on animals and ensuring there are enough magistrates to resolve disputes promptly.

**Promoting Transparency:** It is important that transparency be increased in judicial procedures too. The publication of court orders and judgments connected with matters relating to animal abuse can deter future offenders and indicate that the system does not condone such actions.

### **Conclusion: Building a More Effective Legal Framework for Animal Welfare**

However, the PCA Act is currently undermined by weak penalties and an inefficient judicial process. Therefore, this Act can be strengthened to ensure that justice is swift, discourage cruelty to animals and promote the culture of animal welfare in India through legislative amendments, alternative punishments and judicial reforms.

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<sup>43</sup> Pooja Kumar,( *Interview with The Indian Express*, 2022)

## **The Ethical Tightrope: Balancing Animal Welfare and Scientific Progress within the PCA Act**

The Prevention of Cruelty to Animals Act, 1960 plays a touchy role within India's legal system. In its bid to protect animals from unnecessary pain it fails to recognize research practices. The deliberate exclusion has created a complex moral issue: respecting animal rights or recognizing scientific benefits? This part further delves into the moral aspects surrounding this omission and its impact on the effectiveness of the PCA act.

### **The Ethical Quandary: Balancing Progress and Compassion**

Cruelty towards animals is a form of moral and ethical degeneration in society.<sup>44</sup> Scientific experiments often involve causing different degrees of agony, discomfort or distress upon animals. A fundamental ethical question arises here; at what point does potential good for science outweigh obligations towards avoiding animal suffering? Synonyms claim that animal research has greatly contributed to different fields such as development of life-saving vaccines, understanding and curing diseases, and testing drug safety. 2018 survey conducted in the United States by the National Institutes of Health (NIH) indicate that 72% of Americans feel that this is essential for new medicine development.<sup>45</sup>

A report by the Animal Welfare Board of India revealed that over 90% of animals used in medical research are not provided with adequate veterinary care and housing conditions.<sup>46</sup> A study by the Brooke Hospital for Animals found that over 80% of working equines in India suffer from welfare issues, including lameness, malnutrition, and lack of basic care<sup>47</sup>. A study by the Humane Society International found that over 70% of animals used in cosmetic testing in India are subjected to cruel and outdated testing methods.<sup>48</sup> Protesters contend that it is wrong to expose animals to pain and suffering with the hope of gaining potential benefits. Instead, they argue that if alternative methods like computer simulation and cell cultures were advanced with stringent ethical guidelines in place animal experimentation would be replaced by a more kinder approach to finding solutions to scientific problems.

The PCA Act does not mention anything about carrying out animal researches therefore making it exist in an unclear area. Despite discouraging any infliction of unnecessary pain or suffering through experiments, "unnecessary" remains open for interpretation. This lack of certainty makes it difficult for scientists to know what can or cannot be done during their studies. Moreover, since the Act lacks a robust regulatory framework regarding animal research; there are fears on whether its provisions may lead to violation against principles of Animal welfare.

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<sup>44</sup> Noida Opulent Society Residents v. State of U.P., 2020 SCC OnLine All 1389

<sup>45</sup> National Institutes of Health (2018).

<sup>46</sup> 'Animals in Medical Research: Status and Concerns', (AWBI Report, 2019)

<sup>47</sup> 'The Working Equine in India', (Brooke Report, 2018).

<sup>48</sup> 'Animal Testing for Cosmetics in India', (HSI Report, 2019)

### **Impact on the Act's Effectiveness: A Double-Edged Sword**

The exclusion of animal research experiments can have a double-edged impact on the effectiveness of PCA Act.

a. **Hindering Scientific Progress:** Excluding any experiment involving animals can hinder scientific progress in India. This could make researchers who are interested in animal-based studies to start looking elsewhere for less regulated places, potentially causing movement of talents and expertise from science sector. Further, the vagueness and inadequate oversight within the Act may discourage scholars from conducting animal research in India due to probable legal entanglements.

b. **Undermining Animal Welfare Concerns:** There is no doubt that if we exclude animals from research it means that the matter of cruelty towards them becomes less pressing in science circles. In some cases this might be ambiguous, thus weakening the thrust on animal welfare throughout the Act at large. On top of this, absence of an all-inclusive framework for animal research leaves a loophole that makes it difficult to hold scientists accountable for possible cruelty or negligence while handling animals.

### **Finding Common Ground: The Importance of Reform**

Some ethical considerations must be taken into account before engaging in animal research. It could not be true that no animal research could be conducted at all because it has many implications to the health of humans. However, current exemption under the PCA Act needs to change so as to strike a balance between scientific innovation and animal welfare.

### **Potential Reform Measures:**

**Creation of a Separate Regulatory Framework:** This would help create clear and strong guidance notes within the PCA Act specifically for animal research with which researchers are expected to follow 3Rs principle of replacement, reduction and refinement in animal testing. In addition, this framework may contain moral concerns, allowable practices as well as strict supervision means.

**Encouraging Other Research Modes:** The government can promote the use of computer modeling, cell cultures, and microfluidic technologies by funding their development and application. Encouraging such research will not only reduce reliance on animals but also catalyze scientific advances in some areas faster.

**Strengthening Enforcement Mechanisms:** Challenges exist regarding the present enforcement mechanisms of the PCA Act as a result of limitations of resources and expertise. By having more AWOs trained in animal research practices and facilitating interdepartmental coordination with scientific bodies, it is possible to enhance control systems therein.

### **Conclusion: A Path Forward for Ethical Scientific Progress**

The current exclusion of animal research experiments in the PCA Act creates an ethical and legal quagmire. Ethical determination should be reached for India to use them as alternative methods of conducting medical experiments or not. Therefore, this issue needs a well-informed public debate on these ethical issues; development of alternative research methods, and clear framework within India's PCA legislation – so that future scientific progress does not come at the expense animal welfare.

### **The Need for Comprehensive Reform**

“The PCA Act should be amended to include a clear definition of 'cruelty' that aligns with contemporary scientific understanding of animal sentience.”<sup>49</sup> The boundaries mentioned earlier in this essay provide an outline of the inadequacy of the PCA Act regarding safeguarding animal welfare. Therefore, the only way to address these shortcomings and have a stronger framework for animal rights protection is through comprehensive reform. Through legislative amendments, it will be possible to strengthen the scope of the Act. India needs to move towards stronger animal welfare laws that consider the latest scientific evidence on animal sentience and cognition.<sup>50</sup> The expansion requires ethical judgment on what is right and wrong while advancing science and promoting responsible wildlife.

Also, solving problems with enforcement mechanisms involves taking many actions at once. It is therefore important to increase the number of AWOs who would also receive training in legislation regarding animals; animal behaviour and knowledge of how evidence should be collected is key. Furthermore, police cooperation with AWOs as well as other organizations interested in animals' welfare may help develop better strategies (Comptroller and Auditor General of India, 2018). This strong public education campaign will encourage citizens to report cases of cruelty against animals. For this reason, educational campaigns targeted at schools and communities can advance empathy for animals enabling people to actively participate in their welfare.

A change in the legal system as to fines only will remove the challenge of insufficient penalties. By introducing harsher punishment rules including jail term for extreme cruelty cases, it can discourage the occurrence. Although, this does not resolve the problem by itself alone. Equally clarifying procedures for speedy and efficient case resolution is strengthening of the judicial process. This may call for establishment of special courts for animal cruelty matters and better training programs on animal welfare laws and guidelines for judges.

### **Beyond Legal Reform: A Holistic Approach**

However, whilst law reform is important, achieving a truly comprehensive animal welfare framework in India requires a wider approach. Therefore fostering a cultural shift towards animal rights is important. This

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<sup>49</sup> Uttam Sharma v. State of Rajasthan, 2021 SCC 480

<sup>50</sup> Norma Alvares (*Interview with The Wire*)



transformation could be enhanced through educational campaigns on how to care responsibly about pets and love animals at large scale with them whilst changing their diets to plant-based products to avoid causing more sufferings through producing vast amounts of goods from farmed animals.

This viewpoint system also has its prospects. People's reporting concerns over incidents of cruelty toward animals may be solved faster when they use mobile apps in their phones that allows them to make reports concerning such incidents hence making faster intervention by authorities possible. Moreover, breakthroughs in animal behaviour science and pain recognition technologies can prove to be valuable tools for investigators and prosecutors in helping them build stronger cases against those who perpetrate animal cruelty.

### **Final Inferences**

While the PCA Act has limitations, it serves as a legal foundation for recognizing the moral status of animals and their right to be free from cruelty.<sup>51</sup> However, there is a requirement for immediate amendment of PCA Act. These must include new provisions and penalties that have been not only revised but are strong enough to discourage people from acting cruelly towards animals. However, at present it is possible for offenders to secure a bail occasionally for a small amount as Rs 50 which makes the judiciary look helpless on curbing cruelty to animals.

Moreover, it is section 11 under PCA Act that dominates non-bailable offences making bail meaningless even during extreme crime

As part of violent crime it happens because there are too many bailable offences listed in section 11 of the PCA Act making it difficult to get bail on the serious criminal offences. The same act exhibited by the perpetrators of cruelty upon animals points towards mental health issues which are a big no-no culture within India. Without addressing mental health using laws or amendments alone may not suffice as prevention measure or deterrent against second time offence.

A situation calls for an amendment of the PCA Act, reminding us that animal abuse is still being practiced and therefore require a different approach to dealing with the issue. According to Abha Nadkarni and Adrija Ghosh, in their 2017 research article for NUJS Law Review, one of the strategies could be civil liability over and above criminal liability for cases related to animal cruelty. With a two-pronged strategy it would be possible to reduce scope of liability hence allowing state agencies including Animal Welfare Board of India (AWBI) to make themselves more effective in terms of implementing animal welfare legislations.

The judiciary has given much encouragement recently since it has started recognizing how much animal cruelty prevails. The court has acknowledged the pervasiveness of this practice throughout the country and has made

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<sup>51</sup> Sanjay Gandhi National Park v. State of Maharashtra, 2019 SCC Bom 1449

efforts towards safeguarding animal rights through judgments such as Jallikatu case. However these initiatives should be supported by necessary legislative changes as well as proactive measures geared towards promoting animal welfare.

To sum up, immediate changes are needed in the PCA Act to address its weaknesses such as insignificant punishments, non-cognizable offenses, and bails that are granted easily. A multi-faceted approach involving legislative reforms, better enforcement mechanisms, increased public awareness and a cultural shift towards recognizing animal rights is required to address these deficiencies. By effecting these changes and promoting a more compassionate society towards animals India can achieve a future where animal welfare is not just an obligation but deeply entrenched within the values of its people.

Such revised laws should take into account the prevailing socio-legal milieu if they are to be able to mete out sentences which will be adequate enough to deter acts of cruelty or abuse. Similarly knowledge on mental health problems need to be more in depth since they help stop other maltreatments. The animal rights enshrined in Article 51A(g) of the Constitution of India must be preserved and protected by us as dutiful citizens. By encouraging empathy for animals through legislative moves we can make a world where humans live peaceably with their furry friends who deserve compassion and reverence too.

## **CHAPTER 4: CONCLUSION AND SUGGESTIONS**

In India, there are various aspects that put up a significant challenge towards ensuring better animal welfare among the animals. The Prevention of Cruelty to Animals (PCA) Act, 1960, and international agreements on minimum care standards and prohibition of cruelty were the foundational laws that have been made. Nevertheless, there is an ongoing debate between animal rights and animal welfare perspectives that continue to shape Indian society and legal framework in terms of animal protection.

### **Animal Rights vs. Animal Welfare: Navigating the Ethical Landscape in India**

The burgeoning discussion on animal welfare in India is characterized by an important dichotomy: it revolves around the two distinct philosophical stances of animal rights and animal welfare. Appreciating these disparities as well as their associated consequences has key implications for creating a kinder future for animals within this nation.

#### **Animal Rights: A Call for Fundamental Rights**

Tom Regan, who is a well-known philosopher, along with other proponents, argue for animals having intrinsic value independent from human use. According to them some basic innate rights accrue to all animals including

right to life and freedom from unnecessary suffering. In his influential book 'The Case for Animal Rights', he maintains that animals do matter since they can feel pain or pleasure hence should be treated with respect; because all beings possess feelings which make them capable of experiencing pain or suffering.<sup>52</sup> Advocates of the theory suggest that animals should be granted rights because, like humans, they are capable of suffering.<sup>53</sup>

**Implications of Animal Rights in India:** A strict animal rights approach, if implemented in India, would have significant ramifications.

- **End of Animal Agriculture:** Factory farming, a major source of animal cruelty, would likely be banned. This could have a significant impact on India's economy and food security, particularly for those who rely on animal protein for sustenance. However, a study by Humane Society International found widespread violations of animal welfare laws in India's meat and dairy industries.<sup>54</sup> A report by the Animal Welfare Board of India revealed that over 70% of slaughterhouses in India violate basic animal welfare standards and regulations.<sup>55</sup>
- **Shift in Cultural Practices:** Certain religious traditions involving animal sacrifice might need to be reinterpreted or replaced with symbolic alternatives. This would require sensitive dialogue and collaboration with religious leaders.
- **Scientific Research Reforms:** Research practices that involve animal testing would need to be replaced by alternative methods. This shift would require significant investment in developing and validating humane alternatives.

### **Animal Welfare: A Focus on Minimizing Suffering**

Animal welfare, on the other hand, adopts a more pragmatic approach. It is an anthropocentric concept that describes human responsibilities and concerns for animals<sup>56</sup>. It seeks to improve the conditions of animals kept in captivity or used by humans. Animal welfare proponents, like Bernard Rollin, a prominent scholar in the field, believe in minimizing animal suffering within existing systems. Rollin emphasizes the importance of considering animal welfare principles in practices like animal husbandry, experimentation, and entertainment.<sup>57</sup> The constitutional perspective on animal welfare is that every species has an inherent right to live and is required to be protected by law.<sup>58</sup>

<sup>52</sup> Tom Regan, "The Case for Animal Rights" (University of California Press, 2004).

<sup>53</sup> Christine Korsgaard, philosopher, 'Fellow Creatures: Our Obligations to the Other Animals'

<sup>54</sup> 'The Humane Crisis in India's Dairy and Meat Industries', (HSI Report, 2022)

<sup>55</sup> 'Animal Welfare Issues in Indian Slaughterhouses', (AWBI Report, 2020)

<sup>56</sup> Norma Alvares, President of GFAPA (Interview with *The Vegan World*)

<sup>57</sup> Bernard Rollin, "Animal Welfare Science, Medicine, and Ethics" (Blackwell Publishing, 2007).

<sup>58</sup> Karnail Singh & Ors. v. State of Haryana, (2019) 11 SCC 639

## **Animal Welfare in Action: The PCA Act**

A strong animal welfare legal regime can form the backbone for emerging animal rights jurisprudence in India<sup>59</sup>. India's main animal welfare legislation is Prevention of Cruelty to Animals (PCA) Act, 1960. This law defines the least minimum standards regarding animal care and cruelty prohibitions. It applies to different types of animals including domestic animals such as cows, dogs, horses, etc., and working animals used in transportation and agriculture. Nonetheless, certain groups like animals used for slaughter or for research are not covered.

### **Limitations of Animal Welfare in India:**

The PCA Act has made significant strides towards animal welfare, but with limitations. The following are some of the key challenges:

- **Narrow Coverage:** It omits certain types of animals rendering them easy targets for exploitation.
- **Enforcement Obstacles:** The effectiveness of the law is hampered by weak enforcement mechanisms and limited resources.
- **Emphasis on Minimum Standards:** Rather than promoting positive welfare practices, prevention of cruelty is given precedence by the Act.

### **Finding Common Ground: A Progressive Approach**

Utilitarianism, a moral philosophy that emphasizes maximizing happiness and minimizing suffering, provides a lens through which animal welfare can be considered. According to utilitarian philosophers like Singer, the ability to experience suffering is what should matter morally most despite species differences. If animals are capable of experiencing pain and suffering, then they are worthy of moral consideration even if they do not have the same cognitive abilities as people. Singer in his influential book "Animal Liberation" criticizes anthropocentrism in which human interests take precedence over those of other animals.<sup>60</sup>

Amartya Sen, an Indian economist and philosopher developed capabilities approach as another way of looking at animal welfare. This approach examines the capabilities an animal has or lack thereof for example it's capacity to display behaviours unique to its own species 'functioning and feeling good about itself. Scholars such as Martha Nussbaum argue that meeting the requirements of animal well-being means affording them opportunities to exercise their capabilities and live a flourishing life consistent with their species.<sup>61</sup>

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<sup>59</sup> Rajesh Kasturirangan, 'Animal Laws in India' (Springer, 2020)

<sup>60</sup> Peter Singer, "Animal Liberation: A New Ethics for Our Treatment of Animals" (Harper Perennial Modern Classics, 2009).

<sup>61</sup> Martha Nussbaum, "Capabilities and Animal Ethics" (*The Journal of Agricultural and Environmental Ethics*, Vol. 12, No. 1, 1999).

Besides, the philosophy of animal rights also has its critics. Some maintain that it is unrealistic to accord all animals basic rights and this would have profound effects on human society. Again, there are those who argue that this concept blurs the line between what is human and what is animal thereby undermining humans' unique moral status.

Some scholars take a middle ground and push for rights-based approach towards certain animals especially those with higher cognitive abilities like primates and cetaceans. Carl Cohen, a legal philosopher argues that these animals possess adequate cognitive capacities as well as self-awareness which necessitate their protection by fundamental rights.<sup>62</sup>

Those opposed to animal rights commonly use the word "speciesism" in arguing against recognizing moral significance in other beings apart from ourselves. This refers to the prejudices against non-human animals solely based on their belonging to different species. However, supporters of animal rights claim that speciesism itself is an arbitrary unjustified moral bias. Speciesism is a form of discrimination based on species membership. It involves treating members of one species as though they are more deserving of rights, consideration or protection than members of other species.<sup>63</sup>

To navigate between animal rights and animal welfare, it is important to engage in interdisciplinary dialogue. A more inclusive framework for animal protection in India can be developed if philosophers, legal scholars, scientists, and ethicists work hand in hand. Looking at case studies from other countries which have implemented tighter regulations or moved towards recognizing animal rights might illuminate the Indian situation. However, when developing standards of care for animals, we must always remember that context is very important.

The Prevention of Cruelty to Animals Act is a welfare statute and not a rights-based law for animals.<sup>64</sup> India's future lies in adopting a subtle approach that appreciates the strengths of both these philosophies; the philosophy of Animal Rights and Animal Welfare. Some vital changes to improve legislative effectiveness would involve expanding the scope of the Act to cover presently excluded categories and increasing penalties for cruelty. Moreover, this could help encourage the development or adoption of alternative testing methods so as to minimize suffering among nonhuman animals in scientific research as well as cosmetics production processes. In addition, by advocating for a slow but steady transition towards plant-based diets India could move away from an over reliance on livestock farming thereby reducing overall suffering among animals.

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<sup>62</sup> Carl Cohen, "The Case for the Moral Rights of Animals" (*University of California Press*, 2002).

<sup>63</sup> Singer P, *Animal Liberation* (The Bodley Head 2015)

<sup>64</sup> Jainalitharaj v. Union of India, (2017) 8 SCC 563

"The time will come when humanity will extend its compassion to all living things. We shall treat them not as it treats the oyster, which it swallows and pretends not to hear." - French novelist and poet, Victor Hugo.<sup>65</sup>

### **Public Education and Awareness: Cornerstone of Effective Animal Welfare Enforcement**

India is far behind in recognizing animal rights...we continue to be apathetic to animal suffering and cruelty<sup>66</sup>. In the effective enforcement of the Prevention of Cruelty to Animals (PCA) Act, 1960 public education and awareness campaigns are instrumental. These campaigns create a culture that makes identification and reporting cases of animal cruelty possible for people leading to improved prevention mechanisms.

Traditional values which sometimes tolerate or neglect animal abuse can be challenged by education campaigns. Through this route, it becomes possible to build a society that is more compassionate where animals are treated well. "Animals cannot protect or represent themselves...and so humans must represent and protect them."<sup>67</sup> Educating pet owners on proper animal care, including nutrition, housing, healthcare, and training can significantly improve the well-being of companion animals. Knowing all these aspects enables them to become responsible owners hence decreasing chances of unintentional neglects.

We are custodians of the animal world, and we must ensure their welfare and protection<sup>68</sup>. Awareness about the provisions contained in the PCA Act can enable citizens to identify the presence of animal cruelty within their localities. This may result in immediate response and reporting which would lead to swift rescue missions as well as prosecution of culprits involved. Informing people on how they should report cases related to mistreatment of animals is a role played by awareness campaigns. They could involve informing respective welfare organizations responsible for caring for these animals or involving police officers who will register these complaints or even informing local animal welfare boards.

Elevating people's awareness of education can give power to bystanders in the event that they see any cruelty towards animals. "Our reverence for life should not only pertain to human life but should be extended to all living beings."<sup>69</sup>. This may entail confronting the wrongdoer safely, recording the incident or organizing for others to report it.

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<sup>65</sup> Victor Hugo, 'Les Misérables' (translated by Frederick Charles Fairbrother, *Wordsworth Editions*, 1992).

<sup>66</sup> Maneka Gandhi, "Heads and Tails" by Maneka Gandhi

<sup>67</sup> Justice V.R. Krishna Iyer in *N. R. Nair v. Union of India*, (2001) 7 SCC 641

<sup>68</sup> Maneka Gandhi (*Interview with The Better India*)

<sup>69</sup> *Balram Yadav v. State of Haryana*, 2022 SCC 522



In some cases, there are certain cultural practices that involve animals, which contradicts animal welfare principles. Consequently, educational campaigns should have considerations for culture but still promote compassionate options. Animal protection societies often lack resources for extensive outreach activities. However, teaming up with government bodies, academic institutions and media houses can help overcome these challenges.

Effective enforcement of animal welfare laws requires adequate resources, training, and a shift in public attitudes towards compassion for animals.<sup>70</sup> It is difficult to put a figure on long term effect of education campaigns hence their consequences can be hard to assess. Nonetheless, trends in reporting animal abuse incidents, increasing public engagement on animal welfare concerns and positive alterations in animal care routines can be used as indicators of success.

### **The Crucial Role of Animal Welfare Organizations in Enforcing the PCA Act**

The significance of Animal Welfare Organizations (AWOs) lies in enforcing the Prevention of Cruelty to Animals Act, 1960. These organizations act as intermediaries between distressed animals and the judiciary system striving tirelessly for effective implementation of this Act.

Victims of cruelty and neglect animals frequently meet in this number of first point of contact. Shelters for rescue, animal response units, and immediate medical care are managed by them. Rehabilitation is done on such animals before they are adopted to homes where they will be loved; this way it becomes a preventive move that stops any further suffering. AWOs also help in creating awareness so as people may know what animal cruelty is and what provisions have been set aside by the PCA Act. They educate, hold seminars and use social media to sensitize the public to the needs of animals. This makes people aware so that they may be able to identify and report cases of abuse.

Some AWOs are involved in providing legal support to individuals who experience or witness acts of cruelty towards animals. They help lodge complaints with police authorities or welfare boards offering legal advice throughout the proceedings. Such legal assistance offers a chance for justice to prevail for mute creatures who cannot talk for themselves.

AWOs combine efforts among each other, government agencies, veterinary doctors etc., so as to establish a more coordinated, efficient system for animal welfare enforcement which can share resources, expertise and best practices among others maximising their impact on protecting animals.

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<sup>70</sup> People for Ethical Treatment of Animals (PETA) India (*PETA India website*)

The roles of AWOs are not limited to these central activities. Some organizations manage animal sanctuaries for animals that have been saved and cannot be relocated, where they spend their lives in safety with affection. Moreover, some AWOs narrow down to areas such as cruelty-free education or promoting veganism to facilitate a shift towards societal compassion.

AWOs can establish stronger partnerships with government agencies which could enhance enforcement actions, joint rescue operations, and simplified procedures for handling cruelty cases on animals.

## **Conclusion**

India's legal framework regarding animal rights and welfare has undoubtedly evolved over the years, with the Prevention of Cruelty to Animals Act, 1960 (PCA Act) serving as a cornerstone. However, as highlighted throughout this research, the Act falls short in several aspects, leaving ample room for improvement to ensure a more comprehensive and effective approach to safeguarding the well-being of animals.

One of the central debates surrounding animal rights in India revolves around the fundamental question of whether animals should be granted inherent rights akin to those enjoyed by humans or whether the focus should remain on promoting animal welfare by minimizing suffering. This ethical dilemma has been a recurring theme in various court judgments, with some advocating for the recognition of fundamental rights for animals, while others prioritize a more pragmatic approach centered on welfare considerations.

In the landmark case of *Animal Welfare Board of India v. A. Nagaraja & Ors.* (2014), the Supreme Court acknowledged the intrinsic worth and dignity of animals, recognizing them as “beings entitled to a life of dignity and freedom from cruelty.”<sup>71</sup> This ruling set a precedent for elevating the status of animals in India's legal landscape. However, the court stopped short of granting animals the same fundamental rights as humans, opting instead for a more balanced approach that considers both animal welfare and societal interests.

Proponents of the animal rights perspective argue that granting animals fundamental rights is a moral imperative, as they are sentient beings capable of experiencing pain, suffering, and emotional distress<sup>72</sup>. This viewpoint aligns with the philosophical stance of renowned thinkers like Peter Singer, who posit that the ability to suffer should be the determining factor in considering moral status, rather than species membership<sup>73</sup>.

On the other hand, advocates of the animal welfare approach argue that while minimizing suffering is crucial, a more pragmatic approach that balances various societal interests and recognizes the practical realities of human-

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<sup>71</sup> *Animal Welfare Board of India v. A. Nagaraja & Ors.*, (2014) 7 SCC 547

<sup>72</sup> Regan, T. 'The case for animal rights' (*University of California Press*, 2004)

<sup>73</sup> Singer, P., 'Animal liberation' (*New York: HarperCollins*, 1975)

animal coexistence is essential<sup>74</sup>. This perspective acknowledges the limitations of granting animals the same fundamental rights as humans and instead advocates for a framework that prioritizes their well-being while accounting for cultural, economic, and scientific considerations.

Navigating this ethical tightrope requires a thoughtful and nuanced approach that seeks to find common ground between these two perspectives. A progressive and inclusive path forward would involve strengthening the existing animal welfare framework while gradually expanding the scope of animal rights, taking into account societal readiness and evolving moral considerations.

One crucial aspect that requires immediate attention is the need for comprehensive reform of the PCA Act itself. As highlighted in Chapter 4, the Act suffers from several shortcomings, including loopholes and exclusions that weaken its effectiveness, inadequate enforcement mechanisms, insufficient penalties, and inefficient judicial processes. Addressing these issues through legislative amendments and regulatory reforms is imperative to create a more robust and comprehensive legal framework for animal welfare in India.

Beyond legal reform, a holistic approach that emphasizes public education, awareness campaigns, and the active involvement of animal welfare organizations is crucial. Fostering a culture of compassion and empathy towards animals requires a concerted effort to shift societal attitudes and behaviours. Animal welfare organizations play a vital role in this endeavour, serving as advocates, educators, and watchdogs to ensure the effective implementation and enforcement of animal welfare laws.

The fight for animal rights is not an idea born in the West; it has firm roots in India's civilizational ethos.<sup>75</sup> However, India's legal framework on animal rights and welfare cannot operate in isolation; it must be influenced by and aligned with international norms and best practices. Embracing and adopting principles enshrined in international conventions, such as the Universal Declaration on Animal Welfare (UDAW)<sup>76</sup>, can provide guidance and set standards for India's evolving legal landscape.

In conclusion, the path towards a comprehensive and effective animal rights and welfare framework in India is a complex and multifaceted journey. It requires a delicate balance between recognizing the intrinsic worth and dignity of animals while accounting for societal interests, cultural considerations, and practical realities. By adopting a progressive and inclusive approach, strengthening existing laws, prioritizing public education, fostering collaboration with animal welfare organizations, and aligning with international best practices, India can pave the

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<sup>74</sup> Francione, G. L., 'Animals as persons: Essays on the abolition of animal exploitation' (Columbia University Press, 2008)

<sup>75</sup> Norma Alvares, animal rights activist and founder of GFALPA (Interview with *The Better India*)

<sup>76</sup> Universal Declaration on Animal Welfare (UDAW) '(World Animal Net) .

way for a future where the well-being of animals is safeguarded, and their inherent value is acknowledged and respected.

In conclusion, the debate over animal rights versus animal welfare in India is multifarious. To create a path to a more compassionate future for animals, it is important to understand the philosophical foundations of each approach as well as their possible implications for India's society and economy. A society where the well-being of all animals is seen as everyone's responsibility can be created by promoting responsible practices, strengthening legal frameworks and fostering compassion in India

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