

RIGHT TO LIFE OF WILD ANIMAL: AN ANALYTICAL STUDY WITH REFERENCES TO INDIAN CONSTITUTION

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Abstract:

Animals in the wild are a valuable resource that contributes to ecological health and species variety. The protection and conservation of wild animals is a constitutionally mandated duty of the State and individuals in India. World law also imposes obligations on India in this area because of its membership in the international community. The research concluded that due to judicial interpretation of several Constitutional provisions, India embraced most acknowledged principles of International Environmental Law. It is also discovered that India's higher judiciary is both active and alert, and that the country has a well-codified environmental jurisprudence, especially with regards to the protection of wild species. Since there are so many wiggle room clauses in wildlife laws, it's a setback for the entire machinery of protection and conservation.

Keywords: *Protection of wildlife, Constitution of India, environmental jurisprudence, Implementation, International environmental law.*

Introduction:

Wild plants and animals come in many different forms in India. Approximately 75,000 animal species have been identified thus far. This includes approximately 340 mammal species, 1200 bird species, 420 reptile species, 140 amphibian species, 2000 fish species, 50,000 insect species, 4,000 mollusk species, and many other vertebrate species. Tripathi made a pertinent observation when he said that the dramatic and ongoing deterioration of India's native wildlife is a major reason for alarm [1]. Sadly, several of India's native birds and animals have already disappeared, and many more are in grave danger of going extinct. Human encroachment is the primary threat to the wild animal world as we know it. Numerous individuals mistakenly believe that India does not have rigorous regulations meant to protect its wildlife [2]. We have some of the world's most strict laws protecting wildlife and their ecosystems, on the contrary. Everyone who cares about conservation should study these statutes so they can make meaningful contributions.

Having established the Prevention of Cruelty to Animals Act in 1960 ('the PCA Act'), India has previously departed from its commitments to enhance creature government support and guarantee creature wellbeing. Since then, progress has steadily been made in the country's treatment of animals and the aid they receive from the government. The establishment of the Animal Welfare Board in 1962 and the consistently increasing quality of animal welfare organizations are both indicative of this trend. The development of new regulations and methods, such as those on the treatment of performing animals and the ban on creature testing of cosmetics, is evidence of the significant progress that has resulted from these events [3]. To go along with the growth and development of banter, the legal executive's intervention on animal welfare and insurance issues has increased. Finally, Indian courts' attitudes toward these matters have been described as liberal and government-supported. Legal rights should not be "the selective safeguard of people which must be reached out beyond persons," the Kerala High Court wrote in *N.R. Nair v. Association of India* (2000, Supreme Court of India), arguing for the extension of fundamental rights to non-human animals. The highest court in India further developed this viewpoint in *Animal Welfare Board of India v. A. Nagaraja*. The Supreme Court of India issued a historic ruling when it banned jallikattu (a bull-fighting festival performed in Tamil Nadu) or bullock-truck races in Maharashtra and Punjab. The decision, delivered by Radhakrishnan J. and Ghose J., upheld the possibility of include animal life within the scope of the right to life guaranteed by Article 21 of the Indian Constitution. animals' rights to "live in a healthy and clean climate" and "not to be beaten, kicked," as upheld by the PCA Act, are exemplified by these provisions. The verdict also briefly discussed the possibility of the council granting animals established rights to protect their "poise and honor," and it suggested that the Parliament make changes to that effect. A Court in Argentina said, in response to a habeas corpus petition filed on behalf of an orangutan, that it is "essential to recognize the creature as a subject of rights," showing that this approach to creature assurance has been well welcomed beyond the scope of Indian law [4]. Although the Court went on to say that it had adopted a "dynamic rather than a static understanding of the law," it failed to provide any supporting evidence for its position on the rights of creatures.

Since a rights-based translation of creature government assistance legislation is impossible, we accept this as a given. This is largely due to the fact that Indian courts have consistently upheld

the view that Article 21 of the Indian Constitution is a rock-solid guarantee of protection for fundamental rights and individual worth. The Supreme Court has pushed back against questions of who owns this privilege by upholding the right to life of non-human creatures under Article 21 [5]. The larger question goes beyond the notion of rights holders and centers on the effectiveness of a rights-based approach to animal protection. In this paper, we'll argue that the High Court's endorsement of a rights-based approach to obtaining government help for creatures is unconstitutional. We also argue that an obligation-based approach would be more effective in protecting animal rights.

Research Objectives:

The goal of this study is to employ rational methods to ascertain specifics about the phenomena under investigation. The primary goal of exploration is to unearth previously unseen or unknown aspects of reality. Although the motivation for every exploration study is unique, the following categories can be used to classify the objects of study:

1. to learn about the miraculous or to have fresh miraculous experiences (focused on this end is called exploratory or formative examination);
2. to portray an individual, situation, or group with pinpoint accuracy (specifically, to engage in what are known as "distinct exploration considers");
3. determine the frequency with which something occurs or its connection to another.

Need for Conservation:

The fundamental underlying cause of the modern environmental disaster is the progressive development of human beings as the most dominating species among all other animal species and the attempt of human beings to establish themselves apart from other species. Deforestation, poaching, and general disregard for wildlife and ecosystems are rapidly expanding problems that pose a serious threat to both. India is home to an estimated 81 mammal species, 38 bird species, and 18 amphibian and reptile species that are critically endangered. The tiger, followed by the lion and the leopard, is the largest of the extant felids. Their population dropped precipitously as a result of habitat loss and poaching; a national census of tigers in 1972 found that only 1827 tigers remained in the country.

Principal/Fundamental Liberties:

Part III of the Indian Constitution, comprising Articles 12 through 35, protects the country's fundamental rights. Any violation of Fundamental Rights is considered significant and can be brought directly to the Supreme Court of India under Article 32 for established remedy. These rights include the right to equality, the right to freedom, the right against exploitation, and so on. The central Right to Life guaranteed in Article 21 applies to creatures receiving government aid. No person should be deprived of his life or individual freedom unless in accordance with the system established by law, as stated in Article 21. In defense of human rights and individual liberties, this Article has been called the "procedural magna carta." Due to the case *Animal Welfare Board of India v. A. Nagaraja and Ors.*, the Supreme Court of India has adopted a broad reading of the right to life, which includes the right to food and shelter, the right to education, and other basic entitlements (the *Jallikattu* case). *A. Nagaraja et al. v. The Indian*

Animal Welfare Board. Realities In the traditional game of Jallikattu, played in the Indian state of Tamil Nadu, a bull is released into a crowd, who then attempt to grab the bull's back and hold on to it while the bull runs away. A small number of people have died from the practice throughout the years, and it is located near areas where animal welfare laws are enforced. The bulls are goaded with sticks or sickles, their tails are extended to dangerous lengths to break vertebrae, and they are nibbled on before they are born. The bulls' perplexity and frustration reportedly resulted from their being forced to consume vodka or bean stew peppers. The bulls are hacked with swords and sticks, pummeled, hopped on, and dragged to the ground during the event. When the bulls are not contained, they may stampede into moving vehicles, resulting in injuries or even fatalities. In 2010, the Animal Welfare Board of India (AWBI) filed a case in India's Supreme Court to have Jallikattu banned due to concerns about animal cruelty and public safety. In 2011, the Ministry of Environment and Forests issued a warning against using bulls in the sport of jallikattu. Under the terms of the Tamil Nadu Regulation of Jallikattu Act, however, the training continued (2007). The AWBI filed an appeal in this matter, which challenged a High Court ruling that allowed Jallikattu to be governed in accordance with the Tamil Nadu Act. The American Wild Bull Institute (AWBI) attempted to enforce the public authority warning prohibiting the exhibition or preparation of bulls for performance. The Supreme Court upheld the AWBI's ban on Jallikattu and ruled in favor of the ban's administration. Article 51 A (g) of the Constitution was deemed to be the "magna carta of basic entitlements," and a few easily verifiable facts were cited in order to justify the protection of "life" in all forms of nonhuman organisms under Article 21. Animals' Legal Protections against Extinction Regarding Article 21, the Supreme Court made a very impressive ruling: "Each species has an alternative to life and security, subject to the tradition that must be adhered to, which entails denying its life, out of human need. While protecting individual rights, Article 21 of the United States Constitution also protects life. The term "life" has been given a broad definition, and any threat to the vital climate that includes all forms of life, including creature life, that is necessary for human existence is protected by Article 21. Certainly, in our opinion, "life" means more than only enduring or being present or being motivated merely for practical purposes, but rather to live a life of some inherent worth, honor, and pride.

Policy Directives from the State:

Part IV (Articles 36-51) of the Constitution contains the Directive Principles of State Policy (DPSP), a set of 15 criteria that serve as the basis upon which individual states' legal frameworks are established. While the Fundamental Rights are upheld in all courts, the DPSP is not. However, states are obligated to use them when formulating legislation, as doing so is essential to the development of a just society. The state techniques to creature government support in India are based on three order standards, which are celebrated in the subsequent articles. This is Article 48. Section 48A. Article 48 states that the government will work to improve the organization of agricultural and animal production along modern and logical lines, taking special measures to protect and enhance breeds of cattle and other draft animals and to ban their slaughter [6]. Because of the sacred status of cows in the religions of Hinduism, Jainism, Zoroastrianism, and Buddhism, the slaughter of dairy cattle, especially cows, is a highly divisive topic in India. The Constitution's Constituent Assembly debated whether or not

to make Article 48 a Fundamental Right. The Constituent Assembly ultimately recognized the arrangement as a DPSP all things being equal, likely in an effort to prevent coercing non-Hindus into tolerating something without wishing to and to convey that fundamental rights manage humans fairly and not animals.

Modern butchering of cows is aided by new laws:

The Supreme Court reviewed a petition about the constitutionality of anti-cow-butcherer legislation in Bihar in the 1961 case *Abdul Hakim Qureshi v. Territory of Bihar*. Petitioner argued that these rules violated Muslims' fundamental right to religious freedom (guaranteed by Article 25) by prohibiting them from openly observing religious rites including the sale of cattle on Bakr-Id. The Indian Supreme Court ruled that a goat or camel could be sacrificed in place of a cow, since neither the *Hidaya* nor the Quran mandated the slaughter of cows. According to the ruling, a total ban on cow butchering did not violate the equal protection rights of Muslims. Regarding Article 48, the Court ruled that the requirement only applies to milk-producing animals like cows and calves, as well as those that can be used to make up for a shortage of water. Therefore, Article 48 does not envision a ban on the butcher or steers, all else being equal. Another case that took a similar stance was *Mohd. Hanif Qureshi v. Province of Bihar* (1959), in which the Supreme Court ruled, "An absolute boycott [on steers slaughter] was not reasonable if, under financial conditions, keeping futile bull or bullock be a weight on the general public and accordingly not in the public interest." The Supreme Court ruled against this view in *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat* (2005), deciding instead that Article 48 envisages an absolute prohibition on the slaughter of cows and their offspring. It recognized that old steers who have served humanity should be treated with compassion notwithstanding the futility of doing so. As the Court further ruled, "It was clear to anyone who read Articles 48 and 51-A(g) of the [Indian] Constitution together that citizens were obligated to have compassion for all creatures. Each species of organism has its own fundamental legal rights. In Article 48, it is stated that the government will make every effort to outlaw the slaughter of dairy cattle ". Section 48A. The priority rules for preserving forests and wild animals, as well as improving the state of the climate, are outlined in Article 48A. It says the state would aim to keep the weather stable, enhance air quality, and keep forests and wildlife safe. The State shall take such measures as are necessary to ensure the safety of the atmosphere and of wild life, as shall be determined by the Congress. Although Article 48A is not enforceable in court, it may become so within the scope of Article 21's right to life. The Supreme Court of India heard a case involving air pollution in Delhi brought in the public interest in *M.C. Mehta v. Association of India* (2002). Related to Article 48A and general health, the Court highlighted the following observable facts: All by themselves, Articles 39, 47, and 48A impose on the State a duty to ensure the safety of its citizens, enhance the general well-being of its population, and protect and enhance its natural environment [7]. The Supreme Court ruled in *Sachidanand Pandey and Others v. The State of West Bengal and Others* (1987) that Article 48A must be considered whenever an issue involving the protection of biological diversity is brought before the Court.

Regarding animal welfare, India has the following statutes:

In India, we benefit from what is arguably the world's most comprehensive set of animal insurance regulations. Article 51 (G) of India's revered constitution states as follows: "It will be the obligation of each resident of India to safeguard and improve the common habitat comprising woodlands, lakes, waterways, and untamed life, and to have empathy for live animals." Among the most important laws enacted to ensure the safety of animals, the status quo being maintained, are the following:

- **Animal Cruelty Act Prohibition:**

To prevent the infliction of unnecessary pain or suffering on animals, as well as to amend legislation concerning the prevention of cruelty to animals, the Prevention of Cruelty to Animals Act was passed into law in 1960. xii In accordance with the mandates of this Act, the Animal Board of India was established to provide better animal government services. The Government of India formed the Animal Welfare Board of India (AWBI) with some of the following responsibilities in accordance with Chapter II of the Act:

1. Providing recommendations to the federal government for rule changes and amendments that will lessen the suffering of animals during transport, animal experimentation, and confined animal housing.
2. Promote funding for senior animal shelters, rescue groups, and senior animal homes.
3. Contributing to government knowledge on veterinary medicine and hospital regulations.
4. spreading knowledge and understanding about animal welfare is essential.
5. Providing policymakers with recommendations on how to improve animal welfare across the board. In Section 11 of the Act, the following forms of animal cruelty are enumerated:
 - a) Subjecting an animal to physical punishment (such as beatings, kicks, or being ridden over by a larger animal), or otherwise tormenting or overworking it, is strictly forbidden.
 - b) Employing a sick, old, or otherwise unfit animal.
 - c) Giving a harmful drug or medicine to a pet.
 - d) Using a vehicle in a way that causes distress or harm to an animal.
 - e) Confining any animal without giving it adequate room to move around.
 - f) An animal is being kept on an excessively long or hefty chain.
 - g) Constantly confining an animal without providing adequate space for it to exercise.
 - h) Because the owner did not give the animal adequate water, food, or a safe place to sleep.
 - i) Without a good reason, i.e., abandoning an animal.
 - j) Knowingly allowing a pet to run wild or abandoning a pet in need of care on the street to suffer and die from exposure, illness, or injury.
 - k) Putting up for sale a creature that has been harmed in some way, be it by mutilation, hunger, thirst, overpopulation, or any other form of cruelty.
 - l) Using inhumane methods to mutilate or murder animals, such as injecting strychnine, is forbidden.
 - m) Putting an animal in danger for the sake of amusement.
 - n) the act of setting up, maintaining, utilizing, or controlling a venue for animal combat.
 - o) Killing a wild animal that has been set free for that purpose. Dehorning and castrating cattle in accordance with the Act's guidelines, killing stray dogs in lethal injection chambers in

accordance with the Act's guidelines, and killing any animal with legal authority are not considered cruel acts. There's some wiggle room in this section.

Animal Experimentation is addressed in Title IV of the Act. Research on animals that aims to improve human, animal, or plant health through the discovery of new physiological information or knowledge to combat disease is not prohibited under the Act. It plans to form a committee to oversee and regulate governmental animal testing, with the authority to outlaw the practice if necessary. Animals must be registered with the AWBI before they can be shown or trained, as stated in Section 22. The Section forbids the use of some animals in the performing arts, including monkeys, bears, lions, tigers, panthers, and bulls. Nothing in this Act shall make it an offense to kill any animal in accordance with the religious tenets of any society, as stipulated in Section 28. This Section was deemed necessary because of the wide variety of faiths and cultural practices practiced in India. A punishment of up to Rs. 50 may be imposed for a first-time offender caught abusing an animal. A second conviction within three years of the first carries a fine of Rs. 25 (up to Rs. 100) or three months in jail (or both). Punishable by a fine of Rs. 1000 or imprisonment for up to 2 years, or both, is the practice of performing Phooka or any other operation harmful to the animal's health in order to increase breastfeeding. The government can also confiscate the animal, declare it a forfeiture, or have it put down. A fine of up to Rs. 200 may be levied for disobeying the committee's directives regarding animal testing.

Laws enacted to safeguard wildlife:

The Wildlife (Protection) Act of 1972 was enacted by the Indian government with the intention of effectively protecting India's wild animals and plants from illegal hunting, capture, and trade. Since the Act's revision in January 2003, both the consequences and disciplinary measures for violations of the law have become more severe [8]. More restrictive procedures to enforce the Act have been proposed as part of a new legal amendment. The objective is to save the areas of documented endangered vegetation and other areas of biological significance. Please have a look at this quick reference guide to the law. One's best defense against mistreating animals is to follow the rules stated above. Anyone concerned about the welfare of mistreated animals in a given area might consider implementing some of these measures.

The function of the legal system in upholding animal rights:

Animal rights refer to the philosophical position that animals should be afforded certain protections, such as the right to a life unencumbered by human intervention or the protection from cruel treatment when dying. The right of creatures, as of men, to be free from superfluous pain or serfdom, the right to live a common existence of "limited freedom," according to the true demands of the society, must be recognized as a more pressing need. England's Pitiless Treatment of Cattle Act, 1822 (also known as Martin's Act, after Irish MP Richard Martin) was the primary statute in the world for the suppression of cruelty to animals. Creature protection legislation has grown by leaps and bounds over the past few decades. Several countries' constitutions now include protections for both environmental and animal rights [9]. An active role for animal assurance has been developed to increase public knowledge of animal rights by the United Nations, the European Union, and other international creature protection

organisations and organizations. The Prevention of Cruelty Act of 1960 and the Wildlife Protection Act of 1972 are two of India's most important administrative statutes in terms of protecting the rights of animals. Courts are increasingly required to uphold creature rights as a matter of law, and legislative reforms are shifting the status quo for nonhumans. Numerous private, non-profit organizations are doing their part to advocate for animals' rights. Animal rights groups and similar organizations have recently filed multiple petitions with courts all throughout the country. In light of this, the purpose of the present article is to shed light on how liberal judicial decisions in India have contributed to the expansion and improvement of animal rights in the country. An examination of pivotal choices underpins the doctrinal approach taken by the muse.

Rights and the existence of a legal person:

When attempting to grant rights to beings that aren't human, the question of whether or not they may be considered "legal persons" arises often. While the concept of equating animals with people has been largely well-received, there are many who argue that animals shouldn't be granted the same protections as people and hence shouldn't be considered "persons" under the law. However, this perspective is risky because it overlooks an essential part of the basic entitlements or government assistance debate: whether or not animals are qualified for rights on a rational and ethical level. This concept of personality, to which Article 21 also makes specific reference, must be investigated in detail in light of the current situation in India. Personhood and Article 21 were both cited in A. Nagaraj to justify the awarding of fundamental rights. The concept of a "person," like the existence of a "right," has been the subject of serious philosophical debate. No one has ever come to a consensus on what exactly makes up a person or what qualities define them. Philosophical contemplations on the point present a person to be a free and sane specialist "whose presence is an aim in itself", to a more unique "pack or an assortment of diverse discernments" with the sensation of self-character that may exist being just a "tenacious fantasy". In a rights-based system, the most obvious criteria for legal personality can be found in the study of rights, and more specifically in a Hohfeldian analysis of judicial relations. In the network, the opposite of a privilege is an obligation, and a person's privilege would be met if another user respected that user's right to privacy. Since every right comes with a corresponding responsibility, it stands to reason that anyone who seeks to protect that right should also be free to exercise the corresponding duty. This corresponds to some extent with the substance being referred to in order to fulfil this duty.

Using the philosophy of justice's duty-based approach to animal welfare:

Examining animal-based enactment across temporal and spatial scales reveals several approaches to animal well-being. These approaches can be neatly classified into the rights-based approach and the obligation-based approach for the sake of hypothetical clarity. Recently advanced arguments that creatures cannot have rights from a valid perspective render the 'rights-based technique' illegitimate. This study explores the obligation-based methodology as an alternative to the right-based approach. Many philosophical discussions have focused on non-human animals. The Aristotelian view of nature as containing "endless of beings" is frequently referenced in the conversation. There was a need for more research because an

evolving system of animal categories had been constructed, one with unclear and shaky limit lines. While Aristotelians agree that all non-human organisms have some level of "characteristic acceptability" in terms of their usefulness to the biological system, they argue that this enormous resource should be exploited solely for the sake of humans. The idea of granting animals' moral rights' first gained prominence after Darwin's book, which compared human and animal development, had a significant impact. Bentham provided support for this setup by arguing that the privileges accorded to beings should be based on their capacity for languishing. Although it has been argued in this paper that this lasting on its own is not a sufficient or appropriate justification for bestowing rights, it has come to serve as the primary focus of legislation for creature government support and creature assurance. By eliciting compassion from humans for their non-human partners, the concept of sentience and languishing became the basis for protecting their interests. An individual's compassion can be seen on the one hand as the driving force behind the extension of legal protections to nonhuman animals and, on the other, as the impetus behind the legal imposition of responsibilities to provide monetary and other forms of governmental aid to those same species.

Conclusion:

It is crucial for courts to uphold norms that pertain to the establishments of what constitutes jurisprudential hypothesis when deciphering arrangements of authoritative demonstrations and legislation. Therefore, the findings of the A. Nagaraj ruling were incorrect. Adopting a rights-based approach to securing government funding for animals would run counter to fundamental ideas about who owns rights, and it would also be an illogical way to address the pressing issue at hand, which is providing legal protection for animals. It's unlikely that granting rights to animals will have the desired effect, as it's likely that questions of survival and conflicts with existing common liberties will arise. This means that the correct approach is one that already exists in Indian law and protected law, and which imposes a direct and positive obligation on individuals. This approach ensures that the courts will be able to interpret laws pertaining to government support and assurance of creatures in a way that is sensitive to their feelings while also avoiding conflicts between creatures and essential freedoms. Since no one is worthy of such cruelty, we must train ourselves to only show love and avoid doing damage. It's awful that millions of rabbits are caged for animal testing, which should be outlawed, and that every year millions of animals suffer only because of people due to rough driving. If we don't stand up for them now, they'll have to endure suffering forever. As sentient beings, we have a responsibility to speak up for the mute. Unlike India, both Canada and the United States have very strong regulations against mistreating animals. Our government should levy taxes to pay for the care of animals and impose stiff penalties on those who break the laws protecting them. Fundamental rights should be extended to all living things, including animals. Those who can afford to purchase a purebred dog should also be responsible for its care, not just dump it on the street. xiii They experience the full range of human emotions, including pain, pleasure, anxiety, frustration, loneliness, and maternal love. Should those of us who are more intelligent be granted rights while those of us who are less bright be denied them? If that's not the case, then why do animals have no legal protections? In spite of this, there are still those in the world

who abuse animals for the sake of entertainment. We humans are highly intelligent, but we lack the regulations needed to prevent people from abusing animals.

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