

When Animal Welfare Meets Institutional Panic: India's Supreme Court Creates Territorial Exclusion Zones for Community Dogs

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Abstract

This short article examines the Indian Supreme Court's November 2025 order establishing permanent territorial exclusion zones for sterilized and vaccinated community dogs in institutional spaces, while simultaneously affirming the Catch, Neuter, Vaccinate, and Release method as scientifically sound for general urban areas. Through comparative constitutional analysis of Germany's proportionality framework, Ecuador's rights of nature jurisprudence, and Argentina's individual animal rights doctrine, the article demonstrates how this two-tiered territorial system subordinates Article 51A(g)'s constitutional mandate of animal dignity to institutional expedience, while paradoxically reducing protection for children and patients from rabies through territorial replacement by unvaccinated populations. The analysis reveals three interconnected failures: constitutional incoherence in applying dignity protections based solely on geography, epidemiological counterproductivity through territorial replacement by unvaccinated populations, and structural impossibility given India's shelter capacity deficit. By tracing the trajectory from August's constitutional restoration to November's reversal, the article reveals the capacity of judicial populism to create precedents that simultaneously uphold and undermine constitutional principles, while imposing obligations that the state cannot fulfill.

Keywords

Animal dignity, constitutional animal welfare, territorial exclusion zones, Catch-Neuter-Vaccinate-Release (CNVR), comparative animal constitutionalism, proportionality doctrine, evidence-based animal policy

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I. Introduction

Constitutional animal welfare frameworks are increasingly confronted with a tension between evidence-based policy and institutional demands for categorical restrictions. India's Supreme Court has created a constitutional anomaly by mandating that sterilized, vaccinated dogs removed from institutional spaces such as schools and hospitals cannot be returned to these locations, while simultaneously affirming that this very intervention (the Catch, Neuter, Vaccinate, and Release method) remains scientifically sound for general urban areas. This *two-tiered territorial system* represents the subordination of constitutional animal dignity under Article 51A(g) of the Constitution of India (1950) to institutional expedience. Since the *Animal Welfare Board v. Nagaraja* (2014) judgment elevated animal dignity from an aspirational to a constitutionally mandatory principle, recognizing that animals possess intrinsic worth independent of their instrumental value to human society, Indian jurisprudence has struggled to reconcile this principle with public pressure for immediate, visible action following highly publicized incidents. This article argues that the November 2025 order creates obligations that the state structurally cannot fulfill while contradicting comparative constitutional practice across jurisdictions that require individualized assessment rather than categorical territorial exclusion, with substantial implications for the coherence of constitutional animal welfare jurisprudence.

II. The Constitutional Trajectory: From Framework to Crisis

India's constitutional framework for animal welfare predates several comparable provisions in other jurisdictions. Article 51A(g) of the Constitution of India (1950), as amended through the Forty-second Amendment Act of 1976, establishes a fundamental duty on every citizen to show compassion for living creatures. The Supreme Court's *Animal Welfare Board v. Nagaraja* (2014, pp. 595-596) judgment elevated this from aspirational to constitutionally mandatory, recognizing that animals possess intrinsic worth and constitutional dignity independent of instrumental value to human society.

The *Animal Birth Control Rules* (2023) operationalize this commitment through Rule 11(19), which mandates the return of sterilized, vaccinated dogs to their territories to prevent shelter overcrowding and maintain population control through territorial vaccination coverage. These Rules reflect scientific consensus: vaccinated dogs occupying fixed territories prevent unvaccinated animals from establishing in those ecological niches, thereby maintaining disease control and population stability.

This constitutionally mandated framework came under assault through three successive orders spanning thirteen weeks. On August 11, 2025, following a child's death from rabies, a two-judge bench mandated permanent detention of all community dogs in the Delhi National Capital Region, declaring Catch, Neuter, Vaccinate, and Release (CNVR) absurd (*In Re: "City Hounded by Strays, Kids Pay Price"*, 2025a, pp. 19, 22). This embodied what constitutional scholars term judicial populism: adjudication driven by public sentiment divorced from empirical evidence or scientific expertise (Bhuwania, 2025).

Three weeks later, on August 22, a three-judge bench led by Chief Justice D.Y. Chandrachud restored constitutional coherence (*In Re: "City Hounded by Strays, Kids Pay Price"*, 2025b, pp. 9-10). The Court acknowledged that the Animal Birth Control Rules (2023) were constitutionally grounded, specifically, Rule 11(19) was grounded in Article 51A(g). The August 22 order mandated that only demonstrably aggressive or rabid dogs could be removed. Sterilized, vaccinated animals must be released to prevent shelter overcrowding and maintain population-level disease control through territorial vaccination coverage. The constitutional principle was thereby vindicated, as scientific expertise had prevailed over reactive sentiment.

Yet on November 7, 2025, the Court undermined its own August 22 correction (*In Re: "City Hounded by Strays, Kids Pay Price"*, 2025c, para 25). Citing documented incidents of community dog bites at schools, hospitals, sports complexes, bus stands, and railway stations, it created a permanent territorial exclusion from these institutional spaces. Dogs removed from these locations cannot be returned, even after sterilization. This creates a constitutional paradox. CNVR remains scientifically mandated for general urban areas. Yet institutional zones now operate under exclusionary regimes that fundamentally undermine the very population dynamics the Court itself had recognized in August as central to the intervention's ecological and epidemiological effectiveness.

The November order contradicts the constitutionally mandated framework without addressing why the constitutional principle should differ based on institutional location. The Court's implicit reasoning prioritizes human protection from rabies in sensitive institutional spaces over animal welfare, treating this as a legitimate balancing of children's and patients' safety against constitutional animal dignity. However, this balancing framework collapses because it rests on an empirically false premise. The protection of institutional populations from rabies is better served by maintaining sterilized, vaccinated dogs in fixed territories than by territorial exclusion. When sterilized animals are removed, unvaccinated replacement populations inevitably migrate into the vacated ecological niches, creating dog populations with higher proportions of young, unvaccinated animals who pose a greater rabies transmission risk. Territorial exclusion zones ostensibly created to protect children and patients, therefore increase rather than decrease rabies exposure in precisely those institutional spaces.

The Court cannot constitutionally subordinate animal dignity under Article 51A(g) to human safety when that subordination simultaneously undermines human safety. If Article 51A(g) recognizes animal dignity as intrinsic and Nagaraja held that this dignity extends equally to all living creatures, no coherent constitutional argument supports treating sterilized, vaccinated animals as disposable institutional threats merely because they occupy school grounds or hospital premises rather than street intersections. The order reduces animals to instrumental concerns about institutional expedience rather than regarding them as constitutional bearers of dignity, while failing even on instrumental public health grounds.

III. Infrastructural Deficit and Structural Impossibility

The November order's most critical failing is mandating obligations the state cannot fulfil. Delhi is home to approximately one million community dogs (Yadav, 2025), yet its municipal shelter capacity stands at fewer than 100 animals (Chaman, 2025). Creating adequate infrastructure nationally would require an estimated 15,000 crore rupees, roughly \$1.8 billion (Economic Times, 2025). These funds remain unallocated.

India's existing animal infrastructure provides instructive precedent. Government cow shelters face severe welfare concerns, including overcrowding, inadequate resources, and fundamental care failures, despite dedicated state funding and significant religious and political priority (Sharma, Schuetze, & Phillips, 2020). If animals receiving constitutional protection, religious significance, and dedicated governmental resources suffer such conditions, institutional exclusion zones will necessarily replicate these failures on a greater scale.

IV. Comparative Constitutional Practice and the Absence of Territorial Exclusion

India's November order mandates permanent removal from institutional spaces of sterilized, vaccinated dogs based solely on territorial location. This categorical exclusion contradicts a structural principle established across diverse constitutional frameworks for animal welfare: restrictions on animals require individualized justification demonstrating that no less restrictive alternative exists.

Germany's Article 20a of the Basic Law (Grundgesetz für die Bundesrepublik Deutschland, 2002) mandates animal protection as a state objective (Staatszielbestimmung). This constitutional commitment is reflected, *inter alia*, in Section 1 of the Animal Welfare Act (Tierschutzgesetz, originally enacted July 24, 1972; current consolidated version promulgated May 18, 2006), which prohibits causing an animal pain, suffering, or harm without reasonable cause. It establishes that any policy restricting animal welfare must satisfy the three prongs of proportionality: suitability, necessity, and overall weighing. In the horseshoeing regulation case (Bundesverfassungsgericht, 2007, paras 92-94), the Constitutional Court struck down certification requirements for hoof technicians using alternative methods, finding that these requirements imposed a disproportionate burden when equally effective alternatives existed (Verniers, 2020, p. 12).

India's categorical territorial exclusion of community dogs fails this test on all three prongs. It violates suitability by increasing the risk of rabies through territorial replacement. It fails necessity when targeted removal of demonstrably aggressive or rabid individual animals remains feasible. It fails overall weighing because the claimed balancing of human safety against animal welfare is illusory. Both constitutional values are undermined rather than advanced. Administrative convenience cannot justify systematic welfare violations in an epidemiologically counterproductive policy.

Ecuador extends constitutional protection into explicit rights recognition. Articles 10 and 71 of the Constitution of Ecuador (2008) grant nature the right to integral respect for its existence. The Constitutional Court's Estrellita judgment (Corte Constitucional del Ecuador, 2022, paras 155-156, 173-174) applied this framework to individual animals, holding that when authorities detained Estrellita, a woolly monkey who died within one month of removal from her caregiver, they violated her constitutional rights by failing to follow scientifically grounded protocols demonstrating that detention would serve her welfare.

This framework exposes the Indian Court's failure: if constitutional protection requires authorities to safeguard individual animal welfare through scientifically substantiated interventions, then location-based removal policies that ignore individual welfare assessments and epidemiological evidence violate constitutional mandates. Ecuador demonstrates that rights-based protection precludes categorical spatial exclusion absent individualized welfare analysis.

Argentina completes this progression by establishing individual rights through the concept of legal personhood. In the Cecilia case (Asociación de Funcionarios y Abogados por los Derechos de los Animales c/ Gobierno de la Provincia de Mendoza, 2016, pp. 27, 31-32), the Court granted habeas corpus to a chimpanzee held at the Mendoza Zoo, declaring it a non-human legal person with inherent rights rather than property subject to ownership. The judgment held that personhood requires evidence-based

welfare standards tailored to individual needs and recognition of species-specific requirements for natural habitat.

This framework supersedes the Indian Supreme Court's approach: personhood status precludes location-based restrictions absent individualized behavioral assessment, rehabilitation capacity analysis, and demonstration that less restrictive alternatives are inadequate. Once animals are recognized as rights-bearing persons, spatial regulation must be justified by individual welfare needs, not administrative convenience or public sentiment.

These jurisdictions converge: evidence-based individualized assessment forms the constitutional foundation of animal welfare. This convergence reflects epidemiological necessity. When sterilized animals are removed from fixed territories, unsterilized, unvaccinated animals inevitably fill these locations through territorial replacement dynamics. Peer-reviewed research demonstrates that sterilized dogs occupying their original territories prevent fertile animals from filling available ecological niches, thereby reducing the proportion of spaces accessible to young, unvaccinated dogs (Taylor et al., 2017, p. 4).

The World Organization for Animal Health's Terrestrial Animal Health Code (2024) concretizes this mechanism in Article 7.7.19, which establishes the CNVR method for managing dog populations in situ by returning sterilized dogs to their local communities at or near the place of capture. This approach maintains population stability by ensuring sterilized animals occupy territorial spaces. India's institutional exclusion zones will necessarily trigger the vacuum effect. Without continuous removal operations and perpetual infrastructure investment, institutional zones will inevitably host larger unvaccinated populations than before Court intervention, thereby defeating the order's stated public health objectives and failing both constitutional requirements and scientific evidence.

V. Evidence-Based Interventions and Regional Implementation Success

Viewed through the lens of constitutional proportionality, the November order's reliance on permanent territorial exclusion is legally and empirically unsound: the evidence establishes practicable, less-restrictive alternatives that achieve sustained rabies control while minimizing harm to animals. Embedding the constitutional inquiry (suitability, necessity, and balancing) at the outset makes the empirical record legible as legal proof that removal-based policies are neither the least intrusive nor the most effective means available.

Randomized and modeling studies robustly demonstrate the "vacuum effect" and the superior durability of sterilization-and-vaccination interventions. A 2025 study in *Scientific Reports* conducted across five Indian sites documented that unsterilized immigrants rapidly recolonized territories cleared of sterilized animals (Fielding et al., 2025, pp. 5-7). An agent-based modelling study from 2023 quantified this dynamic: female-only CNVR sustained population suppression for 6.7 years post-intervention, compared to 3.35 years for lethal control. Removal strategies resulted in 43% more total dog deaths and yielded populations with a higher proportion of puppies (Yoak et al., 2023, pp. 5-7). These findings show that removal is epidemiologically counterproductive and therefore fails the suitability and necessity prongs where CNVR is feasible. Global and regional practice corroborate the scientific consensus. The World Health Organization's current guidance concludes that culling free-roaming dogs is ineffective in controlling rabies and that removal does not decrease dog density or prevent rabies in the long run (World Health Organization, 2024).

Jurisdictions implementing CNVR have reported measurable public-health gains. In Bangkok, the programme reduced the density of free-roaming dogs by 24.7 percent and resulted in a 5.7 percent average monthly decline in rabies cases (Hiby et al., 2023, p. 17). Bhutan achieved full street-dog sterilization and vaccination in 2023, processing more than 150,000 dogs, and recorded a markedly reduced human rabies mortality rate between 2006 and 2023 (Humane World for Animals, 2023). Goa's mass

vaccination campaign covered approximately 426,000 dogs. It was followed by zero human rabies deaths in 2018 and 2019, a reduction from 17 deaths in 2014, along with a 92% decline in canine rabies (Gibson et al., 2022, pp. 1, 4). Sikkim likewise sustained near-zero human transmission after sterilizing more than 37,500 dogs and achieving vaccination coverage of between 70 and 80 percent (Byrnes, Britton, & Bhutia, 2017).

For school settings, the evidence also suggests that education and vaccination are proportionate and targeted responses to documented bite incidents. Children under 15 account for roughly 40% of global rabies fatalities (World Health Organization, 2024). Goa's school-based programme educated 694,271 children, trained 31,251 teachers, and integrated rabies content into the science curriculum (Gibson et al., 2022, p. 2). A 2024 systematic review found that such educational interventions improved rabies knowledge in 11 South Asian studies, enabling preventive behaviors that directly reduce bite-related risk (Janeaim et al., 2024, pp. 8-9).

In sum, permanent territorial exclusion is neither scientifically justified nor constitutionally defensible, as it exacerbates the creation of larger unvaccinated populations through territorial replacement, thereby undermining the suitability and necessity of such measures and tipping the proportionality balance against public-interest claims of administrative convenience. The empirical and comparative record, however, supports CNVR, vaccination, and education as effective, less-restrictive measures that are consonant with constitutional protections.

VI. Conclusion: Constitutional Dignity Demands Infrastructural Reality

The November order represents constitutional pathology, as it simultaneously vindicates and violates Article 51A(g) solely on the basis of geography. It subordinates intrinsic dignity to institutional expedience, mandating a policy that increases rabies risk to the children and patients it purports to protect while imposing welfare harms on animals through detention infrastructure that the state cannot provide. The policy creates a false trade-off, worsening outcomes across both dimensions rather than balancing competing values. Through epidemiological necessity, institutional zones will host larger unvaccinated populations than before the intervention. What appears as protection becomes its opposite. The upcoming January 2026 compliance hearing (Venkatesan, 2025) will present a choice between constitutional coherence grounded in evidence and a permanent precedent establishing that territorial classification supersedes constitutional principle and epidemiological fact.

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