

Bridging Science, Ethics, and Law: Animal Personhood in India

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“Until he extends his circle of compassion to include all living things, man will not himself find peace”-
Albert Schweitzer

The burgeoning movement advocating legal personhood for animals is gaining momentum, aiming to elevate animals from mere property to beings with protective rights. Legal personhood, a concept that has evolved over time, has been granted to various entities, including corporations, ships, estates, idols, and institutions. Globally, non-human entities, such as animals, rivers, and forests, have been recognized as legal persons, enabling them to engage in legal actions through human representatives as spokespersons. In this context, some studies emphasize that science-backed judgments and legislation offer a solid foundation and are more practical to formulate and implement. This interdisciplinary approach to legal personhood for animals is crucial for reshaping animal rights in India.

While India has existing legislation for animal welfare, like the Prevention of Cruelty to Animals Act, 1960, the Wildlife Protection Act, 1972, and the Breeding of and Experiments on Animals (Control and Supervision) Rules, 1998, these laws have historically treated animals as property. In a significant development, the Ministry of Environment, Forests, and Climate Change in India recognized dolphins as “non-human persons” due to their remarkable intelligence and sensitivity. This recognition led to the prohibition of dolphinariums and the capture of dolphins, grounded in compelling scientific evidence of cetacean intelligence. Furthermore, the landmark ruling by the Supreme Court in the 2014 Jallikattu

case, officially known as *Animal Welfare Board of India vs. A. Nagaraja & Ors.*, laid the groundwork for recognizing animals as legal persons. Though the case did not explicitly grant this status, it expanded the interpretation of “life” and “dignity” under Article 21 of the Indian Constitution to include animals:

“Every species has a right to life and security.... So far as animals are concerned.... life means something more than mere survival or existence or instrumental value for human beings, but to lead a life with some intrinsic worth, honour, and dignity.” (Para. 62)

In two other landmark cases, *Narayan Dutt Bhatt v. Union of India & Ors* and *Karnail Singh and Ors v. State of Haryana*, the High Courts of Uttarakhand, and Punjab and Haryana issued verdicts in 2018 and 2019, declaring the entire animal kingdom, including avian and aquatic life, as legal entities with their own distinct persona, along with corresponding rights, liabilities, and obligations of a living person. A unifying element in both *Narayan Dutt* and *Karnail Singh* cases is Justice Rajiv Sharma’s multidisciplinary approach. He skillfully integrated similar jurisprudential, scientific, spiritual, ethical, and philosophical studies in both cases to strengthen the argument for recognizing animal rights and personhood.

Jurisprudential grounds:

Judge John Salmond’s jurisprudential perspective on natural and legal/artificial persons serves as a foundational reference. The High Courts of Uttarakhand, and Punjab and Haryana emphasize that the concept of a juristic person is widely recognized across the globe. This extends to diverse entities like religious institutions, corporations, and even inanimate objects, with these juristic persons enjoying legal rights and obligations. To illustrate this, both High Courts provide an example where idols require designated individuals, such as Shebaites, to act on their behalf, much like guardians for minors. Additionally, both High Courts cite Professor Peter Birks’ work on English Private Law to underline the contextual nature of legal personality, indicating that the specific rights and obligations conferred depend on the situation.

The High Courts of Uttarakhand, and Punjab and Haryana also underscore the evolving perspective in international environmental and animal welfare law, moving from an anthropocentric to an ecocentric approach. Both High Courts support this transformation by referencing the dissenting opinions of United States Supreme Court Justices Douglas and Blackmun in *Sierra Club v. Morton* (1972). These opinions highlight the escalating concern for environmental protection and advocate for more adaptable legal concepts when addressing environmental challenges.

Scientific grounds:

A multidisciplinary approach is adopted to understand animal minds by the High Courts of Uttarakhand, and Punjab and Haryana. Various academic disciplines, including psychology, biology, anthropology, ecology, ethology, primatology, and philosophy, contribute to this endeavour. The Jallikattu case is cited to highlight animals’ shared capacity for experiencing pain and suffering, as noted by Professor D.M. Broom from the University of Cambridge. Broom emphasized the universality of pain and suffering across species, reinforcing the basis for animals’ legal protection based on their ability to experience these sensations.

The High Courts of Uttarakhand, and Punjab and Haryana acknowledge the significance of scientific research in unveiling animals' emotional and cognitive lives, referencing David R. Boyd's "The Rights of Nature." The book showcases animals' characteristics, including emotions, intelligence, self-awareness, and altruism. For example, elephants mourn their dead, humpbacks intervene in the hunt by driving orcas away to protect other species, and dolphins exhibit remarkable intelligence and self-awareness. Additionally, the 2012 Cambridge Declaration on Consciousness is cited to underline that mammals and birds possess neurological substrates for consciousness and can experience pain similarly to humans. The differences between humans and animals are one of degree, not kind, as supported by scientific evidence and fieldwork by researchers like Jane Goodall.

Spiritual and Ethical grounds:

The High Courts of Uttarakhand, and Punjab and Haryana delve into the spiritual, cultural, and ethical dimensions of animal welfare, drawing insights from "Sacred Animals of India" by Nanditha Krishna. The principle of ahimsa, non-violence in thought and deed, found in Hinduism, Buddhism, and Jainism, emphasizing the sanctity of all life and the moral duty to protect animals, aligns with the decisions of both High Courts.

Jainism's concept of ahimsa, which extends to the "severance of vitality" in all beings, is highlighted. Similarly, Gautama Buddha's teachings of non-killing and coexistence with animals are acknowledged. The symbolic roles of animals in Hinduism, such as the cow and the lion, are noted, underscoring the cultural and religious significance of animals. Prominent figures like Mahatma Gandhi and the Dalai Lama further reinforce the idea that a nation's moral progress is reflected in how it treats animals. The decisions of both High Courts carry significant ethical and spiritual weight, emphasizing the need to protect animals as a manifestation of compassion and environmental harmony.

Philosophical grounds:

Philosopher Christine M. Korsgaard's views challenge traditional notions of personhood and rights, as cited by the High Courts of Uttarakhand, and Punjab and Haryana. Korsgaard suggests that animals may share interests deserving legal protection, emphasizing their practical representations, pursuit of good, and avoidance of harm.

The High Courts of Uttarakhand, and Punjab and Haryana explore the connection between autonomy, rationality, and human rights, questioning why animals, with their interests and welfare, should be denied rights. Esther Cohen's analysis of medieval animal trials, where animals were subjected to inhumane treatment similar to humans, questions the modern treatment of animals as legal persons and the existing legal framework.

Both High Courts point to the limitations of animal welfare legislation, which often focuses on punishing offenders rather than ensuring the animals' well-being. Bioethicist Peter Singer's argument, based on John Locke's definition of a person, suggests that animals, particularly great apes, meet the criteria for legal personhood. Their qualities, such as intelligence, rationality, and self-awareness, make a compelling case for reconsidering personhood criteria.

The High Courts of Uttarakhand, and Punjab and Haryana present a balanced perspective on making animals “legal entities” with rights, referencing Steve Sapontzis’ argument that traditional “rights” may not suit animals due to different capacities. Both High Courts emphasize that extending legal personality remains the optimal approach for protecting animal interests. Ultimately, the decisions depend on recognizing animals’ need for full legal protection and the moral duty to treat them as ends in themselves, rather than merely means to human ends.

The High Courts, in both judgments, highlight the significance of interdisciplinary collaboration in advancing animal welfare. The High Courts of Uttarakhand, and Punjab and Haryana issued several critical directives, including the establishment of veterinary check-posts at borders to check animals for diseases, a study on maximum weight for draught animals to prevent cruelty, and a ban on the use of harmful equipment. To ensure animal welfare during transportation, prescribed weight limits, temperature-specific conditions, regular provisions of water and food, and humane tying guidelines were outlined. Further instructions emphasized humane treatment for stray animals, the “Right of Way” for animal-drawn carts on roads, and enforcement of these directives by police officers. Nonetheless, the declaration of all citizens of Uttarakhand and Haryana as *loco parentis* raises questions about how they shall take care of the animals, or to what extent one shall be responsible. Shall one be responsible as a guardian for the acts of other citizens? The demarcation of rights between owned and wild animals lacks precision, leaving uncertainties about the outcome of clashes between these two groups of animals. Clarifications are needed to address these complexities.

While Indian courts have started incorporating science and relevant studies to better understand animal cognition, greater integration of multidisciplinary knowledge in legal implementation could significantly enhance animal welfare in India. Interdisciplinary research is urgently required to ensure that rights-of-nature and animal welfare laws carry legal weight. Such research can contribute to enhancing the understanding and effectiveness of these laws both proactively and in response to disputes.

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