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**FAITH v FUNDAMENTAL RIGHTS: NAVIGATING ANIMAL  
CRUELTY WITHIN RELIGIOUS PRACTICES**

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**I. ABSTRACT**

This article analyzes the intricate conflict between religious freedom and animal welfare legislation in India. With the backing of a pluralistic society wherein religious practices entail the use or sacrifice of animals, the conflict arises when such practices are questioned under the changing standards of constitutional morality. While the Constitution assures the right to practice religion freely, such a right is not absolute and has to coexist with legislation such as the Prevention of Cruelty to Animals Act and the Bharatiya Nyaya Sanhita, 2023. The judiciary, by the Doctrine of Essential Practices, has sought to differentiate constitutionally protected usages from socially deeply entrenched but inimical traditions. Landmark judgments reflect the changing perception of animal rights under Article 21 and the growing importance of constitutional morality in determining a compassionate society. In this research, it is argued that religion and fundamental rights have to be balanced, necessitating legal, ethical, and societal cooperation to assure the dignity of all living beings.

Keywords: Animal Welfare, Religious Practice, Constitutional Morality, Right To Life, Cruelty, Culture, Traditions

**II. INTRODUCTION**

India is a country that has religious practices and traditions deeply embedded in its social fabric. It forms the basis of the identity India possesses, where there is a variety of religions that co-exist with their respective beliefs. Religion is considered not merely a belief system but a way of life that is intertwined with cultural identity, community values, and one's conscience. Religious practices and beliefs in the country are largely associated with animals in one way or another. But more

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often, a dispute follows when these practices involve sacrifice or harm to the animals as a part of rituals or customary observances. Even though the Indian Constitution guarantees the right to freely profess, practice, and propagate religion under Article 25<sup>2</sup>, this right is not absolute. It is subject to various restrictions, along with the protection of animals from cruelty.

To fight cruelty against animals in such cases, the Parliament enacted the Prevention of Cruelty to Animals Act 1960 and several judicial rulings have been pronounced that emphasise that animals have the mere right to live, which is rooted in idea that as decent members of society, it is essential to treat every living being with dignity.

Hence, this conflict between faith and fundamental rights poses a complex challenge as it revolves around the question of whether religious customs can be shielded from legal scrutiny merely because they are traditional. And can religious freedom have more weight than animals' right to a cruelty-free life? With the growing need for an emphasis on a rights-based society, the judiciary is increasingly tasked with interpreting the boundaries of religious freedom while upholding constitutional morality. This article aims to critically analyse the legal and ethical tensions that arise at the intersection of animal cruelty and religious practices. It explores the ethical conflict, legislations, key judicial rulings, and the changes that legal scrutiny has brought about in this area.

### III. ANIMAL LAWS IN INDIA: HISTORICAL BACKGROUND

India has enacted several acts to safeguard the interests of animals since they do not have a voice and cannot express their feelings. The Indian Constitution mentions protection of animal rights under the terms of fundamental obligations as well as state policy guidelines. Article 21<sup>3</sup> specifies "life" as including all life, including animal life, for human survival. Animal rights are greatly affected by the right to fair treatment and dignity.

The 42nd Amendment brought about these clauses in 1976, which form the basis of federal and state legislation, policy, and programmatic initiatives promoting animal protection. The concurrent list of the Constitution empowers both the central government and state governments to pass laws on the prevention of cruelty to animals and the protection of wild animals and birds.

India is a federal union with 28 states and 8 Union Territories, and its supreme legislative body is the Parliament while the State legislatures exist for every state. The Constitution of India can only check and regulate Central laws, whereas state laws can be overridden. Subordinate legislation like rules, regulations, and by-laws is also made by Central/State governments and local authorities.

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<sup>2</sup> Indian Const, art 25.

<sup>3</sup> Indian Const, art 21.

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India practices common law based on documented judicial precedents inherited by the British colony, with higher courts having great legal weight and being binding on the lower courts. Personal laws, regional customs, religious books, and conventions accepted as legal characters are also taken into account in India's administration of justice because of its vast religious and cultural diversity.

#### IV. LEGAL & CONSTITUTIONAL FRAMEWORK ON ANIMAL PROTECTION

##### A. Prevention of Cruelty to Animals Act, 1960

The Prevention of Cruelty to Animals Act, 1960 (PCA Act) is the main law that criminalizes animal cruelty. Section 3 of the Act requires that animals be treated humanely and with kindness. Section 11 lists specific acts of cruelty, such as over-working, beating, mutilating, or holding animals in conditions not favorable to their well-being.

Nonetheless, Section 28 of the Act is a contentious exception: it provides that "nothing contained in this Act shall render it an offence to kill any animal in a manner required by the religion of any community." This section has been subjected to widespread criticism for enabling otherwise inhuman practices—like animal sacrifices—to go unpunished if performed under the cover of religious belief. This section, some scholars maintain, is overbroad and imprecise because it does not say what makes a practice "required by religion" and does not apply proportionality or tests of public morality to such practices<sup>4</sup>.

##### B. Wildlife (Protection) Act, 1972

Apart from PCA Act, the Wildlife (Protection) Act, 1972 forbids hunting, possession, and trade of wildlife, most of which are frequently utilized in temple processions or festivals (like elephants or peacocks). The Act offers an exhaustive framework for the conservation of flora and fauna and grants powers to wildlife officers to preclude exploitation.

##### C. Constitutional Provisions

India's Constitution embodies a progressive ecological ethic in which protection of animals is accorded constitutional status, though not as a fundamental right in itself.

- Article 48A: Instructs the State to preserve and enhance the environment and protect forests and wildlife<sup>5</sup>.

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<sup>4</sup> Taruni Kavuri, Overview of Animal Laws In India, Michigan State University College of Law (2020) <https://www.animallaw.info/article/overview-animal-laws-india#:~:text=Protection%20of%20animals%20is%20enshrined%20as%20a%20fundamental,cow%20slaughter%20prohibition%20legislations%20at%20the%20State%20levels>.

<sup>5</sup> Indian Const. art. 48, A.

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- Article 51A(g): Places a moral duty on citizens to "have compassion for living creatures." While non-enforceable by courts, these provisions are only interpretive aids in legal argument<sup>6</sup>.

#### D. The Bharatiya Nyaya Sanhita (BNS), 2023

Section 325 of the BNS makes it a crime to intentionally kill, poison, maim, or render useless any animal. This applies to all animals, regardless of their value. The penalty can be up to five years in prison, a fine, or both. It is a cognizable (police can arrest without warrant) and bailable offense<sup>7</sup>.

#### E. International Law Commitments

Though India is not a signatory to a legally binding international convention on animal welfare, it has signed numerous soft law documents that promote ethical treatment of animals. Notably, India has joined in endorsing the Universal Declaration on Animal Welfare (UDAW) put forward by the World Organisation for Animal Health (OIE). In addition, India's involvement in the Convention on International Trade in Endangered Species (CITES) and the adoption of the Sustainable Development Goals (SDG 15: Life on Land) further demonstrate its global commitment towards safeguarding animals and biodiversity.

### V. JUDICIAL EVOLUTION

Courts play a pivotal role in navigating the intersection between religious freedom and animal welfare. To distinguish between and separate the fine line between religious liberty and animal welfare, courts rely on the Doctrine of Essential Practices, which is a judicially evolved test that is used to determine whether a religious practice qualifies for constitutional protection under Article 25<sup>8</sup>. Originating from the landmark judgment of *The Commissioner, Hindu Religious Endowments Madras v. Shri Shirur Mutt*<sup>9</sup>, this doctrine empowers the judiciary to examine whether a contested religious practice is essential to the facets of religion or merely a cultural or superstitious extension of the same. By applying this test, the courts aim to draw a constitutional line between genuine expressions of faith and practices that may conflict with public order, morality, and health.

The courts have further evolved through judgments in their regard for animal welfare. A significant judgment regarding the use of animals in religious practices is *M Nagaraj and Ors v. Union of India*<sup>10</sup>, wherein the practice of Jallikattu, Kambala, and Bullock cart race in the states of Tamil Nadu and Maharashtra was challenged. The court expanded the interpretation of Article 21 in this case by extending the right to life to animals as well, thereby emphasising that animal welfare is a

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<sup>6</sup> Indian Const. art. 52. A cl. G.

<sup>7</sup> The Bharatiya Nyaya Sanhita, 2023, §325.

<sup>8</sup> *Supra* 1.

<sup>9</sup> *The Commissioner, Hindu Religious Endowments Madras v. Shri Shirur Mutt* (1954) AIR 282 India.

<sup>10</sup> *M Nagaraj and Ors v. Union of India*, (2006) AIR SCW 5482 (India).

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facet of human morality. But subsequently, the same was overturned by *Animal Welfare Board of India v. Union of India*<sup>11</sup>, where the Apex Court held that these practices can be held legally under strict regulation, provided no unnecessary pain is inflicted upon the animals. Criticisms of this judgment are that the Court gave primacy to cultural rights rather than the empirical evidence collected on the stress suffered by the bulls, especially in the practice of Jallikattu.

Furthermore, courts have reiterated that whilst religion may prevail in certain circumstances, such an exception will not be allowed when traditions and practices deal with animal sacrifice. In *Sardar Syedna Sahbi v. The State of Bombay*<sup>12</sup>, the Court held that the government could intervene to restrict or regulate harmful practices like the sacrifice of animals as religious rituals for the well-being of society<sup>13</sup>.

In *Ramesh Sharma v. State of Himachal Pradesh*<sup>14</sup>, the High Court held that the ritual of animal sacrifice in Hinduism is based on age-old customs and superstitions, which cannot be allowed under the current legal framework<sup>15</sup>. Similarly, in *Mohd. Hanif Qureshi and Ors v. State of Bihar*<sup>16</sup>, the Court opined that animal sacrifices on Bakr-Eid are not an “obligatory overt act” for followers of Islam. Therefore, banning the slaughter of animals for religious festivals does not violate any fundamental rights guaranteed under Article 25<sup>17</sup>.

Another significant case known as *Gauri Maulekhi v. the State of Uttarakhand*<sup>18</sup>, wherein the court held that while the Prevention of Cruelty to Animals Act does not include the sacrifice of animals even for religious purposes, it can only be allowed on the grounds of providing food to mankind and not to appease deities. However, a judicial impact assessment pointed out that a nationwide ban on the slaughter of bovine animals would place economic burden on the communities that depend on these activities for survival. Hence, although a state government may be allowed to restrict the killing of bovine animals within its territorial jurisdiction, the imposition of a blanket ban has been discouraged<sup>19</sup>.

Hence, these rulings indicate that the courts aim to strike a balance between the unnecessary killing of animals in the name of religion and the freedom to practice and profess one’s religious customs. Through these rulings and the application of the doctrine of essential practices, courts have drawn

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<sup>11</sup> *Animal Welfare Board of India v. Union of India*, (2023) INSC 548 (India).

<sup>12</sup> *Sardar Syedna Sahbi v. The State of Bombay* (1962) AIR 853 (India).

<sup>13</sup> Shohom Roy, *Understanding the Legality of Animal Sacrifice*, Ipleaders, August 21, 2021, <https://blog.ipleaders.in/understanding-legality-animal-sacrifice-india/>.

<sup>14</sup> *Ramesh Sharma v. State of Himachal Pradesh* (2014) SCC ONLINE HP 4679 (India).

<sup>15</sup> *Supra I.*

<sup>16</sup> *Mohd. Hanif Qureshi and Ors v. State of Bihar*, 1958 AIR 731 (India).

<sup>17</sup> *Supra I.*

<sup>18</sup> *Gauri Maulekhi v. the State of Uttarakhand*, Writ Petition (PIL) No.198 of 2016 (India).

<sup>19</sup> *Supra I.*

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important distinctions between what is constitutionally protected faith and what amounts to social practice masked as religion. This approach has enabled the judiciary to uphold and protect Article 25 whilst making sure that the freedom guaranteed by this right does not override the compassion and dignity for all living beings. As animal welfare jurisprudence evolves, it becomes evident that faith cannot be an unquestioned shield against accountability, especially when it comes to sentient life.

## VI. THE CONSTITUTIONAL MORALITY TEST: CONFLICT AND COEXISTENCE

Constitutional morality is vital for democratic rule, as enunciated by Dr. B.R. Ambedkar, which involves a profound regard for constitutional norms. It goes beyond obedience to constitutional texts and determines state actions, institutional accountability, and resolution of social conflicts. This notion appears in different sections of a constitution, especially in the Preamble, Fundamental Rights, Directive Principles of State Policy, and Fundamental Duties, upholding values such as individual freedom, equality, dignity, and privacy.

Judicial interpretations are key to developing constitutional morality, with judgments such as the Sabarimala judgment *“faith and tradition must yield when they come into conflict with constitutional morality, especially where discrimination or harm is involved. Though primarily addressing gender discrimination, the logic is transferable: when religious customs perpetuate cruelty, whether toward humans or animals, they must be constitutionally interrogated.”*<sup>20</sup> and Kesavananda Bharati Case demonstrating its use in social and legal problems. But its interpretation can give rise to issues like judicial overreach, hence calling for a balance of enforcement. Maintaining constitutional morality demands self-constraint by all organs of the government, dedication by citizens, and vigilance about constitutional values from the people.

Compliance with Fundamental Duties serves to augment this social commitment, thereby making the promotion of constitutional morality imperative in order to maintain a country's democratic culture and see governance remain in accordance with its underpinnings and ideals.

Although courts have a significant role to play in enforcing constitutional morality, real and sustained change must involve the active participation of society. Prohibitions through law alone cannot destroy centuries-old traditions unless accompanied by ethical consciousness and cultural change. Practices such as animal sacrifice or Jallikattu continue to exist in spite of judicial action because of entrenched beliefs and insufficient public sensitization. It is thus important to bridge law, ethics, and society. Civil society groups, teachers, and religious figures need to cooperate to

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<sup>20</sup> Indian Young Lawyers Association v. The State Of Kerala, AIR ONLINE 2018 SC 243 (2018) (India).

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assert humane alternatives, making sure constitutional values echo beyond the courtroom. Only by moral development in concert can legal reforms effectively make a difference in public conscience and cultural practice.

## VII. RECOMMENDATIONS

To answer the age-old conflict between religious rituals and animal welfare, a multi-pronged approach would be required. First, Section 28 of the Prevention of Cruelty to Animals Act, 1960 must be amended to define clearly what constitutes a "religious requirement" and include a proportionality test balancing ritual freedom and the moral treatment of animals. Enshrining the Doctrine of Essential Religious Practices will have the potential to introduce clarity and consistency in judicial interpretation so that only those practices that are truly essential to religion are afforded protection. Public education through education, media campaigns, and interface with religious leaders is essential to change cultural attitudes and inculcate compassion. Religious organizations must be persuaded to adopt humane alternatives to animal sacrifice, and animal welfare cells must be established in significant religious centres to ensure compliance and provide veterinary services. A uniform regulatory regime in states, assisted by the Centre, can facilitate effective enforcement. Moreover, judicial and legislative pronouncements must be preceded by impact assessments to avert unintended harm to economically marginalized sections. Reading Article 25 together with the Fundamental Duty under Article 51A(g) can reinforce the ethical underpinning of religious liberty. Finally, introducing animal ethics in school curricula and signing international instruments like the Universal Declaration on Animal Welfare would seal India's commitment to the protection of sentient animals and constitutional morality.

## VIII. CONCLUSION

The intersection of religious practice and animal welfare is the most difficult constitutional morality challenge in a very religious and pluralistic country. Religious tradition is a part of the communal and cultural heritage of India, but it cannot be allowed to be above the law, particularly when they clash with the rights of sentient beings who are now increasingly viewed as entitled to dignity, compassion, and protection in law.

This article has discussed how Indian courts have undertaken the Herculean task of interpreting Article 25 in light of other provisions of the constitution like Article 21, Article 48, and Article 51A(g). With trailblazing judgments and the formation of the Essential Religious Practices doctrine, not only has the judiciary sought to protect religious freedom but sought to determine that religious freedom is not absolute. Animal cruelty involving unnecessary suffering has been analyzed, controlled, and even prohibited. It is a developing judicial philosophy—one that balances spiritual freedom with constitutional morality and scientific knowledge of animal consciousness.

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The problem is one of a soft tension among tradition and transformation, faith and constitutionalism, and ritual and reform, but not a high-drama divide of faith and fundamental rights. For India to ever realize the vision that its Constitution contains, it must continue to transform as a society that is true to faith, without betraying conscience.



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