

DIGNITY OF THE LIFE OF VOICELESS – A LEGAL OVERVIEW- Bhanuyash¹ & Nikhil Jain²**Abstract**

The Constitution of India, which is referred to as a dynamic instrument that constantly evolves through judicial interpretation to reflect new social values and ethics, has seen many changes to Article 21 on account of expanding the meaning of “right to life”. This particular right, apart from its literal meaning of ensuring the right to life and personal liberty, was interpreted to include concepts of human dignity, means of livelihood, good health, and an unpolluted environment. This paper seeks to examine whether an extended concept of “right to life” can apply to animals, either directly or indirectly. While it needs to be highlighted that the animals do not have any fundamental right under the Indian Constitution, there are provisions such as Articles 48A and 51A(g), which reflect the constitutional concern towards preserving the environment and showing compassion towards living beings. In a landmark judgment delivered in a case³, the court has recognized animals as sentient creatures with essential value that deserve dignity. These developments represent the shift of judicial approach from being anthropocentric to ecocentric. In any case, there has been no significant development on the legal status of animals in India, even after progressive judicial interpretations. Animals are still regarded as property by statute, and their protection depends entirely on the enforcement of the welfare obligation on the part of humans, specifically as mandated under the Prevention of Cruelty to Animals Act of 1960. Hence, there lies an irony in the fact that animals are recognized as sentient but denied legal rights to protect themselves from harm. This research compares several jurisdictions, including Germany, United Kingdom, and Switzerland, as other examples where

¹LL.M., Faculty of Law, Jagannath University, Jaipur

²Assistant Professor, Faculty of Law, Jagannath University, Jaipur

³Animal Welfare Board of India v A Nagaraja, (2014) 7 SCC 547 (SC)

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these values have been integrated into their legal systems through various means to establish what an appropriate legal system for India should be. Based on the research findings in this area, it is clear that it is possible and important for a jurisdiction to adopt a coherent and hybrid legal framework incorporating both the concepts of dignity, duty of care, and even constitutional recognition of animals. It is concluded that while it is not realistic to grant fundamental rights to animals in its totality in India, it is possible to provide derivative protection to animals within Article 21.

Keywords- life, dignity, law, rights, animals

1.INTRODUCTION

The Constitution of India is a living document which continuously develops and evolves to become better with time, as evident from various landmark judgements of Indian legal history. The judgments such as Kesavananda Bharti⁴ and Maneka Gandhi⁵ judgement, revolutionized the development process of the Indian constitution. The need to keep changing with society and the modern perspectives keep the soul of Constitution alive and that's why it is called a living document. The constitution framers while framing the Constitution were farsighted enough to formulate the mechanisms and functioning to cope with the coming societal changes.

With time the Constitution developed like a tree expands its branches as it grew with the citizens of the country and the scope of Constitution widened which can be seen evident through various judgements and amendments. These judgements and amendments expanded the scope of applicability of the constitution with the increasing dimensions and sectors which get multiple benefits from them.

Article 21 of the Indian Constitution has undergone significant expansion over time through judicial interpretation and precedent. Initially confined to the protection of life and personal liberty—stating that no person shall be deprived of these rights except according to procedure established by law—the provision has been progressively interpreted in a more dynamic manner by the judiciary. As a result, it now encompasses a wide range of essential rights, including the

⁴ AIR 1973 SC 1461

⁵ AIR 1978 SC 597

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right to livelihood, health, education, a clean environment, shelter, free legal aid, human dignity, and privacy. These evolving interpretations raise an important question: even though animals are not recognized as holders of rights, can they be considered within the broader scope of Article 21?

The issue of animal welfare requires greater attention from all organs of the State. The Constitution of India reflects concern for animals through Article 51A(g), which places a duty on citizens to show compassion towards all living creatures. Similarly, Article 48A imposes an obligation on the State to protect and improve the environment and to safeguard wildlife. Although animals are not granted fundamental rights, these constitutional provisions clearly demonstrate a deep-rooted concern for their protection. They also highlight the foresight of the framers of the Constitution, whose vision continues to remain relevant in contemporary times.

One of the progressive moves or shift can be observed in the Supreme Court judgement of Animal Welfare Board of India v. A. Nagaraja in which court held that “Animals possess intrinsic worth and are entitled to live with dignity. The word life which was stressed by the Court is under Article 21 and should not be interpreted narrowly and that it encompasses more than mere survival. The court did not expressly declare animals as holders of fundamental rights but improved the status and vulnerable conditions of animals by addressing their right to be free from pain and suffering. This decision reflects the change of anthropocentric legal framework to a more eco-centric and compassionate approach.

The progressive and dynamic nature of developments does ensure a rigid position of animal rights. Animals are still being treated as property under various statutes and the protection majorly depends on human enforcement of welfare and Prevention of Cruelty to Animals Act 1960 is an example of that. The consideration of animals as sentient beings deserving dignity and yet no specific rights create tension within the legal system. It basically creates a doubt about the sufficiency of the existing laws and raises the question that if we need more coherent rights-based laws.

Challenging the traditional notions of society and its relation with animals whether examining the animals under the purview of Article 21 is both relevant and necessary. This study seeks

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whether the purview of Article 21 can be extended to Article 21 and if yes then what outcomes can be seen in future of animal welfare jurisprudence in a country like India.

2. CONSTITUTIONAL FRAMEWORK

The Indian Constitution does not explicitly confer fundamental rights upon animals; however, the Directive Principles of State Policy lay down important guidelines for the protection of animals and wildlife. While Article 21 is primarily concerned with human rights, it indirectly advances animal welfare by recognizing the interdependence between human life and the broader ecological environment.

Article 21 guarantees every individual the right to life and personal security in accordance with the law. In judicial interpretation, the term “life” has been given an expansive meaning, extending beyond mere physical survival. It encompasses the preservation of a healthy and balanced environment, which necessarily includes all living beings, including animals, as they are integral to human existence. Thus, any harm to the natural environment or animal life can be understood as affecting the quality of human life under Article 21. In this context, “life” should not be confined to bare existence or utility for human purposes but must be understood as a right to live with intrinsic value, dignity, and a sense of worth.

The judiciary broadens the scope of article 21 through various judgments:

- *Animal Welfare Board of India v A Nagaraja*⁶

The judgment brought a paradigm shift in the welfare status of animals. The Supreme Court examine the legality of Jallikattu (A traditional practice in south India), and the court held that “animals are not mere objects or property, but living beings possessing intrinsic worth and dignity.” The court also held that Article 21 also includes animal rights in a limited sense. This judgment recognized internationally accepted “five freedoms” of animals such as freedom from pain, fear, hunger, thirst and to express normal behavior. Articles 21, 48A and 51A(g) uplifted animal welfare to a constitutional value.⁷

⁶ (2014) 7 SCC 547 (SC)

⁷ *Animal Welfare Board of India v A Nagaraja* (2014) 7 SCC 547 (SC)

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- ***Maneka Gandhi v Union of India***⁸

This case helped in defining the word “life” under article 21. Even though it does not relate to animal welfare, but it gives the meaning of life as it does not simply mean mere existence but includes right to live with dignity. It indirectly aids in dynamic development of animal rights and extension of the concept of living with dignity to animal welfare as it will be the first step to interpret the meaning of life while dealing in matters of animal welfare.⁹

- ***N R Nair v Union of India***¹⁰

A notification by the Ministry of Environment and Forest of Indian Government stated that “bears, monkeys, tiger, panther, and lions shall not be exhibited and trained as performing animals.” This notification was questioned in Supreme Court of India and the supreme court of India gave that “Animals that are showcased or exploited for amusement purposes are prone to cruelty and sufferings. They are tortured and kept in cages and therefore this act violates Prevention of Cruelty to Animals Act, 1960. The petitioner contended that such judgement by court is an infringement of their fundamental rights under article 19(1) (g) of the Indian constitution as to carry out financial trade or business. The Court refused this justification as such activities that caused pain and agony to any animal would not be allowed.”¹¹

- ***People for Ethical Treatment of Animals v Union of India***¹²

In this judgement the court focused on the treatment of animals by humans and said that there should be humane treatment of animals and acts of suffering and pain to be prevented. The court also said that there should be stricter implementation of laws related to animal welfare and the constitutional principles which talk about prevention of atrocities and animal abuse. It gave that

⁸ (1978) 1 SCC 248 (SC)

⁹ *Maneka Gandhi v Union of India* (1978) 1 SCC 248 (SC)

¹⁰ (2001) 8 SCC 84 (SC)

¹¹ *N R Nair v Union of India* (2001) 8 SCC 84 (SC)

¹² 2004 SCC 892

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the principles under the constitution related to compassion and kindness towards animals should be empowered and promoted in the society.¹³

- *State of Gujarat v Mirzapur Moti Kureshi Kassab Jamat*¹⁴

In this judgment the Supreme Court kept the animal preservation and welfare as very crucial dimension of public interest and supported it by Article 48 of the Indian constitution which gives that it is the duty of the State to preserve the agriculture and animal husbandry. It gives states duty to preserve the breeds and improve the breeds, it focuses on prevention of slaughter of cows, calves, milch and draught animals. It also provides states duty to agricultural development. Although, the directive principles are not justiciable but, it creates a deep impression in the field of animal welfare and preservation.¹⁵

The above judgments reflect the intent of judiciary and constitution about animal welfare and preservation, which show gradual shift in development of animal welfare and preservation. It depicts the increasing constitutional value of dignified life of animals and dynamic approach towards sensitive issues involving animals.

3.ANIMAL DIGNITY UNDER ARTICLE 21 AND ITS LEGALLIMITATIONS

The idea of dignity, central to Article 21, has been broadened by the judiciary to include animals, changing the conversation about animal welfare in India. Customarily, dignity is something which has been considered as inherent to humanity. In simple terms, it provides that the life of any individual should be without humiliation, pain, agony, and suffering. In the present time constitutional jurisprudence and judiciary have evolved and started considering animals as sentient beings and they also feel various emotions such as fear, pain, love, excitement, and distress. As They also need to live according to basic standards of dignity which every living being having emotions deserves.

The Animal Welfare Board of India v A Nagaraja case was one of the foundational stone in the animal welfare and preservation in which the Court recognized that animals have intrinsic worth

¹³*People for Ethical Treatment of Animals v Union of India* 2004 SCC On-line Del 892

¹⁴ (2005) 8 SCC 534 (SC)

¹⁵*State of Gujarat v Mirzapur Moti Kureshi Kassab Jamat* (2005) 8 SCC 534 (SC)

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and are entitled to live with respect and dignity. The court addressed that if any animal goes through any pain which is unnecessary or any kind of cruel treatment which may include physical torture, it violates both constitutional values as well as the provisions of animal welfare law. (Article 21, 48A and 51A(g)). It was a shift towards identifying dignity as an intrinsic value that surpasses species lines, even if nothing was formally identified as a basic right for animals.¹⁶

Various practical implications of the recognition of animal dignity can be seen in different circumstances like inhumane or barbaric practices, norms related to animal transport and the use of animals in amusement activities, for example, monkey dancing, elephant rides, keeping them caged for their life etc. Keeping animals confined in vulnerable conditions, overloading them in vehicles such as stuffing objects have been observed with a view of dignity and welfare. However, these judgements and notifications are serious efforts to ensure that animals are treated like living beings rather than being treated as objects or property.

In spite of continuous dynamic developments there exist certain legal limitations. Among these multiple challenges and limitations, the recognition of animals as legal persons or direct holders of basic rights under constitution or any other law is a primary challenge. There is a pathway through which animal rights are being enforced, goes through state and human duties, which become more of obligations rather than directly enforceable rights. Here it creates inconsistencies in implementation as it solely depends on the willingness of individuals and authorities to execute such laws.

The current scenario of laws which deal with animal welfare and preservation is not as effective as it needs to be. The Prevention of Cruelty to Animals Act, 1960 has defined cruelty as beating, kicking, torturing, overloading, starving, abandoning, or using an unfit animal for work and such acts of cruelty are made punishable under the act but the punishments provided under the provisions of the act have very minimal impact or fails to act as an effective deterrent against cruelty. On the other hand, the classification of animals as property or objects under such laws weakens the legal standing. This classification depicts prioritization of human interest over animal interest.

¹⁶*Animal Welfare Board of India v A Nagaraja* (2014) 7 SCC 547 (SC)

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The duality of the system and law which on one side, considers animals as living beings and on the other side basic rights of dignified life is denied acts like an overstressed string which connects both. The progressive developments are made by judiciary but still a gap needs to be fulfilled which creates a void through explicit constitutional acknowledgment and a rigid structure of laws which can support and create a practical impact. With all these advancements in laws it appears that there is a dire need for coherent and right-based legal framework which can be practically implemented and provide effective protection on the ground level.

4. COMPARATIVE PERSPECTIVE

A comparison of animal welfare laws in different countries shows that there are significant differences in how various legal systems treat animals. In India, the approach mainly focuses on their welfare through constitutional principles, but they are not direct rights holders. Judgments such as *Animal Welfare Board of India v A Nagaraja* expanded the scope and brought light to the aspect of considering animals as living beings focusing on humane treatment and dignified life. Even after all such developments, animals lack explicit legal personhood.¹⁷

Whereas, in the United States of America, which follows a similar structure as compared to India, that is welfare-based approach like India, the structure which enforces animal welfare law in United States is superior and functions in a much better way. This can be seen that if we compare both the countries, they have similar approaches, but India has a better set of principles and United States has better execution policies. The animal welfare law lacks behind because of poor implementation.

On the other hand, Germany included animal protection in Constitution by 2002 amendment which created a direct duty on the state and a legal priority. The approach in Germany is rights-oriented and based on the principle of dignity which provides serious legal protection to animals. Here strict laws and proper implementation of laws make the system efficient, and strong penalties act as deterrent factor.

The approach that United Kingdom follows is preventive and is based on a duty of care. The owner of the animal has a legal duty to properly take care of the animal. In UK the law is

¹⁷*Animal Welfare Board of India v A Nagaraja* (2014) 7 SCC 547 (SC)

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preventive in nature that is it intervenes before any cruelty happens. They also have strict penalties to check offences against animals as well as strong enforcement system which makes animal welfare and preservation machinery smooth. The major comparison between India and UK is that India is stronger in terms of principles and UK is stronger in terms of practical application of laws.

The most advanced and strongest welfare laws belong to Switzerland where the dignity of animals is recognized, and the law explicitly provides that animals are to be treated with dignity and respect. The approach is right-oriented and dignity-based. The laws are detailed and include various aspects related to animals such as housing, transport, social needs etc. Like other countries, they also have stricter implementation and high penalties. Even keeping social animals like dogs and cats alone is considered illegal. India and Switzerland have different welfare policies wherein Switzerland there is a direct recognition of dignity is given, while in India it was from the judiciary and an indirect approach.

5. CONCLUSION

The issue of whether animals fall within the scope of Article 21 of the Indian Constitution has evolved significantly over time in constitutional jurisprudence. Although the Constitution does not explicitly recognize animals as holders of fundamental rights, nor does it directly mention them, it guarantees the right to 'life,' a concept that has been progressively interpreted in a broader and more dynamic manner beyond a strictly human-centric understanding. By reading Articles 21, 48A, and 51A(g) together in a harmonious way, it becomes evident that the protection and welfare of animals are not confined to statutory provisions alone but are firmly grounded within the constitutional framework of India.

Over the last three decades the constitutional courts in India have been slowly recognizing the inherent value of animals and their entitlement to live with dignity. The decision in Animal Welfare Board of India v. A. Nagaraja and others which prohibited captive combustion of wild animals for human entertainment, was one such step in this journey that slowly put to rest the idea of treating animals as mere property. At the very least the decision concretely reaffirmed the 'five freedoms of animals recognized by many animal welfare societies and organizations all over the world, in the context of our Constitution.

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Despite all these reforms, our laws are still very far from animal rights. Firstly, no animal is recognized as a legal person or end holder of constitutional rights. Hence, their rights are only protected indirectly through the duties of their human counterparts and the actions of the State. Secondly, the majority of animal protection laws are out of tune with modern times and do not provide adequate protection. Most are antiquated and have failed to keep pace with the transformation of society. The Prevention of Cruelty to Animals Act, 1960 for instance is a woefully inadequate piece of legislation. Its punishment is barely sufficient to deter any cruelty, and its scope is limited to barely covering the sphere of animals commonly kept as pets and livestock.

This paradox exists within the current legislative regime, which recognizes that animals are sentient beings with inherent dignity, yet do not possess rights which can be enforced to ensure their adequate protection. Although it may not be possible to grant animals the same fundamental rights as those afforded to humans in the immediate future, it is arguable that there are some basic rights which should be acknowledged and granted within a clear legal framework. The right to live in a world where there is no avoidable suffering or cruelty would be a good starting point.

Judiciary and legislature in India have to stride together in ensuring better animal protection. While judiciary will have to interpret Article 21 in a larger meaning, the legislature would require overhauling the existing legislation in the animal sector with new and robust policies and regulations. Enhanced awareness amongst the public and proper implementation of the law would be crucial in this aspect as well.

The inclusion of animals within the broader spirit of Article 21 marks an important legal development reflective of changing societal ethics towards greater compassion and care of non-human creatures towards the realization of a just and civilized society. The future of animal welfare jurisprudence in India depends greatly on the gap between its recognition and its effective enforcement, translating constitutional compassion to substantive legal rights.

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