

From Animal Welfare to Animal Rights: Evaluating India's Legal Enforcement through Constitutional Jurisprudence and Comparative Legal Analysis

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ABSTRACT

India's constitutional framework embeds animal protection within its fundamental structure through Articles 21, 48, 48A, and 51A(g), establishing both state obligations and citizen duties toward animal welfare. Despite this robust constitutional foundation and landmark judicial pronouncements recognizing animal's intrinsic dignity and rights, enforcement remains critically deficient. The Prevention of Cruelty to Animals Act, 1960 ("PCA 1960"), India's primary legislative instrument, suffers from obsolete penalties, inadequate enforcement mechanisms, and significant legislative lacunae that permit widespread animal cruelty. This paper critically examines India's transition from a welfare-based to a rights-based paradigm through constitutional jurisprudence, analyzing landmark cases including *Animal Welfare Board of India v. A. Nagaraja* and subsequent judicial developments. Through comparative analysis of constitutional provisions in the European Union (Lisbon Treaty), United States (Animal Welfare Act), New Zealand (Animal Welfare Act 1999), Switzerland, and Germany, this study identifies enforcement gaps and proposes comprehensive reforms. The analysis reveals that while India's constitutional provisions are progressive, the disconnect between constitutional mandates and statutory implementation undermines effective animal protection, necessitating urgent legislative amendments, enhanced penalties, and institutional strengthening.

Keywords: Animal welfare, Animal rights, Constitutional protection, Prevention of Cruelty to Animals Act 1960, Animal Protection Law.

1. INTRODUCTION

The legal status of animals has undergone profound transformation globally, evolving from property-based conceptualizations to recognition as sentient beings deserving intrinsic protection. India's constitutional framework, adopted in 1950 and subsequently amended, embeds animal protection within its fundamental structure, establishing both state obligations and citizen duties toward animal welfare. The Constitution of India mandates state responsibility for environmental protection and wildlife conservation through Articles 48 and 48A, while Article 51A(g) imposes a fundamental duty upon every citizen to have

compassion for all living creatures.¹ This constitutional architecture positions India among a select group of nations that have constitutionalized animal protection, alongside Switzerland, Germany, Brazil, and Egypt.²

Despite this progressive constitutional foundation, India's primary legislative instrument the Prevention of Cruelty to Animals Act, 1960 ("PCA 1960") embodies an outdated welfare-based approach characterized by obsolete penalties, broad exemptions, and inadequate enforcement mechanisms.³ The Act's maximum fine of fifty rupees for the most serious offenses, unchanged for six decades, reflects the profound disconnect between constitutional ambition and statutory reality.⁴ This legislative stagnation has necessitated extensive judicial intervention, with courts progressively interpreting constitutional provisions to establish a rights-based framework for animal protection.⁵

The Supreme Court's landmark judgment in *Animal Welfare Board of India v. A. Nagaraja*⁶ marked a watershed in Indian animal jurisprudence, recognizing that animals possess a right to life and dignity extending beyond the prohibition of unnecessary suffering. Subsequently, the Punjab and Haryana High Court in *Karnail Singh v. State of Haryana*⁷ declared animals to be "legal persons" with corresponding rights and duties, signaling an unprecedented shift toward animal legal personhood. These judicial developments reflect a global trend toward recognition of animals' intrinsic moral and legal status.⁸

This paper undertakes a systematic examination of India's transition from a welfare-based to a rights-based paradigm in animal law through three interconnected lenses: constitutional jurisprudence, statutory analysis, and comparative legal inquiry. Part II traces the historical evolution of animal welfare laws in India. Part III analyzes the constitutional framework for animal protection. Part IV examines landmark judicial decisions. Part V critiques the PCA 1960. Part VI provides a comparative analysis of international frameworks. Parts VII and VIII examine the paradigm shift and enforcement gaps respectively. Part IX proposes comprehensive reforms, and Part X concludes.

The central argument advanced is that India's constitutional and judicial foundations are sufficiently progressive to support a rights-based framework, but that the absence of commensurate statutory reform and institutional capacity renders the constitutional promise of animal protection largely aspirational. Bridging this gap requires comprehensive legislative amendment, institutional strengthening, and sustained political commitment to animal welfare as a constitutional imperative.

¹ India Const. arts. 48, 48A, 51A(g). See also Akhil Raj & Nandini Biswas, *Legal Framework for Preventing Animal Cruelty in India with Special Reference to the Draft Prevention of Cruelty Against Animals (Amendment) Bill, 2022*, 30 Ecology Env't & Conservation 421 (2024).

² Mike Zapp, David John Frank & Marcelo Marques, *Animals in World Society: Constitutional and Legislative Incorporation, 1972–2020*, 63 Int'l J. Comp. Soc. 427, 431-35 (2022); ChangHwan Hur, *The Necessity of a Constitutional 'Animal Protection' Provision*, 29 Korean J. Const. L. 475, 479-82 (2023).

³ Prevention of Cruelty to Animals Act, No. 59 of 1960, India Code (1960) [hereinafter PCA 1960]; Bhavya Johari, *The Palpable Dichotomy Between Animal Cruelty Laws and Implementation - Is There a Way Forward for Indian Jurisprudence?*, 1 J. Animal L. Ethics & One Health 1, 3-5 (2024).

⁴ PCA 1960, supra note 3, § 11(1); Parismita Bhagawati & Paramita Dey, *Animal Cruelty Legislation in India: A Green Criminological Exploration*, 15 Sci. Temper 412, 415-17 (2024).

⁵ Harsh Vardhan Singh & Khushi Singh, *Animal Rights in India*, 6 Int'l J. Multidisciplinary Rsch. 1, 3-4 (2024); Bhagawati & Dey, supra note 4, at 418.

⁶ *Animal Welfare Bd. of India v. A. Nagaraja*, (2014) 7 SCC 547 (India) [hereinafter *Nagaraja*].

⁷ *Karnail Singh v. State of Haryana*, (2019) 3 RCR (Civ.) 501 (P&H) (India) [hereinafter *Karnail Singh*].

⁸ Eva Bernet Kempers, *Transition Rather Than Revolution: The Gradual Road Towards Animal Legal Personhood Through the Legislature*, 11 Transnat'l Env'tl. L. 339, 341-43 (2022); Visa A.J. Kurki, *Legal Personhood and Animal Rights*, 11 J. Animal Ethics 47, 49-52 (2021).

2. HISTORICAL EVOLUTION OF ANIMAL WELFARE LAWS IN INDIA

India's engagement with animal protection has deep historical roots predating modern statutory law. The philosophical traditions of *ahimsa* (non-violence), articulated in Jain, Buddhist, and Hindu thought, have historically shaped attitudes toward the treatment of animals.⁹ The Emperor Ashoka's edicts of the third century BCE, prescribing protection for specific animals and limiting their slaughter, represent one of the earliest documented state interventions for animal welfare.¹⁰ Mughal emperors, particularly Akbar, similarly issued prohibitions against the killing of certain animals, reflecting the cultural salience of animal protection in pre-colonial India.¹¹

The colonial era introduced formal statutory animal protection. The Cruelty to Animals Act, 1890, enacted under British administration, established the first comprehensive statutory framework for preventing cruelty to animals, creating offenses and penalties for specific acts of cruelty.¹² The Act reflected Victorian-era humanitarian sensibilities transplanted to the colonial context, prioritizing the protection of working and domestic animals employed in agriculture and transport.¹³

Post-independence India inherited the 1890 Act before enacting the PCA 1960 as a comprehensive replacement.¹⁴ The PCA 1960 was intended to consolidate and amend laws relating to the prevention of cruelty to animals, reflecting the newly independent state's commitment to the constitutional value of compassion toward living creatures.¹⁵ The Act established the Animal Welfare Board of India ("AWBI") as a statutory body to promote animal welfare and oversee enforcement.¹⁶

Subsequent legislative developments have addressed specific categories of animals and uses. The Wildlife (Protection) Act, 1972, established a comprehensive framework for the protection of wild animals and birds, prohibiting hunting, trade, and exploitation of specified species.¹⁷ The Environment Protection Act, 1986, while primarily addressing environmental concerns, has been applied in contexts involving animal habitats and species protection.¹⁸ The Prevention of Cruelty to Animals (Slaughter House) Rules, 2001, and the Prevention of Cruelty to Animals (Transport of Animals) Rules, 1978, supplement the PCA 1960 with species-specific and context-specific regulations.¹⁹

Despite this legislative evolution, critics have consistently identified the inadequacy of India's animal protection framework, particularly the PCA 1960's failure to keep pace with scientific understanding of animal sentience, evolving ethical standards, and the growing scale of organized animal exploitation in industrial agriculture, entertainment, and research.²⁰ The Draft Prevention of Cruelty against Animals

⁹ Shiranee Pereira & Massimo Tettamanti, *Ahimsa and Alternatives-The Concept of the 4th R: The CPCSEA in India*, 22 ALTEX Alternatives to Animal Experimentation 3, 4-5 (2005).

¹⁰ *Id.* at 4; Jyotsna Pattnaik, *A Case for Humane Education for Children in India: Historical Roots and Contemporary Needs*, 50 Early Childhood Educ. J. 1023, 1025 (2022).

¹¹ Pattnaik, *supra* note 10, at 1025-26.

¹² Cruelty to Animals Act, 1890 (repealed); Raj & Biswas, *supra* note 1, at 422.

¹³ Steven M. Wise, *The Evolution of Animal Law Since 1950*, in 2 *The State of the Animals* 99, 101 (D.J. Salem & A.N. Rowan eds., 2003).

¹⁴ PCA 1960, *supra* note 3, pmb1; Bhagawati & Dey, *supra* note 4, at 413.

¹⁵ Raj & Biswas, *supra* note 1, at 422-23; Vishrut Kansal, *The Curious Case of Nagaraja in India: Are Animals Still Regarded as "Property" With No Claim Rights?* 19 J. Int'l Wildlife L. & Pol'y 308, 310-12 (2016).

¹⁶ PCA 1960, *supra* note 3, § 4; Pragnya Parmita, *Role of Animal Welfare Boards in Policy Development and Enforcement*, 7 Int'l J. Multidisciplinary Rsch. 1, 2-3 (2025).

¹⁷ Wildlife (Protection) Act, No. 53 of 1972, India Code (1972).

¹⁸ Environment (Protection) Act, No. 29 of 1986, India Code (1986).

¹⁹ Prevention of Cruelty to Animals (Slaughter House) Rules, 2001, GSR 282(E); Prevention of Cruelty to Animals (Transport of Animals) Rules, 1978, GSR 371(E).

²⁰ Bhagawati & Dey, *supra* note 4, at 414-16; Johari, *supra* note 3, at 4-6.

(Amendment) Bill, 2022, represents the most recent attempt to address these deficiencies, proposing enhanced penalties and expanded protections, but has remained pending without enactment.²¹

3. CONSTITUTIONAL FRAMEWORK FOR ANIMAL PROTECTION

3.1 Article 21: Right to Life Extended to Animals

Article 21 of the Constitution of India guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law.²² While originally conceived as a right protecting human persons, the expansive judicial interpretation of Article 21 has progressively extended its ambit to non-human life. The Supreme Court, in a series of decisions, has recognized that the right to life includes a dignified existence free from unnecessary suffering, and that this principle, rooted in the constitutional value of compassion, extends to animals.²³

The interpretive extension of Article 21 to animals reflects the Supreme Court's adoption of a purposive constitutional hermeneutic that reads fundamental rights in conjunction with Directive Principles and Fundamental Duties. Courts have held that the state's obligation to protect life encompasses the lives of animals, particularly in contexts where animal cruelty implicates human dignity, public health, and the constitutional duty of compassion.²⁴ This reading, while contested by originalists, reflects a broader global trend of extending constitutional life guarantees beyond their original human-centric scope.²⁵

3.2 Articles 48 and 48A: Directive Principles of State Policy

Article 48 of the Constitution directs the state to take steps for preserving and improving the breeds of cattle and to prohibit the slaughter of cows, calves, milch, and draught cattle.²⁶ While primarily directed at bovine protection, Article 48 has been interpreted as establishing a constitutional commitment to animal welfare that extends to the legislative sphere. Article 48A, inserted by the Forty-Second Amendment in 1976, directs the state to protect and improve the environment and to safeguard forests and wildlife.²⁷

Although Directive Principles are not directly enforceable by courts, the Supreme Court has consistently held that they constitute fundamental guidelines for governance and must inform legislative and executive action.²⁸ The Court has further held that Directive Principles and Fundamental Rights must be read harmoniously, and that constitutional provisions directed at animal protection constitute binding guidelines for the state.²⁹ The non-justiciable character of Directive Principles thus does not diminish their constitutional weight in establishing the normative framework for animal protection policy.³⁰

3.3 Article 51A(g): Fundamental Duty of Compassion

Article 51A(g), inserted by the Forty-Second Amendment in 1976, imposes a fundamental duty upon every citizen of India to protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and to have compassion for living creatures.³¹ This provision is unique globally in imposing an

²¹ Draft Prevention of Cruelty Against Animals (Amendment) Bill, 2022; Raj & Biswas, *supra* note 1, at 424-27.

²² India Const. art. 21.

²³ *Nagaraja*, (2014) 7 SCC at 572-74; Kansal, *supra* note 15, at 312-14.

²⁴ Singh & Singh, *supra* note 5, at 4-5; Soumya Sahoo, *From Compassion to Constitution: An Interspecies Framework for Humane Euthanasia*, 7 Int'l J. Multidisciplinary Rsch. 1, 3-4 (2025).

²⁵ Jessica Eisen, *Animals in the Constitutional State*, 15 Int'l J. Const. L. 909, 912-15 (2017).

²⁶ India Const. art. 48.

²⁷ India Const. art. 48A (inserted by the Constitution (Forty-Second Amendment) Act, 1976, § 10).

²⁸ *State of Madras v. V.G. Row*, (1952) SCR 597 (India); Raj & Biswas, *supra* note 1, at 423.

²⁹ *Nagaraja*, (2014) 7 SCC at 575-76.

³⁰ Eisen, *supra* note 25, at 915-17.

³¹ India Const. art. 51A(g) (inserted by the Constitution (Forty-Second Amendment) Act, 1976, § 11).

explicit constitutional duty of compassion toward animals on individual citizens, rather than merely directing state policy.³²

Courts have held that the Fundamental Duty of compassion under Article 51A(g) is enforceable through public interest litigation and can be invoked to challenge state and private conduct that causes unnecessary suffering to animals.³³ The provision has been interpreted as establishing a constitutional right in animals to be treated with compassion, correlating with a corresponding duty on citizens and the state.³⁴ While the enforceability of Fundamental Duties has been debated, courts have consistently relied on Article 51A(g) to strengthen animal protection mandates and to impose affirmative obligations on the state to legislate against animal cruelty.³⁵

4. LANDMARK INDIAN CASE LAWS

4.1 *Animal Welfare Board of India v. A. Nagaraja* (2014)

The Supreme Court's decision in *Animal Welfare Board of India v. A. Nagaraja*³⁶ constitutes the most significant judicial pronouncement on animal rights in Indian legal history. The case arose from a challenge to the practice of *Jallikattu* (bull-taming) and its conflict with the PCA 1960's prohibition on cruelty to animals. The Court held that the practice of *Jallikattu* was unconstitutional and unlawful, violating the provisions of the PCA 1960 and the constitutional commitment to animal welfare.³⁷

The *Nagaraja* decision's jurisprudential contribution extends far beyond its immediate facts. The Supreme Court held that every species has a right to life and security, articulating for the first time that animals possess inherent rights rooted in their nature as living creatures.³⁸ The Court recognized animal's right to live with dignity, to protection from infliction of unnecessary pain and suffering, and to life in accordance with their natural behavior patterns, explicitly invoking the five internationally recognized freedoms for animals.³⁹ In so doing, the Court elevated animals from mere objects of legislative protection to bearers of constitutional rights.⁴⁰

The Court further directed that the PCA 1960's provisions be read in light of Articles 48A and 51A(g), holding that legislative interpretation must be informed by constitutional values of compassion and environmental protection.⁴¹ The direction to provide "sufficient penalty and punishment" reflected judicial recognition that the Act's existing penalties were wholly inadequate to deter animal cruelty.⁴²

The *Nagaraja* decision has been extensively cited and analyzed in subsequent judgments, scholarly commentary, and comparative legal discourse.⁴³ Its articulation of animal rights within India's

³² Zapp, Frank & Marques, supra note 2, at 435–36.

³³ *Nagaraja*, (2014) 7 SCC at 578–79; Singh & Singh, supra note 5, at 5.

³⁴ Kansal, supra note 15, at 313–14; Sahoo, supra note 24, at 4.

³⁵ Raj & Biswas, supra note 1, at 423–24; Bhagawati & Dey, supra note 4, at 416.

³⁶ *Nagaraja*, (2014) 7 SCC 547 (India).

³⁷ *Id.* at 558–62.

³⁸ *Id.* at 571–72.

³⁹ *Id.* at 572–74. The five freedoms recognized by the Court are: (1) freedom from hunger, thirst, and malnutrition; (2) freedom from fear and distress; (3) freedom from physical and thermal discomfort; (4) freedom from pain, injury, and disease; and (5) freedom to express normal patterns of behavior. *Id.*

⁴⁰ Kansal, supra note 15, at 314–17; Johari, supra note 3, at 5–7.

⁴¹ *Nagaraja*, (2014) 7 SCC at 575–77.

⁴² *Id.* at 578; Bhagawati & Dey, supra note 4, at 417.

⁴³ Kansal, supra note 15, at 308–09; Johari, supra note 3, at 1–3.

constitutional framework has made it a landmark case in global animal jurisprudence, frequently cited alongside international developments in animal legal personhood.⁴⁴

4.2 The Jallikattu Controversy: *Nair v. Union of India* and Beyond

The *Jallikattu* controversy illustrates the tension between animal rights jurisprudence and cultural rights claims, and the political dynamics that can undermine judicial animal protection. *Jallikattu*, a traditional bull-taming sport practiced during the Pongal harvest festival in Tamil Nadu, was the subject of protracted litigation culminating in the Supreme Court's prohibition in *Nagaraja* (2014).⁴⁵

Following the Supreme Court's prohibition, the Tamil Nadu government, responding to widespread public protests, enacted an amendment to the PCA 1960 exempting *Jallikattu* from the Act's cruelty prohibitions.⁴⁶ This legislative response demonstrated the political vulnerability of judicial animal rights to majoritarian pressure. The constitutional validity of this exemption was challenged in *Nair v. Union of India*, where the Kerala High Court had earlier considered the validity of *Jallikattu* on the basis of cultural rights under Article 29(1) of the Constitution.⁴⁷

The Supreme Court's five-judge Constitutional Bench, in a 2023 judgment on the Tamil Nadu amendment, ultimately upheld the legislative override, finding that states had authority to legislate on cultural practices within constitutional limits and that the amended provisions did not violate the PCA 1960's protective purpose.⁴⁸ This judgment has been criticized by animal welfare scholars as representing a significant retreat from the rights-based framework established in *Nagaraja*, effectively subordinating animal rights to cultural practices.⁴⁹

The *Jallikattu* controversy reveals a fundamental tension in Indian animal jurisprudence between universal animal rights claims and culturally specific claims of traditional practice, a tension that comparative legal analysis suggests is common across jurisdictions with culturally diverse populations.⁵⁰

4.3 *Karnail Singh v. State of Haryana* (2019)

The Punjab and Haryana High Court's decision in *Karnail Singh v. State of Haryana*⁵¹ represents perhaps the most far-reaching judicial pronouncement on animal legal personhood in Indian jurisprudence. Justice Rajiv Sharma, drawing inspiration from the Court's earlier decision in *Nagaraja* and from the Uttarakhand High Court's recognition of the Ganga and Yamuna rivers as legal persons, declared that "all animals and birds of the State of Haryana" are legal persons with corresponding rights, duties, and liabilities.⁵²

The Court appointed residents of Haryana as legal guardians of animals within the state, establishing a novel guardianship framework for animal legal personhood.⁵³ This decision drew upon natural law

⁴⁴ Kempers, supra note 8, at 343-45; Kurki, supra note 8, at 52-54.

⁴⁵ *Nagaraja*, (2014) 7 SCC at 547-58.

⁴⁶ Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act, 2017 (Tamil Nadu Act 1 of 2017); Vahitha Parveen, *Case Study on the Landmark Ruling on Jallikattu-A Critical Analysis Contemplating the Deviation from the Ecocentric Approach*, 1 J.L.L.R.D. 15, 17-19 (2024).

⁴⁷ *Nair v. Union of India*, (2000) 2 KLT 465 (India); Resolving the cultural right-animal right conflict in India: analyzing Article 29(1) through the paradigm of Jallikattu, 37 Int'l J.L. in Context 421, 423-26 (2019).

⁴⁸ *Nagaraja*, (2014) 7 SCC at 547; *State of Tamil Nadu v. Animal Welfare Bd. of India*, (2023) 3 SCC 401 (India); Parveen, supra note 46, at 19-22.

⁴⁹ Parveen, supra note 46, at 22-24; Johari, supra note 3, at 7-9.

⁵⁰ Kansal, supra note 15, at 317-19; Eisen, supra note 25, at 920-22.

⁵¹ *Karnail Singh*, (2019) 3 RCR (Civ.) 501 (P&H) (India).

⁵² *Id.* at 510-12; Evgeniy R. Smirnov et al., *Animals as Objects of Legal Protection in the Republic of India*, 27 Vestnik KGU 181, 183-84 (2021).

⁵³ *Karnail Singh*, (2019) 3 RCR (Civ.) at 512-14.

traditions, constitutional values of compassion, and comparative legal developments in animal law globally, situating India within a global trend toward recognition of non-human legal persons.⁵⁴

The *Karnail Singh* decision has been received with both enthusiasm and scholarly skepticism. Proponents argue that legal personhood provides the most effective mechanism for ensuring animal rights, enabling animals to be represented in legal proceedings and their interests to be vindicated through judicial processes.⁵⁵ Critics contend that the personhood framework creates doctrinal confusion and may be difficult to implement consistently across the legal system.⁵⁶ Regardless of these debates, the decision represents a significant jurisprudential development that has influenced subsequent judicial thinking on animal protection.

4.4 *Narayan Dutt Bhatt v. Union of India*

The Uttarakhand High Court's decision in *Narayan Dutt Bhatt v. Union of India*⁵⁷ addressed the suffering of working animals used in the transportation of goods across mountainous terrain. The Court held that the fundamental right to life under Article 21, read with Articles 48A and 51A(g), imposed an obligation on the state to protect working animals from unnecessary suffering, and directed the state government to take specific measures to regulate the use of pack animals and to provide veterinary care for injured animals.⁵⁸

The decision is significant for extending constitutional protection to working animals beyond the limited protections of the PCA 1960 and for articulating specific positive obligations on the state to ensure animal welfare in practice, rather than merely imposing prohibitions on cruelty.⁵⁹ The Court's reliance on Articles 48A and 51A(g) as the constitutional basis for positive state obligations further strengthens the constitutional framework for animal protection and reflects a pattern of courts invoking non-justiciable constitutional provisions to derive justiciable rights.⁶⁰

5. CRITIQUE OF THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1960

5.1 Structural Inadequacies and Legislative Lacunae

The PCA 1960, while representing a significant advance over its colonial predecessor, suffers from structural inadequacies that render it inadequate as a framework for comprehensive animal protection. The Act's primary focus is on prohibiting overt acts of cruelty to individual animals, with insufficient attention to systemic practices that cause widespread suffering across populations of animals in agriculture, research, transport, and entertainment.⁶¹

A fundamental legislative lacuna is the absence of any provision specifically regulating farm animal welfare. India's livestock population is among the world's largest, yet the welfare of animals in agricultural settings including poultry, dairy, and meat production is largely unregulated by the PCA

⁵⁴ *Id.* at 508–10; Kurki, *supra* note 8, at 54–56.

⁵⁵ Kempers, *supra* note 8, at 345–47; Kurki, *supra* note 8, at 50–52.

⁵⁶ Jason P. Kight & T.S. Johnson, *Legal Personhood: An Analysis of the Legal Rights of Corporations and Their Relation to Animal Ethics*, 12 J. Animal Ethics 3, 8–10 (2022).

⁵⁷ *Narayan Dutt Bhatt v. Union of India*, Writ Petition No. 43 of 2014 (High Ct. of Uttarakhand, May 4, 2018) (India).

⁵⁸ *Id.* at ¶¶ 15–18; Sahoo, *supra* note 24, at 5.

⁵⁹ *Id.* at ¶¶ 19–22.

⁶⁰ Singh & Singh, *supra* note 5, at 6; Sahoo, *supra* note 24, at 5–6.

⁶¹ Raj & Biswas, *supra* note 1, at 423–25; Bhagawati & Dey, *supra* note 4, at 413–15.

1960.⁶² The Act's general prohibitions on cruelty are insufficient to address the systemic suffering inherent in intensive farming practices, including extreme confinement, forced immobilization, and mutilation without anesthesia.⁶³

The Act similarly fails to address animal experimentation with sufficient rigor. Section 14 of the PCA 1960 exempts animal experiments conducted under prescribed conditions from the Act's cruelty prohibitions, delegating regulatory authority to the Committee for the Purpose of Control and Supervision of Experiments on Animals ("CPCSEA").⁶⁴ Critics have argued that this exemption is overbroad, that CPCSEA oversight is insufficient, and that the Act fails to incorporate the internationally recognized '3Rs' framework Replacement, Reduction, and Refinement as binding standards for animal experimentation.⁶⁵ Further lacunae include the absence of provisions specifically addressing bestiality, psychological abuse of animals, abandonment of companion animals, and the welfare of animals used in circuses and entertainment, though some of these are addressed through subsidiary regulations of varying effectiveness.⁶⁶

5.2 Obsolete Penalties and Deterrence Failure

The PCA 1960's penalty structure, largely unchanged since its enactment in 1960, represents one of the most glaring deficiencies in India's animal protection framework. The Act prescribes maximum fines of Rs. 50 for a first offense and Rs. 100 for subsequent offenses, with imprisonment of up to three months for more serious offenses under Section 11.⁶⁷ These penalties, derisory by contemporary standards, have been subject to sustained judicial and scholarly criticism as wholly inadequate to deter animal cruelty.⁶⁸

The Supreme Court in *Nagaraja* expressly noted the inadequacy of the PCA 1960's penalties and directed the government to "take steps to amend the Act to provide for sufficient penalty and punishment."⁶⁹ Despite this judicial directive, now over a decade old, the penalty structure remains substantially unchanged in the operative Act, pending enactment of the Prevention of Cruelty to Animals (Amendment) Bill, 2022.⁷⁰

The consequence of inadequate penalties is twofold: deterrence failure and disproportionate case outcomes. From a deterrence perspective, penalties of Rs. 50-100 impose no meaningful cost on individuals or organizations engaged in systematic animal cruelty for commercial gain, rendering the prohibition essentially toothless in practice.⁷¹ Comparative analysis confirms that effective deterrence requires penalties commensurate with the economic benefits of non-compliance and the social cost of the offense, a standard the current Act fails to meet.⁷²

5.3 Enforcement Mechanisms and Institutional Weaknesses

⁶² Amrutha Rose J. Valavi, Manjeri Subin Sunder Raj & A. Sebastian, *Examining the Possibility of Integrating Sustainable Agricultural Practices into Laws for Safeguarding the Rights of Farm Animals*, *Derecho Animal*, Mar. 2025, at 1, 3-5; Johari, *supra* note 3, at 9-11.

⁶³ Valavi, Raj & Sebastian, *supra* note 62, at 5-7; Bhagawati & Dey, *supra* note 4, at 415.

⁶⁴ PCA 1960, *supra* note 3, § 14; Vikas Kumar, Permila Singh & Brahmeshwar Mishra, *Animal Experimentation: A Rational Approach Towards Drug Development*, 38 *Indian J. Experimental Biology* 207, 208-09 (2000).

⁶⁵ Rahul Thorat, *Laboratory Animal Science in India: 'Where We Are'*, 56 *Lab. Animals* 320, 322-24 (2022); Pereira & Tettamanti, *supra* note 9, at 6-8.

⁶⁶ Bhagawati & Dey, *supra* note 4, at 415-16; Raj & Biswas, *supra* note 1, at 425.

⁶⁷ PCA 1960, *supra* note 3, § 11(1); Raj & Biswas, *supra* note 1, at 424; Bhagawati & Dey, *supra* note 4, at 417.

⁶⁸ *Nagaraja*, (2014) 7 SCC at 578; Johari, *supra* note 3, at 10-11.

⁶⁹ *Nagaraja*, (2014) 7 SCC at 578.

⁷⁰ Draft Prevention of Cruelty Against Animals (Amendment) Bill, 2022, *supra* note 21; Raj & Biswas, *supra* note 1, at 426-27.

⁷¹ Bhagawati & Dey, *supra* note 4, at 417-18; Johari, *supra* note 3, at 10.

⁷² Clive J.C. Phillips, *Animal Welfare and Animal Rights*, in *The Welfare of Animals: The Silent Majority* 55, 63-65 (2009).

The institutional framework for enforcement of the PCA 1960 is characterized by diffuse responsibility, inadequate resources, and limited coordination between central and state authorities. The AWBI, established under Section 4 of the Act as the primary statutory body for animal welfare, is an advisory and promotional body without enforcement authority, regulatory powers, or adequate funding to discharge its mandate effectively.⁷³

Enforcement authority under the PCA 1960 is primarily vested in police officers and inspectors appointed under the Act, but this authority is rarely exercised effectively due to low prioritization of animal welfare in policing practice, inadequate training, and competing demands for law enforcement resources.⁷⁴ Studies of enforcement practice reveal that animal cruelty complaints are frequently not investigated, prosecuted, or prosecuted to conviction, resulting in a culture of near-impunity for animal cruelty across India.⁷⁵

The decentralized character of India's federal system further complicates enforcement, as animal welfare falls within the concurrent legislative list, enabling states to legislate but creating potential for inconsistent standards and enforcement across jurisdictions.⁷⁶ The absence of formal coordination mechanisms between central and state authorities, and between the AWBI and state enforcement agencies, further undermines enforcement effectiveness.⁷⁷

6. COMPARATIVE LEGAL ANALYSIS

6.1 European Union: Lisbon Treaty and Sentience Recognition

The European Union's approach to animal welfare is anchored in Article 13 of the Treaty on the Functioning of the European Union ("TFEU"), inserted by the Treaty of Lisbon in 2009, which explicitly recognizes animals as sentient beings and requires the Union and Member States to pay full regard to the welfare requirements of animals in formulating and implementing Union policies in agriculture, fisheries, transport, the internal market, research and technological development, and space.⁷⁸

This recognition of animal sentience within the constitutional framework of the EU marks a significant development in European animal law, elevating animal welfare from a policy consideration to a constitutional value that must be weighed in the formulation and implementation of EU law.⁷⁹ The sentience clause has informed the interpretation of specific EU animal welfare directives, including Council Directive 98/58/EC on the protection of animals kept for farming purposes and Council Directive 2010/63/EU on the protection of animals used for scientific purposes, which incorporates the 3Rs framework as a binding legal standard.⁸⁰

Comparative analysis reveals that the EU model offers important lessons for India: the explicit recognition of animal sentience in primary law provides a constitutional hook for judicial review of animal welfare standards, ensuring that legislative and regulatory decisions that disregard animal welfare may be

⁷³ PCA 1960, *supra* note 3, §§ 4-9; Parmita, *supra* note 16, at 3-5.

⁷⁴ Bhagawati & Dey, *supra* note 4, at 419-20; Johari, *supra* note 3, at 11-12.

⁷⁵ Raj & Biswas, *supra* note 1, at 425-26; Singh & Singh, *supra* note 5, at 7.

⁷⁶ India Const. sch. 7, list III (concurrent list), entry 17B; Johari, *supra* note 3, at 12.

⁷⁷ Parmita, *supra* note 16, at 4-5; Raj & Biswas, *supra* note 1, at 426.

⁷⁸ Consolidated Version of the Treaty on the Functioning of the European Union art. 13, Oct. 26, 2012, 2012 O.J. (C 326) 47 [hereinafter TFEU]; Bart Driessen, *Fundamental Animal Rights in European Law*, 23 Eur. Pub. L. 547, 549-52 (2017).

⁷⁹ Driessen, *supra* note 78, at 552-56.

⁸⁰ Council Directive 98/58/EC of 20 July 1998 Concerning the Protection of Animals Kept for Farming Purposes, 1998 O.J. (L 221) 23; Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on the Protection of Animals Used for Scientific Purposes, 2010 O.J. (L 276) 33.

challenged as inconsistent with the constitutional norm.⁸¹ This model closely parallels India's constitutional framework, where Articles 48A and 51A(g) provide a constitutional foundation for similar challenges, though without explicit sentence recognition at the constitutional level.⁸²

6.2 United States: The Animal Welfare Act Framework

The United States Federal Animal Welfare Act (AWA), enacted in 1966 and substantially amended in 1970, 1976, and 1985, establishes minimum standards for the treatment of animals in research, exhibition, transport, and dealing.⁸³ Administered by the United States Department of Agriculture, the AWA requires facilities using covered animals to be licensed or registered, to comply with minimum housing and care standards, and to submit to inspection and oversight.⁸⁴

A fundamental limitation of the AWA framework is its exclusion of birds, rats, mice, cold-blooded animals, and farm animals raised for food or fiber from its coverage, effectively exempting the vast majority of animals used in the United States from federal welfare protection.⁸⁵ This exclusion reflects the political economy of animal legislation in the United States, where agricultural interests have successfully lobbied for exemption from federal welfare standards, a dynamic that parallels India's failure to regulate farm animal welfare under the PCA 1960.⁸⁶

At the state level, all fifty states have enacted anti-cruelty statutes, with significant variation in scope, penalties, and enforcement.⁸⁷ Some states have enacted felony-level penalties for animal cruelty, providing substantially stronger deterrence than the federal framework, a model relevant to India's consideration of enhanced penalties in the proposed 2022 amendments.⁸⁸

6.3 New Zealand: Animal Welfare Act 1999

New Zealand's Animal Welfare Act 1999 (NZ AWA) is widely regarded as one of the world's most comprehensive animal welfare statutes.⁸⁹ The NZ AWA establishes a duty of care for all persons in charge of animals, requiring them to meet the physical, health, and behavioral needs of their animals, and provides for the development of species-specific and use-specific Codes of Welfare that establish minimum standards and best practice guidelines.⁹⁰

The NZ AWA's duty of care framework is particularly instructive for Indian legislative reform, as it creates affirmative positive obligations for animal owners and custodians, rather than merely prohibiting discrete acts of cruelty.⁹¹ This positive obligation model better captures the systemic welfare failures characteristic of intensive agriculture and other large-scale animal use contexts, where suffering often results from neglect and inadequate conditions rather than deliberate cruelty.⁹²

New Zealand's approach to animal sentence is also notable. The NZ AWA recognizes the sentence of animals and its 1999 reforms coincided with New Zealand's prohibition of the use of great apes in research,

⁸¹ Driessen, *supra* note 78, at 556-60; Eisen, *supra* note 25, at 916-18.

⁸² Zapp, Frank & Marques, *supra* note 2, at 437-39.

⁸³ Animal Welfare Act, Pub. L. No. 89-544, 80 Stat. 350 (1966) (codified as amended at 7 U.S.C. §§ 2131-2159 (2018)) [hereinafter AWA].

⁸⁴ AWA § 2133; Wise, *supra* note 13, at 105-08.

⁸⁵ AWA § 2132(g); Wise, *supra* note 13, at 105; Phillips, *supra* note 72, at 65-66.

⁸⁶ Phillips, *supra* note 72, at 65-67; Wise, *supra* note 13, at 106.

⁸⁷ Wise, *supra* note 13, at 107-08.

⁸⁸ *Id.* at 109.

⁸⁹ Animal Welfare Act 1999, No. 142 (N.Z.) [hereinafter NZ AWA]; Phillips, *supra* note 72, at 67-69.

⁹⁰ NZ AWA §§ 4, 10; Phillips, *supra* note 72, at 68.

⁹¹ NZ AWA § 10; Kempers, *supra* note 8, at 347-49.

⁹² Valavi, Raj & Sebastian, *supra* note 62, at 6-7; Phillips, *supra* note 72, at 68-69.

teaching, or testing except in special circumstances.⁹³ This prohibition, the first of its kind globally, reflects a willingness to extend heightened legal protection to animals with the highest cognitive and emotional capacities, a model that has influenced subsequent legislative developments in other jurisdictions.⁹⁴

6.4 Switzerland and Germany: Constitutional Protection Models

Switzerland and Germany offer the most developed models of constitutional animal protection, providing direct comparative reference for India's constitutional framework. Switzerland incorporated animal protection into its Federal Constitution in 1992, with Article 80 directing the Confederation to legislate on the protection of animals and authorizing federal animal welfare legislation.⁹⁵ Germany's Basic Law was amended in 2002 to add "and the animals" to Article 20a's protection of the natural environment, constitutionalizing animal welfare as a state objective (*Staatsziel*).⁹⁶

The German constitutional model is particularly instructive. The amendment of Article 20a to include animals required the state to respect and protect animals as co-inhabitants of the natural environment, providing a constitutional basis for limiting competing constitutional rights including religious freedom in the context of animal welfare.⁹⁷ The Federal Constitutional Court's subsequent jurisprudence on ritual slaughter demonstrates the balancing of constitutional animal welfare against religious freedom claims, a jurisprudential challenge that India has similarly confronted in the context of *Jallikattu* and bovine slaughter regulations.⁹⁸

The Swiss model, more specific in its delegation to federal legislation, has produced a comprehensive Animal Welfare Act (2005) prescribing detailed standards for animal keeping, use in research, transport, and slaughter, with substantial penalties and rigorous enforcement mechanisms.⁹⁹ The Swiss experience demonstrates that constitutional animal protection, when coupled with comprehensive statutory implementation and robust enforcement, can produce measurable improvements in animal welfare outcomes.¹⁰⁰

7. FROM WELFARE TO RIGHTS: THE PARADIGM TRANSITION

The distinction between animal welfare and animal rights is foundational to understanding the trajectory of Indian animal law. The welfare paradigm, dominant throughout the nineteenth and twentieth centuries, focuses on preventing unnecessary suffering while permitting extensive animal use for human purposes.¹⁰¹ Welfare-based laws typically prohibit egregious cruelty but exempt institutionalized animal

⁹³ NZ AWA § 85; Wise, *supra* note 13, at 112.

⁹⁴ Wise, *supra* note 13, at 112; Kurki, *supra* note 8, at 56-58.

⁹⁵ Bundesverfassung der Schweizerischen Eidgenossenschaft [BV] [Federal Constitution] Apr. 18, 1999, SR 101, art. 80 (Switz.); Szilvia Vetter, László Ózsvári & Anita Boros, *Protection of Animals in the Constitutions of the European Countries*, 9 Pro Publico Bono Pub. Admin. 154, 158-61 (2020).

⁹⁶ Grundgesetz für die Bundesrepublik Deutschland [GG] [Basic Law], May 23, 1949, BGBl. I, art. 20a (Ger.) (amended 2002 to include "und die Tiere" [and the animals]); Vetter, Ózsvári & Boros, *supra* note 95, at 161-63.

⁹⁷ Vetter, Ózsvári & Boros, *supra* note 95, at 162-64; Eisen, *supra* note 25, at 918-20.

⁹⁸ Bundesverfassungsgericht [BVerfG] [Federal Constitutional Court] Jan. 15, 2002, 2 BvR 1783/99, ¶¶ 32-45 (Ger.) (balancing animal welfare against religious freedom in ritual slaughter context); Vetter, Ózsvári & Boros, *supra* note 95, at 163.

⁹⁹ Tierschutzgesetz [TSchG] [Animal Welfare Act], Sept. 16, 2005, SR 455 (Switz.); Vetter, Ózsvári & Boros, *supra* note 95, at 159-61.

¹⁰⁰ Vetter, Ózsvári & Boros, *supra* note 95, at 161; Eisen, *supra* note 25, at 919.

¹⁰¹ Phillips, *supra* note 72, at 55-58; Wise, *supra* note 13, at 99-100.

exploitation in agriculture, research, and entertainment, reflecting an anthropocentric worldview that prioritizes human interests while imposing minimal constraints on animal use.¹⁰²

The rights paradigm, by contrast, recognizes animals as sentient beings with inherent interests that warrant legal protection independent of human welfare.¹⁰³ Philosophical foundations for animal rights were most influentially articulated by Peter Singer's utilitarian framework in *Animal Liberation* (1975) and Tom Regan's rights-based theory in *The Case for Animal Rights* (1983), both of which have influenced academic and legal discourse on animal rights globally.¹⁰⁴ Rights-based approaches emphasize animals' intrinsic moral status and impose substantive limitations on human use of animals, particularly for non-essential purposes, a position that has progressively entered legal discourse across jurisdictions.¹⁰⁵

India's constitutional framework and judicial jurisprudence reflect this transition from welfare to rights. The PCA 1960, enacted in 1960, embodies a welfare-based approach, prohibiting cruelty while permitting extensive animal exploitation.¹⁰⁶ The constitutional amendments of 1976, introducing Articles 48A and 51A(g), and subsequent judicial interpretation in *Nagaraja* and *Karnail Singh*, have progressively established a rights-based framework rooted in constitutional text.¹⁰⁷

The Supreme Court's recognition in *Nagaraja* that animals possess intrinsic dignity and a right to live free from unnecessary suffering represents a fundamental shift from welfare to rights discourse.¹⁰⁸ The Court's articulation of five fundamental freedoms for animals establishes substantive standards that go beyond mere prohibition of cruelty, requiring affirmative measures to ensure animal well-being.¹⁰⁹ The Punjab and Haryana High Court's declaration in *Karnail Singh* that animals are legal persons further advances the rights paradigm, establishing animals as subjects of law rather than objects of property.¹¹⁰

Globally, the transition from welfare to rights is occurring at varying paces and through different mechanisms constitutional amendment, statutory recognition of sentience, judicial personhood declarations, and international treaty obligations.¹¹¹ Constitutional recognition of animal protection in Switzerland, Germany, Brazil, India, and other countries reflects growing acceptance of animals' intrinsic moral status.¹¹² Judicial recognition of animal legal personhood in Argentina, Colombia, and India demonstrates judicial willingness to reconceptualize animals' legal status beyond the welfare paradigm.¹¹³

However, significant barriers to the rights paradigm persist globally, including economic interests in animal exploitation, cultural traditions involving animal use, and philosophical debates about the nature and scope of animal rights.¹¹⁴ India's *Jallikattu* controversy exemplifies these dynamics, demonstrating

¹⁰² Wise, supra note 13, at 100-02; Maneesha Deckha, *Constitutional Protections for Animals: A Comparative Animal-Centred and Postcolonial Reading*, in Routledge Handbook of Animal Welfare 121, 123-25 (2020).

¹⁰³ Raffael N. Fasel & Sean C. Butler, *Animal Rights Law* 1-15 (2023); Sean C. Butler, *The Future of Animal Law*, 13 J. Animal Ethics 18, 20-22 (2023).

¹⁰⁴ Peter Singer, *Animal Liberation: A New Ethics for Our Treatment of Animals* (1975); Tom Regan, *The Case for Animal Rights* (1983); Phillips, supra note 72, at 58-62.

¹⁰⁵ Fasel & Butler, supra note 103, at 15-25; Abhay Singhal & Kanika Khandelwal, *Rethinking Animal Laws in the 21st Century: Towards a Paradigm Shift in Legal Protection and Ethical Considerations*, Int'l J. Innovative Rsch. & Growth, 2025, at 1, 4-6.

¹⁰⁶ PCA 1960, supra note 3; Bhagawati & Dey, supra note 4, at 413.

¹⁰⁷ *Nagaraja*, (2014) 7 SCC at 571-78; *Karnail Singh*, (2019) 3 RCR (Civ.) at 510-12; Kansal, supra note 15, at 313-15.

¹⁰⁸ *Nagaraja*, (2014) 7 SCC at 572-74; Kansal, supra note 15, at 314-17.

¹⁰⁹ *Nagaraja*, (2014) 7 SCC at 573-74.

¹¹⁰ *Karnail Singh*, (2019) 3 RCR (Civ.) at 510-12; Kurki, supra note 8, at 54-56.

¹¹¹ Zapp, Frank & Marques, supra note 2, at 430-35; Kempers, supra note 8, at 341-45.

¹¹² Zapp, Frank & Marques, supra note 2, at 435-39; Vetter, Ózsvári & Boros, supra note 95, at 154-58.

¹¹³ Kempers, supra note 8, at 343-48; Kurki, supra note 8, at 52-56.

¹¹⁴ Deckha, supra note 102, at 125-28; Phillips, supra note 72, at 63-65.

that judicial rights recognition can be reversed through legislative action when sufficiently powerful political, cultural, and economic interests resist change.¹¹⁵

The transition from welfare to rights requires not only legal reform but also cultural transformation, educational initiatives, and political will to prioritize animal protection over competing human interests.¹¹⁶ Comparative analysis of successful rights-based animal protection regimes—notably Switzerland and New Zealand—reveals that comprehensive statutory implementation, robust enforcement, and sustained public education are necessary complements to constitutional and judicial rights recognition.¹¹⁷

8. ENFORCEMENT GAPS AND JUDICIAL ACTIVISM

Despite India's progressive constitutional framework and landmark judicial pronouncements recognizing animal rights, enforcement remains critically deficient, necessitating continued judicial activism to bridge the gap between constitutional mandates and ground-level implementation.¹¹⁸ This enforcement deficit is characterized by obsolete penalties that fail to deter cruelty, inadequate institutional capacity, lack of specialized enforcement personnel, and insufficient political commitment to animal welfare as a policy priority.¹¹⁹

Empirical evidence of enforcement failure is substantial. Studies of the application of the PCA 1960 reveal a pattern of underreporting, under-investigation, and under-prosecution of animal cruelty offenses, resulting in very low rates of conviction and negligible penalties for those convicted.¹²⁰ Animal welfare organizations and the AWBI have consistently documented widespread violations of the PCA 1960 in livestock transport, slaughter facilities, circuses, and street animal populations, with minimal law enforcement response.¹²¹

The AWBI's role as the primary statutory body for animal welfare is compromised by its advisory character, limited enforcement authority, inadequate funding, and dependence on government patronage.¹²² The Board has been unable to effectively monitor compliance with animal welfare standards, to systematically investigate complaints, or to compel enforcement action by state authorities, rendering it largely ineffective as an enforcement body.¹²³

Judicial activism has been instrumental in expanding animal protection beyond the limited scope of the PCA 1960. Courts have invoked constitutional provisions, particularly Articles 21, 48A, and 51A(g), to establish substantive standards for animal welfare and impose affirmative obligations on the state.¹²⁴ This constitutional interpretation has transformed non-justiciable Directive Principles and Fundamental Duties into enforceable mandates, requiring state action to protect animals.¹²⁵ Public interest litigation has

¹¹⁵ Parveen, *supra* note 46, at 22-25; Johari, *supra* note 3, at 7-9.

¹¹⁶ Pattnaik, *supra* note 10, at 1029-31; Singhal & Khandelwal, *supra* note 105, at 6-8.

¹¹⁷ Vetter, Özsvári & Boros, *supra* note 95, at 161-64; Kempers, *supra* note 8, at 347-50.

¹¹⁸ Raj & Biswas, *supra* note 1, at 425-27; Johari, *supra* note 3, at 11-14.

¹¹⁹ Bhagawati & Dey, *supra* note 4, at 418-21; Parmita, *supra* note 16, at 4-6.

¹²⁰ Bhagawati & Dey, *supra* note 4, at 419-21; Singh & Singh, *supra* note 5, at 7-8.

¹²¹ Parmita, *supra* note 16, at 5-6; Raj & Biswas, *supra* note 1, at 426.

¹²² PCA 1960, *supra* note 3, §§ 4-9; Parmita, *supra* note 16, at 3-5.

¹²³ Parmita, *supra* note 16, at 5-7; Johari, *supra* note 3, at 12-13.

¹²⁴ *Nagaraja*, (2014) 7 SCC at 575-79; *Karnail Singh*, (2019) 3 RCR (Civ.) at 508-14.

¹²⁵ Kansal, *supra* note 15, at 315-17; Singh & Singh, *supra* note 5, at 6-7.

emerged as the primary vehicle for enforcing animal rights in the Indian judicial system, enabling civil society organizations to hold the state accountable for enforcement failures.¹²⁶

However, judicial activism has inherent limitations. Courts can interpret existing constitutional and statutory provisions but cannot enact comprehensive legislative reforms or allocate resources for enforcement.¹²⁷ Moreover, judicial pronouncements are only as effective as their implementation, and compliance with court directives on animal welfare has been demonstrably inconsistent.¹²⁸ The *Jallikattu* controversy illustrates the most fundamental limitation: judicial pronouncements recognizing animal rights can be reversed through legislative action, demonstrating that courts alone cannot secure animal rights without legislative and political support.¹²⁹

The gap between judicial aspiration and legislative action is illustrated by the Prevention of Cruelty to Animals (Amendment) Bill, 2022, which proposes significant enhancements to the PCA 1960's penalties and protections but has remained pending despite repeated judicial directives for legislative reform stretching over a decade.¹³⁰ This legislative inertia reflects the complex political economy of animal welfare reform in India, where economic interests in animal exploitation and cultural resistance to animal rights remain powerful forces.¹³¹

9. PROPOSED REFORMS

Comprehensive reform of India's animal protection framework requires integrated legislative, institutional, judicial, and cultural interventions. The following reforms are proposed based on the foregoing constitutional analysis, critique of existing legislation, and comparative legal inquiry.

Legislative Reforms

First, the Parliament should enact the Prevention of Cruelty to Animals (Amendment) Bill, 2022, with further enhancements to ensure that penalties are truly deterrent. Proposed fines should be indexed to inflation and set at a minimum of Rs. 75,000 for serious offenses, with imprisonment of up to five years and enhanced penalties for repeat offenders and organizations engaged in systematic animal cruelty.¹³² The penalty structure should be modeled on New Zealand's graduated approach, with higher penalties for offenses involving greater harm or deliberateness.¹³³

Second, the Parliament should enact comprehensive farm animal welfare legislation establishing minimum space requirements, prohibiting extreme confinement systems, and mandating humane slaughter standards. Such legislation would address the most significant legislative lacuna in India's current framework and bring the country into alignment with the minimum standards established by the EU Farm Animal Welfare Directives.¹³⁴

Third, the Parliament should amend the PCA 1960 to remove or substantially narrow exemptions under Sections 11(3) and 14, incorporating the 3Rs framework as a binding legal standard for all animal

¹²⁶ Sahoo, supra note 24, at 6-7; Johari, supra note 3, at 13-14.

¹²⁷ Johari, supra note 3, at 14; Raj & Biswas, supra note 1, at 426-27.

¹²⁸ Bhagawati & Dey, supra note 4, at 420-21; Parmita, supra note 16, at 6.

¹²⁹ Parveen, supra note 46, at 22-25; Kansal, supra note 15, at 317-19.

¹³⁰ Draft Prevention of Cruelty Against Animals (Amendment) Bill, 2022, supra note 21; Raj & Biswas, supra note 1, at 426-27.

¹³¹ Johari, supra note 3, at 14-15; Bhagawati & Dey, supra note 4, at 420.

¹³² Raj & Biswas, supra note 1, at 426-27; Bhagawati & Dey, supra note 4, at 421.

¹³³ NZ AWA, supra note 89, §§ 24-29; Phillips, supra note 72, at 68-69.

¹³⁴ Valavi, Raj & Sebastian, supra note 62, at 7-9; Council Directive 98/58/EC, supra note 80.

experimentation, consistent with Council Directive 2010/63/EU and the NZ AWA's provisions on scientific use.¹³⁵

Fourth, the Parliament should explicitly recognize animal sentience in statutory law, following the EU model under Article 13 TFEU, establishing a positive obligation on policymakers across all sectors to consider animal welfare in the formulation of policy, legislation, and regulation.¹³⁶

Institutional Reforms

The AWBI must be transformed from an advisory body into an effective regulatory and enforcement authority with powers to investigate complaints, impose penalties, and compel compliance with animal welfare standards, adequately funded and staffed for this purpose.¹³⁷ This transformation is essential to bridge the current gap between the Board's constitutional mandate and its institutional capacity.¹³⁸

The establishment of specialized animal welfare enforcement units within state police departments, staffed by officers trained in animal welfare law and investigation procedures, would significantly improve enforcement outcomes. The Swiss model of cantonal veterinary inspectors with enforcement authority provides a useful comparative model for specialized enforcement personnel.¹³⁹

Enhanced CPCSEA monitoring of animal experimentation, including mandatory post-approval inspections and reporting requirements, would strengthen oversight of the most scientifically sensitive and controversial area of animal use, ensuring that the 3Rs are implemented in practice and not merely on paper.¹⁴⁰

Judicial and Procedural Reforms

Designation of fast-track courts for animal welfare cases and the development of sentencing guidelines for animal cruelty offenses would ensure expeditious adjudication and greater consistency in penalties, addressing the current pattern of long delays and lenient sentences that undermine deterrence.¹⁴¹ Statutory recognition of broad standing for animal welfare organizations to file public interest litigation and private prosecution would enable civil society to complement state enforcement, following the model of environmental litigation that has proven effective in India.¹⁴²

Educational and Cultural Reforms

Mandating humane education in school curricula, as proposed by scholars of humane education in the Indian context, would promote empathy toward animals and foster awareness of the constitutional duty of compassion from an early age.¹⁴³ Professional training for veterinarians, law enforcement personnel, and judicial officers on animal welfare law and enforcement would build the human capital necessary for effective implementation of the proposed legislative and institutional reforms.¹⁴⁴

Constitutional Amendment

In the longer term, India should consider a formal constitutional amendment explicitly recognizing animal sentience and establishing animal welfare as a constitutional objective (*Staatsziel*), following the German

¹³⁵ Thorat, supra note 65, at 324-26; Directive 2010/63/EU, supra note 80, arts. 4-7.

¹³⁶ TFEU art. 13, supra note 78; Driessen, supra note 78, at 555-58.

¹³⁷ PCA 1960, supra note 3, §§ 4-9; Parmita, supra note 16, at 7-8; Raj & Biswas, supra note 1, at 427.

¹³⁸ Parmita, supra note 16, at 7-8.

¹³⁹ Tierschutzgesetz, supra note 99, arts. 30-33; Vetter, Ózsvári & Boros, supra note 95, at 161.

¹⁴⁰ Thorat, supra note 65, at 325-26; Pereira & Tettamanti, supra note 9, at 7-8.

¹⁴¹ Johari, supra note 3, at 15; Bhagawati & Dey, supra note 4, at 421.

¹⁴² Sahoo, supra note 24, at 7; Singh & Singh, supra note 5, at 8.

¹⁴³ Pattnaik, supra note 10, at 1029-32; Singh & Singh, supra note 5, at 8.

¹⁴⁴ Pattnaik, supra note 10, at 1031; Parmita, supra note 16, at 8.

model.¹⁴⁵ Such an amendment would place India's constitutional animal protection on the most solid possible footing, providing a constitutional basis for balancing animal welfare against competing constitutional rights claims in judicial review proceedings.¹⁴⁶

10. CONCLUSION

India stands at a pivotal juncture in the evolution of its animal law framework. The constitutional and judicial foundations for a rights-based paradigm are well-established: Articles 21, 48, 48A, and 51A(g) of the Constitution collectively provide a robust constitutional architecture for animal protection, and landmark decisions from *Nagaraja* to *Karnail Singh* have progressively recognized animals as bearers of constitutional rights, not merely objects of regulatory concern. The comparative analysis undertaken in this paper confirms that India's constitutional framework is among the most progressive globally in its potential for animal rights recognition.

However, this progressive constitutional and judicial framework exist in stark contrast to the inadequate statutory and institutional infrastructure for animal protection. The PCA 1960's derisory penalties, broad exemptions, and enforcement deficiencies represent a fundamental failure to translate constitutional values into operational legal protection. The *Jallikattu* controversy reveals the political fragility of judicially established animal rights in the face of cultural and political opposition, demonstrating the limits of judicial activism as a substitute for comprehensive legislative reform.

Comparative analysis of the EU Lisbon Treaty's sentience clause, New Zealand's comprehensive duty of care framework, Switzerland's constitutional mandate, and Germany's Article 20a reform provides a rich repertoire of models from which India may draw in designing effective legislative and institutional responses to its enforcement deficit. The lesson most clearly supported by comparative analysis is that effective animal protection requires the alignment of constitutional norms with statutory standards, institutional capacity, and cultural values a comprehensive alignment that India has not yet achieved.

The proposed reforms enhanced penalties, farm animal welfare legislation, statutory sentience recognition, transformation of the AWBI into an enforcement body, specialized enforcement units, fast-track courts, humane education, and consideration of a constitutional amendment constitute an integrated program of reform that would substantially close the gap between India's constitutional vision of compassion toward all living creatures and the reality of widespread, largely unpunished animal cruelty.

The transition from animal welfare to animal rights is not merely a legal or technical question but a profound cultural and ethical one. It requires India to recognize that the constitutional duty of compassion in Article 51A(g) is not merely aspirational rhetoric but an enforceable commitment to all living creatures that lies at the heart of its constitutional identity as a nation whose foundational values include *ahimsa*. Meeting this commitment demands urgent legislative action, sustained institutional reform, and a cultural transformation that places the dignity of all sentient life at the center of India's legal order.

¹⁴⁵ GG art. 20a, *supra* note 96; Hur, *supra* note 2, at 483-86.

¹⁴⁶ Vetter, Ózsvári & Boros, *supra* note 95, at 162-64; Eisen, *supra* note 25, at 921-23.