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# **FROM GANGA TO GAJAH: TESTING INDIA'S 'LEGAL PERSONHOOD' DOCTRINE**

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## **Abstract**

India's constitutional and environmental jurisprudence has undergone a significant evolution with the extension of legal personhood from rivers to non-human species. This article explores whether the doctrine, which was initially stated in the Uttarakhand High Court's ruling that the Ganga and Yamuna are legal persons, can be applied to animals—especially elephants—in a way that is both meaningful and constitutional under Article 21 of the Indian Constitution. The analysis, which was prompted by multiple instances of elephant abuse in Kerala, demonstrates the shortcomings of India's current animal welfare laws, which are characterized by antiquated punishments, a narrow purview, and a failure to acknowledge the sentience of animals. The article compares and contrasts international legal developments, such as Ecuador's constitutional rights of nature, New Zealand's statutory personhood for the Whanganui River, and the European Union's clear recognition of animal sentience. These models illuminate the need for comprehensive legislative reform and strong enforcement mechanisms in place of merely symbolic judicial declarations. Although Indian courts have made significant progress in extending the definition of personhood, the article contends that these developments could become essentially symbolic in the absence of statutory clarity, effective guardianship, and enforceable rights. It promotes a new Rights of Nature and Animals Act that is in line with international norms, enshrines positive duties, creates independent guardianship, and offers significant remedies. The article concludes by arguing that India's legal system can be changed to provide meaningful protection for elephants and all sentient beings by enshrining animal rights, which are based on Article 21 and guided by international best practices. In addition to meeting India's constitutional and international commitments, such a change would be a significant step toward a society that is more ecologically conscious and compassionate.

**Keywords-** Legal personhood, Article 21, Kerala elephant abuse, ecological justice, non-human species.

## I. Introduction

A paradigm shift in the protection of non-human entities is taking place in India's legal system. The 2017 ruling by the Uttarakhand High Court that the Ganga and Yamuna rivers are legal persons<sup>1</sup>, followed by rulings for animals and lakes, has sparked a discussion about whether the reasoning behind "personhood" for rivers can be applied to non-human animals like elephants under Article 21<sup>2</sup> in a constitutional and practical sense. Given the numerous reports of elephant abuse in Kerala, which highlight the shortcomings of India's animal welfare regulations and the need for a stronger, rights-based framework, this question is particularly pressing.

The constitutional justification for this change in India is found in Article 51A(g)<sup>3</sup>, which lays out a fundamental obligation for citizens to be compassionate toward animals, and Article 21, which protects the "right to life" and has been construed to include all living things, including animals, claiming their equality and dignity. The recognition of animals' inherent worth and dignity has been further strengthened by landmark court decisions like *Animal Welfare Board of India v. A. Nagaraja & Ors.*<sup>4</sup> (2014), which resulted in the prohibition of customs like jallikattu. The Uttarakhand High Court specifically ruled in *Narayan Dutt Bhatt v. Union of India & Others*<sup>5</sup> (2018) that the "entire animal kingdom," which includes aquatic and avian life, is a legal entity with unique persona, rights, obligations, and liabilities. Each of the inhabitants of the State of Uttarakhand are required to be "persons in loco parentis" for the welfare and protection of animals, according to this ruling, which also mandated a guardianship arrangement.

The question of whether the logic of "personhood" for natural entities like rivers—which are frequently regarded as "legal fictions" unrelated to biological human qualities<sup>6</sup>—can be practically and constitutionally extended to sentient non-human species like elephants under Article 21 has been sparked by these court rulings. Giving legal personhood to animals like elephants "smacks directly up against...speciesism,"<sup>7</sup> even though it can be applied to

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<sup>1</sup> Mohd. Salim v. State of Uttarakhand, Writ Petition (PIL) No. 126 of 2014 (High Court of Uttarakhand at Nainital, Mar. 20, 2017) (India).

<sup>2</sup> India Const. art. 21.

<sup>3</sup> India Const. art. 51A(g).

<sup>4</sup> *Animal Welfare Bd. of India v. Nagaraja*, (2014) 7 SCC 547 (India).

<sup>5</sup> *Narayan Dutt Bhatt v. Union of India*, (2018) 11 SCC 635 (India).

<sup>6</sup> Linda MacDonald Glenn, *Biotechnology at the Margins of Personhood: An Evolving Legal Paradigm* 15 (2002) (unpublished LL.M. thesis, McGill University) (on file with McGill University Library).

<sup>7</sup> Martha C. Nussbaum, *Animal Rights: The Need for a Theoretical Basis*, 114 Harv. L. Rev. 1506, 1521 (2001)

corporations or ships. Critics cite practical issues like defining culpability for "animal persons" and the "outrage factor," which is the tendency for society to oppose giving animals human-like status because it is seen as a "degrading" of human dignity. The idea of "quasi-property/quasi-personhood"<sup>8</sup> is put forth to get around this dichotomy. Its goal is to give animals some legal rights while also recognizing their current property classification and treating them as a complex type of property that entails obligations and liabilities from human owners.

Animal abuse is still widespread and problems persist despite laws such as the Indian Penal Code of 1860<sup>9</sup>, the Wildlife Protection Act of 1972<sup>10</sup>, and the Prevention of Cruelty to Animals Act of 1960<sup>11</sup>. Current animal welfare laws are frequently criticized for relying on discretionary regulations or for facilitating animal use, often giving the impression that they provide more protection than they actually do. There is no real change brought about by this "piecemeal, fragmented, often qualified, often inconsistent, unenforceable"<sup>12</sup> framework. The difference between animal "welfare" and "rights" is important because welfare frequently views animals as legal objects that can be exploited, whereas a rights-based framework aims to fully protect animal interests. The limitations of existing frameworks are highlighted by the persistence of human necessity as an exemption to animal protections, even in historic cases. Given the numerous reports of elephant abuse in Kerala, which highlight the shortcomings of India's animal welfare regulations and the urgent need for a stronger, rights-based framework, this question is particularly urgent.

## II. Indian Jurisprudence: From Rivers to Animals

### A. The Ganga and the Rights of Nature

A significant milestone in Indian environmental law was the ruling in *Mohd Salim v. State of Uttarakhand*<sup>13</sup> by the Uttarakhand High Court. The court designated state officials as the guardians of the Ganga and Yamuna rivers, citing precedents that granted Hindu deities juristic personality. The court ruled that the rivers were legal entities with the ability to "sue and be sued." The court emphasized the obligation of the state and citizens to protect the environment

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<sup>8</sup> Angela Fernandez, *Animal Law Fundamentals: Animals as Property, Quasi-Property or Quasi-Person* (Brook U. Animal Law Fundamentals Series) (2023)

<sup>9</sup> Indian Penal Code, No. 45 of 1860, INDIA CODE (1860).

<sup>10</sup> The Wildlife (Protection) Act, No. 53 of 1972, INDIA CODE (1972).

<sup>11</sup> The Prevention of Cruelty to Animals Act, No. 59 of 1960, INDIA CODE (1960)

<sup>12</sup> *ibid*

<sup>13</sup> *ibid*

by citing Articles 48A and 51A(g)<sup>14</sup> of the Constitution.

Specifically citing Articles 48-A and 51A(g) of the Indian Constitution, the court based its ruling on an inclusive reading of constitutional principles<sup>15</sup>. The fundamental obligation of citizens to be compassionate toward animals is emphasized in Article 51A(g). Additionally, it was decided that animals "too have the right to live with dignity and equality"<sup>16</sup> because Article 21, which guarantees the right to life, applies not only to humans but "also to all forms of life." This demonstrated how deeply millions of Hindus believe in the Ganga, viewing it as a divine subject and goddess known as the "Gangā Mātā," whose waters are thought to represent spiritual strength and eternal fluid.<sup>17</sup>

The court used the *parens patriae* principle—the state's duty to protect those who are incapable of protecting themselves—to guarantee the safety and preservation of these recently acknowledged legal persons. State officials were designated as "persons in loco parentis" (in lieu of a parent), including the Director of the NAMAMI Gange Project, the Chief Secretary of the State of Uttarakhand, and the Advocate General of the State of Uttarakhand. In addition to "promoting their health and well-being," these officers were "bound to uphold the status" of the rivers<sup>18</sup>.

This order was later stayed and later overturned by the Supreme Court. The "practical and conceptual challenges of imposing rights, duties, and liabilities akin to those of humans on rivers" were the main justifications given for the reversal. Liability for damages and the "complexities that this would raise concerning who would be liable"<sup>19</sup> were issues, especially in the case of flooding. Furthermore, the rivers' transnational geography—passing through several states—presented potentially problematic questions concerning what government should act as guardian. By integrating nature into human economic and governance structures rather than the other way around, critics also noted that holding guardians accountable for harm

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<sup>14</sup> India Const. arts. 48A, 51A(g).

<sup>15</sup> Piyumani Panchali Ranasinghe, *Towards Pluriversal Approaches to Rights of Nature and the Human Right to a Healthy Environment?* (2023)

<sup>16</sup> Harsh Vardhan Singh & Khushi Singh, *Animal Rights in India*, 5 *Int'l J. for Multidisciplinary Res.* (2023)

<sup>17</sup> Alessandro Pelizzon, *Ecological Jurisprudence: The Law of Nature and the Nature of Law* (Xiaobo Zhao & Noeleen McNamara eds., *Contemporary Env't L. & Pol'y Series*, Springer 2025) (DOI: 10.1007/978-981-96-0173-8)

<sup>18</sup> Emmanuel Debaty, *The Rights of Nature: Theory and Implementation* (2017) (unpublished Master's Research Project, University of Toronto, Master in Political Theory & Collaborative Program in Environmental Studies) (on file with University of Toronto)

<sup>19</sup> *ibid*

brought on by the operation of natural ecosystems "contradicts the logic behind Earth jurisprudence." The symbolic significance of these rulings reverberated powerfully on the international scene in spite of the reversal<sup>20</sup>.

However, the Supreme Court stayed and later reversed the order, citing the practical and conceptual challenges of imposing rights, duties, and liabilities akin to those of humans on rivers especially regarding liability for flooding and the difficulty of cross-state guardianship.

### **B. Extending Personhood to Animals**

In *Narayan Dutt Bhatt v. Union of India*<sup>21</sup> and *Karnail Singh v. State of Haryana*<sup>22</sup>, the Uttarakhand High Court and the Punjab and Haryana High Court both expanded on the river personhood doctrine by stating that all animals are legal beings with rights comparable to those of living people. In order to act for the welfare of animals, all citizens were deemed persons in loco parentis, or guardians for animals.

Due to the mistreatment of horses used for freight transportation, this case established the entire animal kingdom, including avian and aquatic as a legal entity having a distinct persona with corresponding rights, duties, and liabilities of a living person. This was a groundbreaking move based on ideas from philosophy, science, and religion. In addition to articulating their right to life and bodily integrity, honour, and dignity, the court made it clear that "animals cannot be treated merely as property" or "something for humans to use and abuse."<sup>23</sup>

Notably, this decision established all residents throughout the State of Uttarakhand as persons in loco parentis as the human face for the welfare/protection of animals requiring a different guardianship arrangement than that for the rivers. The notion that "animals may be mute, but we as a society have to speak on their behalf"<sup>24</sup> was emphasized by the court. The Supreme Court's landmark ruling in *Animal Welfare Board of India v. A. Nagaraja & Ors.*<sup>25</sup> established the precedent that the Bhatt decision expanded upon. The Supreme Court's ruling in Nagaraja that animals have intrinsic value and dignity, warranting legal protection resulted in the

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<sup>20</sup> *ibid*

<sup>21</sup> *ibid*

<sup>22</sup> *Karnail Singh v. State of Haryana*, (2019) SCC OnLine SC 1524 (India).

<sup>23</sup> *ibid*

<sup>24</sup> *ibid*

<sup>25</sup> *ibid*

prohibition of bull-taming sports like Jallikattu. The court ruled that the "five freedoms" of animals—the freedom from hunger and thirst, pain, fear and distress, and the ability to exhibit normal behaviour—must be protected, stating that the "fundamental right against the pain is not limited to human as it is for animals also."

The Bhatt ruling recognized the "need of rigorous laws to be implemented against animal cruelty" and the "limitation in the provision of these laws which led to the suffering of the animals" despite these advancements. It also emphasized the fundamental conflict between human interests and animal rights, claiming that although animals have a right to security and life, this is "subject to limitations under the doctrine of human necessity." This includes accommodating behaviours like eating meat and using animals for research while acknowledging that they are manifestations of speciesism. Similarly, the Bhatt court diluted the significance of the case by accepting welfare provisions over a full rights-based rejection of the practice, even though it recognized rights for the entire animal kingdom. The court only called for "regulation" of horse-drawn carts rather than an outright ban.

In May 2023, the Supreme Court overturned its own ban on Jallikattu, citing the sport's cultural significance. This indicates that human exploitation of animals continues to prevail in spite of previous judicial recognition of animal rights, underscoring the need for deep societal change beyond legal transformations.

In a novel, if unfinished, move toward an ecological jurisprudence that reimagines conventional legal categories, the Indian judiciary recognized the legal personhood of rivers Mohd. Salim's case and of animals in Karnail Singh's case. Scholars have referred to this status as "property-plus" or quasi-personhood. These rulings use legal personhood as a strategic fiction, an artificial but practical construct that extends rights protections to nonhuman entities based on ethical imperatives rather than biological personhood. As demonstrated by recurring systemic failures like Kerala's elephant abuse cases, this approach is still limited by its anthropocentric foundations and welfare-based enforcement mechanisms, even though it avoids the conceptual challenges of a full Nature's rights framework. By providing substantive protections without equating animal and human rights, the jurisprudence manages the "outrage factor," but its real test is in creating enforceable remedies that go beyond symbolic recognition. This new paradigm adds to international discussions regarding the legal status of nonhuman entities while emphasizing the need for stronger rights-based frameworks that take into account

the urgency of the ecological crisis. In the end, India's experience shows the advantages and disadvantages of modifying personhood doctrines to address environmental issues, pointing to either a continued reliance on practical, if conceptually shaky, legal fictions or a future shift toward more ecocentric models.

These judgments reflect a shift from anthropocentric to eco-centric jurisprudence, but they also face criticism for lacking statutory backing, clear enforcement mechanisms, and a coherent framework for balancing animal rights with human interests<sup>67</sup>.

### **C. Article 21 and the Right to Life**

A noteworthy jurisprudential advancement in the interpretation of Article 21's guarantees of the right to life is represented by the Indian Supreme Court's historic ruling in *Animal Welfare Board of India v. A. Nagaraja*<sup>26</sup>. The Court acknowledged animal sentience and dignity as legally cognizable interests under India's fundamental rights framework by expressly extending constitutional protections to nonhuman animals. This forward-thinking interpretation expands on the broad body of precedent surrounding Article 21, which has historically covered public health *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*<sup>27</sup>, and environmental quality *Subhash Kumar v. State of Bihar*<sup>28</sup>. The importance of the ruling resides in its doctrinal innovation, which recognizes that the "life" protected by Article 21 encompasses interspecies ethical considerations, thereby separating constitutional personhood from biological personhood. However, this rights-based approach is still limited by implementation issues and the intrinsic limitations of anthropocentric legal categories, as evidenced by later cases such as *Karnail Singh*<sup>29</sup>. However, the ruling highlights the continuous conflict between legal formality and ecological ethics in constitutional adjudication and provides a significant constitutional basis for animal welfare jurisprudence, placing India at the forefront of international advancements in nonhuman rights recognition.

### **D. The Doctrinal Shift toward Ecological Jurisprudence**

The exclusion of non-human entities from fundamental rights protections under the Indian Constitution presents a fundamental contradiction in our legal system's conception of equality. While Article 14 guarantees "equality before the law" to all "persons," its anthropocentric

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<sup>26</sup> *ibid*

<sup>27</sup> *Paschim Banga Khet Mazdoor Samity v. State of W.B.*, (1996) 4 SCC 37 (India).

<sup>28</sup> *Subhash Kumar v. State of Bihar*, AIR 1991 SC 420 (India).

<sup>29</sup> *ibid*

interpretation has systematically excluded sentient beings capable of suffering. This paradox becomes particularly evident when contrasted with the judiciary's recognition of juristic personhood for corporations, idols, and more recently, rivers and animals. This exclusionary paradigm has been fundamentally challenged by case laws above, which extended legal personhood to natural entities and the entire animal kingdom. These cases demonstrate that the constitutional logic of equality must protect sentient beings with inherent worth if legal fiction can acknowledge the rights of artificial constructs like corporations.

A global trend toward ecological constitutionalism is reflected in the developing jurisprudence, which is especially noticeable in jurisdictions in the Global South. Alternative models for balancing legal systems with ecological realities can be seen in Ecuador's constitutional recognition of Pachamama's rights, Colombia's protection of the Atrato River as a legal entity, Argentina's extension of habeas corpus to great apes, and New Zealand's legislative recognition of river personhood.<sup>30</sup> These changes highlight how arbitrary it is to uphold rigid species-based distinctions in the recognition of rights. This development in India was made possible by the *Animal Welfare Board of India v. A. Nagaraja*'s ruling, which upheld animals' inherent dignity and established their fundamental right to be free from needless suffering. These precedents imply that the anthropocentric limitations that currently restrict constitutional protections could be lifted when reinterpreting the equality guarantees of Article 14 through an eco-centric lens.

The Indian Supreme Court's subsequent stays and reversals of some progressive lower court decisions, however, demonstrate the substantial conceptual and practical difficulties that still exist. The conflict between enforcing substantive protections and acknowledging theoretical rights exposes more extensive systemic obstacles, such as the enduring "outrage factor" that arises when comparing the interests of humans and animals. Legal personhood for non-human entities is a significant doctrinal advancement, but its transformative potential hinges on the development of enforceable remedies and the dismantling of long-standing anthropocentric worldviews. To achieve interspecies justice and combat systemic species-based discrimination in our legal system, a truly egalitarian jurisprudence would need to radically rethink Article 14's equality guarantees rather than merely granting personhood status to animals and ecosystems.

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<sup>30</sup> Jérémie Gilbert, *The Nexus Between "Human Rights" and the "Rights of Nature": Debates, Tensions and Complementarities* (Farid Lamara & Sarah Hayes eds., Agence Française de Développement [AFD] 2023).

### **E. Bridging the Gap**

The fundamental gaps between the aspirational language of Directive Principles (Article 48A) and their non-justiciable nature is the source of the conflict between India's constitutional framework and the protection of animal rights. In contrast to justiciable rights like South Africa's Section 24 constitutional environmental guarantee, enforcement of Article 48A's environmental protection mandate and Article 51A's corresponding citizen duties is still discretionary. The ongoing fragmentation of elephant corridors in spite of Supreme Court interventions is proof that this structural limitation has produced a governance gap where ecological welfare, including animal protection, is regularly subordinated to developmental priorities. The 2002 National Commission's proposal to make Article 48A a fundamental right would give judges more constitutional authority to weigh these conflicting interests. This could have a similar impact as South Africa's environmental jurisprudence, which has seen courts use rights-based adjudication to stop environmentally damaging projects.

Complex jurisprudential issues are raised by the constitutional reform of animal rights, especially in light of the possible extension of fundamental rights beyond human subjects. Critics correctly warn against doctrinal overreach that could weaken the enforceability of rights or lead to normative conflicts with provisions pertaining to human welfare. Such worries, however, undervalue the Indian judiciary's proven ability to interpret rights in a progressive manner as well as the ecological interdependence brought to light by pandemic zoonoses. Combining Articles 14, 21, and a justiciable Article 48A could create a stronger framework and put India in a position to create a novel constitutional model that balances the needs of ecological preservation and fair development, shifting the discussion from whether animals should have rights to how constitutional frameworks can effectively acknowledge them

### **III. Theoretical Foundations: Personhood, Rights, and Interests**

A legal construct known as juristic personhood gives non-human entities, including corporations, rivers, and animals, the ability to have rights and obligations. Personhood, which has its historical roots in Roman law, was first created as a category to fulfil useful legal and business purposes. Personhood was viewed as a fiction by traditional legal systems, but in light of Indigenous worldviews and ecological ethics, it has recently been extended to include natural entities. This change calls into question anthropocentric legal frameworks and poses important queries regarding the extent of rights, agency, and liability.

Two primary perspectives are at the heart of the argument over who (or what) can have rights. According to H.L.A. Hart's will theory, which links autonomy and rights, only beings with the capacity for free will can truly possess rights. On the other hand, interest theory, which is linked to Bentham and Raz, bases rights on the defence of interests, granting rights to even non-agential things like ecosystems and animals. Interest theory has been embraced by Indian courts more and more, as evidenced by decisions that acknowledge the legal personhood of rivers and animals and place more emphasis on their inherent value than their ability to reason.

There are advantages and disadvantages to the extension of personhood beyond humans. Extending rights to nature necessitates reconsidering representation, liability, and enforcement, even though legal fictions such as corporate personhood are well-established. A "bundle theory" approach, which grants context-specific rights instead of full personhood, might provide a fair solution. The development of juristic personhood ultimately mirrors more general changes in ethics and the law, leading to a more inclusive view of rights that recognizes the interdependence of all life.

#### **IV. Legislative Gaps in Indian Laws and Statutes**

The legal framework for animal welfare in India is still beset by antiquated clauses and structural flaws that compromise effective protection. This failure is best illustrated by the Prevention of Cruelty to Animals Act (PCA), 1960, which is the cornerstone of animal welfare legislation. The law is essentially toothless because it imposes fines for cruelty that range from ₹10 to ₹50. Statutory law still treats animals as property, with no explicit recognition of sentience or enforceable positive rights, even though courts have recognized them as sentient beings with inherent rights. Additionally, there is a troubling gap left by the repeal of Section 377 of the Indian Penal Code<sup>31</sup>, since bestiality is no longer specifically illegal, leaving animals vulnerable to unrestrained sexual abuse. Weak enforcement mechanisms, where under-resourced authorities and reliance on NGO interventions perpetuate systemic impunity, exacerbate these legislative shortcomings.

#### **The Wildlife Protection Act's Conflict with Legal Personhood**

Regarding the constitutional status of animals, there is a fundamental conflict between Indian statutory law and the judiciary. The Wildlife Protection Act (WLPA), 1972, is still rooted in

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<sup>31</sup> Indian Penal Code, 1860, s. 377, No. 45, Acts of Parliament, 1860 (India) (repealed in part).

an antiquated custodial model, treating wild animals as state property rather than legal persons, despite courts' increasing affirmation of animals' rights (*Karnail Singh v. State of Haryana*, 2019<sup>32</sup>). The WLPA reduces animals to passive conservation subjects by giving forest authorities the authority to control hunting, translocation, and habitat management without recognizing the animals' separate legal status. In cases involving human-wildlife conflicts, where state-ordered culling or capture runs counter to the judiciary's rights-based approach, this dissonance is especially pronounced. To bridge these paradigms, legislative reform is desperately needed. One possible way to do this would be to amend the WLPA to acknowledge wildlife as legal persons while maintaining state stewardship for practical conservation needs.

### **Project Elephant and the Failures of Welfare-Based Conservation**

In view of expanding rights jurisprudence, India's Project Elephant (1992)<sup>33</sup> draws attention to the shortcomings of welfare-centric conservation models. The program allows for the capture and domestication of wild elephants for religious and tourism purposes, despite its emphasis on habitat preservation and conflict mitigation. This practice is incompatible with court declarations of animal dignity (*AWBI v. A. Nagaraja*<sup>34</sup>). Although courts have stepped in to forbid exploitative behaviours such as elephant performances, these decisions are susceptible to non-implementation due to a lack of legislative support. In order to ensure that conservation strategies are in line with the judiciary's recognition of elephants as legal persons entitled to freedom and protection from exploitation, Project Elephant must undergo a rights-based overhaul.

### **Institutional and Awareness Deficits**

Animal protection is further weakened by systemic shortcomings in enforcement and public awareness, in addition to legislative gaps. Due to a lack of specialized training, resources, and interagency coordination, the penalties outlined in the PCA Act are not only insufficient, but also poorly enforced. In the meantime, underreporting of cruelty and normalization of exploitation are sustained by public ignorance of animal rights. To promote a culture of compliance and respect for animal sentience, legal reforms must be paired with educational initiatives and institutional capacity-building.

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<sup>32</sup> *ibid*

<sup>33</sup> Harsh Vardhan Singh & Khushi Singh, *Animal Rights in India*, 5 *Int'l J. for Multidisciplinary Res. (IJFMR)* (2023)

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### **Toward a Rights-Based Legislative Framework**

India's constitutional regime has not kept pace with the judiciary's progressive rulings on animal personhood, resulting in a dissonance that necessitates immediate legislative harmonization. Among the reforms that must be implemented are: (1) the explicit legal recognition of animal sentience; (2) the imposition of severe penalties for cruelty; (3) the criminalization of animal sexual abuse; and (4) the incorporation of rights-based principles into conservation initiatives such as Project Elephant. India's legal system can only genuinely respect the rights and dignity of animals as recognized by its courts by closing these gaps.

## **V. Cultural Narratives and Legal Personhood: The Sacred Status of Animals in Indian Society**

In Indian culture, animals are considered sacred, which offers a special philosophical basis for the advancement of legal personhood. Tribal totemic traditions, Jainism's ahimsa principle, and Hinduism's portrayal of elephants as Ganesha all show how animals are recognized as more than just property; they are kin, deities, and ecological partners. As evidenced by the 2017 Uttarakhand High Court decision that explicitly invoked the river's sacred status to declare the Ganges a legal person, this cultural capital has the potential to revolutionize contemporary jurisprudence. The law must, however, make a distinction between substantive rights and symbolic veneration. Although the protection of cows under Article 48 reflects cultural values, it ignores issues with welfare in gaushalas and during transportation. By providing stronger legal protections for animals that hold cultural significance and controlling exploitative practices like forced snake-handling rituals or temple elephant captivity, a "sacred species protocol" could close this gap.

An established manifestation of rights-based ecological governance can be found in India's heritage of community-managed forests and sacred groves. This indigenous conservation wisdom is validated by the Supreme Court's recognition of sacred groves as protected areas under the Wildlife Protection Act. These customs are strikingly similar to modern ideas of nature's legal personhood, where ecosystems are acknowledged as having rights. The Khasi tribes' sacred forests and the Bishnoi community's preservation of blackbucks serve as examples of how cultural narratives can preserve biodiversity more effectively than state-centric strategies. Through laws like the Forest Rights Act, legal reforms should formalize this kind of community stewardship while preventing cultural exceptionalism from rationalizing

cruel practices like animal sacrifice or jallikattu.

The conflict between animal welfare and cultural customs highlights a pivotal point in India's legal development. During Nag Panchami, temple elephants are adored but subjected to cruel training, and snakes are worshipped but many of them perish from ceremonial milk feeding. In order to resolve these conflicts, the law must: (1) make a distinction between symbolic worship and physical contact that causes harm to animals; (2) give animal welfare boards the authority to control religious activities without enacting outright bans that provoke opposition; and (3) use cultural leaders as change agents. Religious organizations can serve as role models for compassionate stewardship, as demonstrated by the success of Sikh gurudwaras' animal feeding programs and Jain panjrapoles (animal shelters). India's long-standing customs of animal worship must change as it becomes more modern, moving from ceremonial adoration to legally binding safeguards that respect both scientific and cultural values.

## **IX. Roadmap for Constitutionalizing Animal Rights in India**

- **Constitutionalizing Animal Personhood: A Foundational Reform**

The constitutional recognition of animal personhood through a specific amendment would be the most revolutionary development in India's animal rights history. Based on court rulings such as the Uttarakhand High Court's recognition of rivers as legal persons, this amendment ought to specifically acknowledge animals as entities with rights under Article 21, ensuring their right to a dignified life. By making animal rights justiciable, such a clause would close the gap between statutory inertia and progressive judicial interpretations. The amendment must declare animal sentient beings rather than property, mirroring Article 13 of the EU's Lisbon Treaty. This means that welfare considerations must be taken into account in all policy decisions, from agricultural practices to urban development. This is consistent with India's constitutional philosophy of dynamically extending fundamental rights while honouring cultural values.

- **Modernizing Legislative Frameworks: From Punitive to Protective**

A thorough Animal Welfare Code must take the place of the antiquated Prevention of Cruelty to Animals Act (1960). With graded penalties (₹50,000–₹5 lakh for recklessness; 1–5 years detention for aggravated cruelty) and specific provisions punishing sexual abuse (closing the post-Section 377 loophole), the new code must

move away from token penalties (₹50 fines) and toward deterrent consequences. Importantly, instead of just forbidding harm, it should embrace positive welfare duties, which include requiring proper shelter, veterinary care, and humane treatment. As demonstrated by New Zealand's Animal Welfare Act (1999), which forbids "unnecessary suffering" and establishes species-specific standards, the code must incorporate scientific advancements in animal sentience.

- **Operationalizing Rights: Guardianship and Institutional Mechanisms**

Enforceable representation is necessary for legal personhood. Based on Colombia's Atrato River guardianship system, India ought to set up a National Commission for Animal and Nature Rights (NCANR) with the authority to prosecute, look into, and punish violations. Locally, Animal Welfare Committees made up of activists, veterinarians, and community leaders could keep an eye on adherence and take appropriate action. The current enforcement gap, where NGOs fill gaps without statutory authority, would be addressed by this dual structure. Furthermore, the National Green Tribunal's specialized Animal Welfare Tribunals could expedite cases by using environmental jurisprudence to safeguard habitats.

- **Harmonizing Cultural Ethos with Rights-Based Governance**

India offers a special chance to combine tradition with rights-based governance because of its cultural respect for animals, which includes temple elephants and sacred groves. Enhanced protections for culturally important animals and restrictions on exploitative practices could be provided by a Sacred Species Protocol (e.g., banning forced elephant processions but allowing ethical community rituals). In order to foster compassion and turn ceremonial veneration into active stewardship, educational reforms under Article 51A(g) should collaborate with religious organizations (such as the langar for strays at Gurudwaras).

- **Judicial-Legislative Synergy for Accountability**

The framework must require periodic legislative reviews in order to keep rights from remaining theoretical. This means that Parliament must evaluate the effectiveness of enforcement and revise standards. As demonstrated in environmental PILs, courts ought to have the authority to grant species-injunctions (such as stopping deforestation that affects animal habitats) and acknowledge the representative standing of NGOs. By

establishing specialized benches with veterinary and ecological specialists, the National Green Tribunal's jurisdiction could be extended to include hearing cases involving violations of animal rights.

- **Global Integration with Local Realities**

India's model must adjust international best practices to local contexts while adhering to international standards (CITES, CBD). India's code can benefit from the EU's emphasis on duty of care and New Zealand's recognition of sentience, but its implementation must take community-based conservation traditions into consideration. Tribal stewardship can supplement legal personhood for ecosystems, as exemplified by Meghalaya's sacred groves.

- **Structural Reforms for Effective Implementation**

India must set up autonomous enforcement mechanisms with sufficient resources and power in order to convert the constitutional recognition of animal personhood into concrete protections. Similar to the National Human Rights Commission, the proposed National Commission for Animal and Nature Rights (NCANR) should be given financial autonomy through Finance Commission allocations. In handling cases of cruelty, this would avoid bureaucratic bottlenecks. To guarantee technically sound adjudication, veterinary and ecological specialists must also be employed by the National Green Tribunal's specialized Animal Welfare Tribunals. Importantly, based on effective models for preventing wildlife crime, whistleblower protections ought to be implemented to promote the reporting of infractions. The current enforcement gap, where animal welfare disproportionately depends on NGO interventions without statutory backing, would be filled by these structural changes.

- **Integrating Scientific and Cultural Frameworks**

The legal system must change from punitive to culturally sensitive and evidence-based welfare standards. Higher penalties for Schedule I animals under the Wildlife Protection Act should be part of a graded penalty system that takes into account the degree of harm and the vulnerability of the species. The Sacred Species Protocol must simultaneously strike a balance between welfare science and cultural customs; for example, it may allow ritual feeding of snakes but forbid harmful milk offerings. In order to reinterpret traditions in a compassionate manner, as demonstrated by Jain

panjrapoles, educational initiatives under Article 51A(g) should work in conjunction with religious institutions. By combining contemporary sentience science with India's rich biodiversity legacy, this dual strategy would establish a distinctively Indian model of animal rights that upholds customs while avoiding exploitation.

- **Systemic Linkages for Holistic Protection**

It is impossible to separate animal welfare from more general governance goals. The law must create intersectional connections, such as linking habitat preservation with urban planning or acknowledging the contribution of livestock to climate change to guide agricultural policies. While community stewardship programs (inspired by Meghalaya's sacred groves) could decentralize conservation efforts, judicial innovations such as "species-injunctions" could stop infrastructure projects that endanger animal habitats. As required by the EU's animal welfare directives, periodic legislative reviews would guarantee that laws are updated to reflect emerging ethical and scientific knowledge. India can establish an ecosystem of protection where legal personhood translates into multifaceted safeguards by integrating animal rights into environmental, rural development, and public health governance.

## **X. Conclusion:**

India's journey from recognizing the Ganga as a legal person to contemplating Article 21 protections for elephants and other non-human species reflects a profound evolution in legal thought. However, the absence of comprehensive, enforceable statutes and robust institutional mechanisms limits the transformative potential of these doctrines. By learning from international models—especially the importance of statutory backing, guardianship, and community participation—India can move from symbolic recognition to substantive protection for both rivers and animals, aligning its legal system with emerging international norms and the urgent demands of environmental and animal justice