

LEGAL RECOGNITION OF ANIMAL RIGHTS

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Abstract

The idea of giving animals in the legal system specific rights and protections is known as "legal recognition of animals." It represents a change from seeing animals as nothing more than property to appreciating their intrinsic worth and well-being. To promote animals' fair treatment and well-being, this expanding field of law attempts to address the moral conundrum surrounding our treatment of them. Putting animal welfare regulations into effect is one way that animals are given legal recognition. In a variety of settings, including farming, research, and entertainment, these regulations set minimum criteria for the care of animals. These frequently contain guidelines for veterinary care, nutrition, housing circumstances, and the avoidance of abuse and cruelty. It is also legally permissible in some jurisdictions for animals to not suffer needlessly. The establishment of legal personality for some animals is another noteworthy achievement. By having their rights and interests, animals are now acknowledged as legitimate legal beings. Their well-being can be taken into consideration during legal processes, and they can be represented in court. Cetaceans, elephants, and nonhuman primates are among the various animal species to which this method has been applied. In general, the acceptance of animals by law shows our moral responsibility to these sentient creatures rising. The rights and well-being of animals are acknowledged and protected, signifying a change towards a more moral and empathetic society. A significant step towards a more equitable and compassionate treatment of animals in the eyes of the law is represented by legal recognition, even though its breadth and extent may differ throughout jurisdictions.

Identifying the Research Problem

An important and intricate study subject nowadays is the legal acknowledgement of animal rights, given the growing concerns about animal care and ethical treatment. The key question is how much legal standing and protection for animals should be accorded, akin to that which people have. This study subject involves several interconnected concerns, such as whether animals have intrinsic rights, what standards should be applied to decide which rights should be recognized, and how these rights should be applied in the context of current legal frameworks. The intricacy of this research subject is further increased by examining the various conflicts and difficulties—such as striking a balance between human interests and economic considerations—that may result from giving legal recognition to animal rights. The intricate junction of ethical issues, scientific advances, and legal frameworks is at the centre of the research challenge of the legal acknowledgement of animal rights. In the context of study and testing, in particular, this complex problem raises concerns regarding the degree to which animals are entitled to legal safeguards. Analysing the ethical issues regarding animal welfare and the growth of human knowledge, as well as the present legal landscape, including pertinent legislation and court opinions, is necessary before delving into this topic. Taking into account both the practical difficulties and the wider societal effects, solving this research problem also requires assessing the possible ramifications of giving animals legal rights in the context of the study. Fundamentally, the problem is about finding a way to balance the moral imperatives of treating animals with kindness and dignity with the acceptance that using them in specific scientific experiments is necessary. This conflict calls into question where the line should be drawn between ethical and immoral treatment of animals and how to create legislative frameworks that strike a balance between the growth of humankind and the preservation of animal welfare. The creation of coherent legal frameworks is further complicated by the absence of global norms and disparate cultural perspectives on animals. To create more comprehensive and morally sound regulations regarding the legal recognition of animal rights in research contexts, addressing these issues necessitates a detailed analysis of current laws, ethical principles, scientific breakthroughs, and societal norms.

Review of Literature

Rich in biodiversity, India is home to a wide variety of animal species. From the majestic Bengal tiger to the mighty Indian rhinoceros, India covers about 2.4% of the world's land area and is home to 7-8% of all recorded species, including about 45,000 plant species and 91,000 animal species. This unique biodiversity requires the development of strong laws and regulations to ensure the welfare and protection of these creatures. The Constitution of India, the country's most important law, recognizes the inherent sanctity of animals and obligates citizens to protect and treat them with dignity. In addition, global organizations such as World Animal Protection have launched initiatives such as the Animal Protection Index (API), which ranks countries based on their animal protection policies. In the 2020 API, India received a grade of C, indicating that while the country's animal welfare laws exist, they can be significantly improved. The following study takes an in-depth look at animal rights in India and examines various laws and regulations, practices and important legal decisions on animal welfare. We also investigate some serious cases of animal cruelty and recommend that these cases be dealt with more effectively. First, although animal rights were originally considered moral rights, they are increasingly expressed as potential legal rights. In other words, it is argued that the moral rights of animals "should be legal rights" (or "in the sense of the manifesto"), which presupposes legal institutionalization and refers to equivalent legal rights that animals should ideally have reason to have. To turn from moral animal rights to legal ones is that moral rights (which exist before legal confirmation and are independent) do not provide sufficient practical protection for animals, while legally recognized rights would be confirmed by stronger protection and enforcement mechanisms in law. In terms of their (potential) legal application, it seems desirable to think of animal rights specifically as legal rights, rather than simply subjecting animals' moral rights to law.

Formulating Hypotheses or Research Questions:

1. Can animals have legal rights?

Independent of doctrinal and normative concerns concerning whether animals have or should have legal rights, it seems necessary to first address the conceptual question of whether animals can have legal rights. It is necessary to evaluate the general nature of rights, which is typically characterized by structure, rights (or form), and reasons (or ultimate purpose), to determine if animals are potential or possible rights holders, that is, which creatures can be deemed to have legal rights "without conceptual absurdity". By defining its potential forms and grounds, an examination of the concept of animal rights through general legal theories clarifies the conceptual underpinnings of animal legal rights.¹

- The first subsection (A) analyses the structural compatibility of claims and freedoms, two particular conceptual fundamental rights, with animal rights.
- The theory of will and the theory of interest, the two primary rival theories of rights, are examined in the second subsection (B), together with the question of whether and under what circumstances animals can be considered prospective holders of rights.

2. What are some key legal considerations regarding animal rights in research?

When it comes to animal rights in research, there are several key legal considerations to take into account. Here are some of them:

- **Animal Welfare Laws:** Many countries have specific laws in place to protect the welfare of animals used in research. These laws outline the minimum standards of care, housing, and treatment that researchers must adhere to.
- **Institutional Animal Care and Use Committees (IACUCs)** are in charge of examining research methods involving animals and are considered ethical review committees. Their responsibility is to guarantee that the planned study complies with moral guidelines and causes the fewest possible harm to the animals.
- **Replacement, Reduction, and Refinement:** The Three Rs: Replacement, Reduction, and Refinement—should guide animal research practices. Reduction seeks to utilize

¹ Without conceptual absurdity

fewer animals overall, replacement uses non-animal methods whenever feasible, and refinement concentrates on improving research methods to reduce animal suffering.

- **Animal Welfare Act:** In some countries, there may be specific legislation, such as the Animal Welfare Act in the United States, that governs the use of animals in research. This act sets out guidelines for the care, handling, and treatment of animals in research settings.
- **Reporting and Oversight:** Proper documentation and reporting of animal research activities are essential to ensure transparency and accountability.

3. How do different countries handle the legal protection of animals used in research?

- **United States:** In the US, the Animal Welfare Act (AWA) sets out guidelines and requirements for the care and use of animals in research. The National Institutes of Health (NIH), the Department of Agriculture (USDA), and the Public Health Service (PHS) also have specific regulations and guidelines for animal research.²
- **United Kingdom:** In the UK, the Animals (Scientific Procedures) Act (ASPA) is the primary legislation governing the use of animals in research. This act sets out animal welfare requirements and requires ethical review and approval by an Animal Welfare and Ethical Review Body (AWERB).³
- **European Union:** In the European Union, animal research is governed by the Directive on the Protection of Animals Used for Scientific Purposes. This directive sets out guidelines for the care and use of laboratory animals and requires ethical review and approval by an Animal Welfare Body (AWB).⁴

4. Are there any recent developments or changes in legislation that have impacted animal legal rights in research?

² AWA

³ ASPA, AWERB

⁴ AWB

- **Enhanced Focus on Alternatives:** There has been a growing global emphasis on finding alternatives to animal research, such as in vitro models, tissue engineering, and computational modelling. This focus on replacement methods aims to reduce the use of animals in research.
- **Increased Oversight and Transparency:** Many countries have been strengthening oversight and increasing transparency in animal research. This includes stricter regulation, more frequent inspections, and requirements for public disclosure of research protocols and outcomes.
- **Bans on Certain Tests:** Some countries have implemented partial or full bans on specific tests or procedures that are considered particularly invasive or unnecessary. These bans often target cosmetics testing, the use of great apes, and certain types of animal testing for product safety.

Introduction

- **Historical Background of Animal Rights in India**

The conversation around animal rights in India is not a recent phenomenon. Historically, animals have been perceived as property, a notion inherited from Roman Law. However, growing ethical debates have challenged this idea, arguing for the recognition of animals as sentient beings with their rights. As the courts interpret animal welfare laws within the framework of Constitutional Rights and Duties, we are gradually moving towards a future where animals could have certain rights that should not be violated without attracting legal consequences.

- **Philosophical Background of Animal Rights in India**

In the West, the issue of how to treat animals humanely has always existed. Philosophers of antiquity, both Greek and Roman, disagreed about the morality of animals. Due to their belief in the transmigration of souls between human and animal bodies, the Pythagoreans (6th–4th century BC) and Neoplatonists (3rd–6th century AD) urged respect for animal rights. Despite Aristotle's (384–322 BC) repeated arguments in his biological writings that animals existed for their own sake, his most significant statement on the matter was regrettably his claim in Politics

that all animals were formed by nature for human benefit. The world is home to an endless number of beings that are placed hierarchically based on their complexity and perfection, according to Aristotle and the Stoics later on, from the barely conscious to the only totally spiritual, sensible, and sensitive. All kinds of life were said to exist because of the forms higher up on the Great Chain of Being, as it was called. Because of their rationality, humans had the highest rank among physical beings. Up until the mid-1800s, the Great Chain of Being dominated scientific, philosophical, and theological thought as one of the most resilient, potent, albeit wholly erroneous, conceptions of the cosmos.

The Need for Animal Rights

Humans have often used animals for various purposes such as food, clothing, entertainment and even companionship. We rarely think about the impact of our actions on these animals. As Peter Singer emphasizes in his book, the principle of equality does not require equal treatment, but equal consideration. This distinction is particularly important when discussing animal rights. Animals capable of experiencing pain, pleasure, fear, frustration, loneliness and maternal love deserve to live free from suffering and abuse. Prejudice based on race, gender, sexual orientation or race is morally wrong. For example, eating a pig while refusing to eat a dog is an example of specificity because both animals are equally capable of feeling pain. Animal Welfare Board of India v Nagaraj and Or (2014) was a landmark case. that animals also have honour and dignity that cannot be arbitrarily taken away. The court found that the rights and privacy of animals must be protected from illegal attacks and extends the right to human dignity to animals as well.

The Reality of Animal Cruelty in India

Despite existing laws and regulations, incidents of animal cruelty are alarmingly common in India. In 2021, a heart-breaking incident in Kerala in which a Labrador was brutally killed prompted the Kerala High Court to act Suo motu, calling for better executive and legislative measures to protect animals.

Constitutional Framework for Animal Rights in India

The Indian Constitution, which is the ultimate law of the land, affirms the sanctity of animal life and states that it is the fundamental responsibility of its citizens to treat animals with respect and dignity. The Indian people are obligated by Article 51(g) of the Constitution to preserve and enhance the natural world, which includes forests, lakes, rivers, and other natural areas, as well as to show compassion for all living things.

Brief History of Animal Welfare Laws in India

Animal welfare is the focus of numerous laws and initiatives in India. These include the Wildlife Protection Act of 1972 and the Prevention of Cruelty Act of 1960. These rules penalize animal abuse and establish a framework for the protection of wildlife.⁵

Animals and the law

The Roman jurist Hermogenes wrote in the 3rd or 4th century: "Hominin causa omen jus constitum" ("Every law is made for the good of men"). To borrow a phrase from P.A. Fitzgerald Salmond's 1966 treatise on jurisprudence said: "The law is made for men, and recognizes no relation or obligation between them and the lower animals." An important consequence of this view is that animals have long been classified as "legal objects" rather than "legal persons". While legal entities lack rights, they do have rights. According to the law, they are merely objects of the rights of legal entities; for instance, they are items over which they have the right to exercise ownership. However, social morality or laws protecting animal owners' rights—such as those prohibiting criminal cruelty or allowing owners to sue for damages caused to their animals—often provide animals with a semblance of indirect protection because of their status. A statute like this currently encompasses all laws about the interests of non-human animals, or more broadly, the interests of people, and defines "animal law" in a far larger sense than animal rights.

The Modern Animal Rights Movement

Several nonhuman animals have basic interests that should be acknowledged, given consideration, and protected; this is a major tenet of the contemporary animal rights movement.

⁵ Wildlife Protection Act 1972
Prevention cruelty Act 1960

Animal rights activists contend that these fundamental advantages grant animals moral and legal rights. The first social reform movement initiated by philosophers is thought to be the contemporary animal rights movement. Not only are American philosopher Tom Regan and Australian philosopher Peter Singer renowned in their own right, but they also represent two of the most significant philosophical schools of thought regarding the moral rights of animals. Singer, whose 1975 book *Animal Liberation* is regarded as one of the movement's foundational texts, contends that people's and animals' interests ought to be taken equally into account.

Practical According to Singer, deeds are morally right when they promote happiness or reduce suffering; the key factor is whether the animal is sentient and can experience either. The father of contemporary utilitarianism, Jeremy Bentham, highlighted this when he wrote regarding animals: "Can they reason? or speak? However, are they able to suffer?" Singer contends that since animals are sentient, humans have a moral duty to lessen or prevent their suffering, just as they ought to lessen or refrain from human suffering. Regan, who is not a utilitarian, contends that because certain animals possess the same sophisticated cognitive capacities as humans, they should also be granted basic moral rights. These skills give these creatures intrinsic value in addition to their instrumental utility. Regan says they are "the subjects of life." There was opposition to Regan, Singer, and other philosophical animal rights advocates. Some religious authors contend that because only humans have an everlasting soul, animals are not as morally deserving of respect as people. Like the Stoics, some contend that since animals lack reason, people have no duty to care for them. Others contend that the capacity for speech, the exercise of free will, or the presence of the moral community—a group whose members are capable of acting morally or immorally—are among the morally significant distinctions between humans and other animals. These counterarguments are flawed because there is no objective theological argument that distinguishes humans from other animals. Doctors, writers, scientists, researchers, lawyers, theologians, psychologists, nurses, veterinarians, and other professionals working in their specialities to advance animal rights quickly joined philosophers in catalysing the modern animal rights movement. In 2000, several professional groups were founded to educate peers and the general public about animal abuse. Animals other than humans were occasionally cited as plaintiffs in animal welfare cases, which increased in frequency in the early 1990s. Lawyers play a major role in establishing public policy and defending rights, thus it makes sense that they would become increasingly interested in animal rights and welfare. Europe has dozens of law schools, and courses on animal law and rights have been offered both domestically and abroad; the Animal Rights Foundation has expanded its law student chapters in the US; and at least three new legal journals have been established: *Animal Law*, *Journal of Animal Law*, and *Journal of Animal Law and Ethics*. Theories that non-human animals have fundamental legal rights have been proposed and assessed by legal experts, frequently for the same reasons as humans and by the same legal principles and ideals. Scientific studies of animals' cognitive, emotional, and social capacities, as well as advancements in genetics, neuroscience, physiology, linguistics, psychology, evolution, and ethology, have provided compelling evidence for these claims, with many demonstrating the similarities between human behaviour and animal behaviour as well as genetic material.

Designing the Study/ Data Collection

Not barely a few months have passed since a Pitbull in Lucknow killed an 82-year-old woman by mauling her, and now a Rottweiler has been turned over to the local municipal corporation after its owner became suspicious of it. The family, who reside in Sector 14 in Indira Nagar, Lucknow, contacted the municipal corporation because they could no longer put up with the dog they had been keeping as a pet. The dog had recently started acting aggressively toward the household, the family claimed. The family would lock the dog outside the house for hours at a time to protect themselves from attacks or other violent behaviour since they were so afraid of it. After the family finally notified the Lucknow Nagar Nigam, a team from the Nagar Nigam arrived and brought the dog into custody. This is, however, not the first time that a Rottweiler has turned against its owner. A few years ago, two Rottweilers in Arakkonam, Tamil Nadu, mauled their owner to death when he went to feed them. Two other incidents from the recent past:⁶

- In January 2021, two Rottweilers attacked and killed a 58-year-old worker at a farm near Chidambaram, Cuddalore, Tamil Nadu. It was reported that the two dogs chased the man, attacked him, and bit his ear off after their food was delayed.
- In 2019, two rottweilers mauled a 68-year-old woman to death in Avadi, Chennai.

Two breeds of dogs were taken for the respective survey: Pitbull and Rottweiler (Fig1, Fig2, Fig3, Fig4 and Fig5 attached below show the results that were collected during the survey)

Should we keep Pitbull and Rottweiler as pet?
184 responses

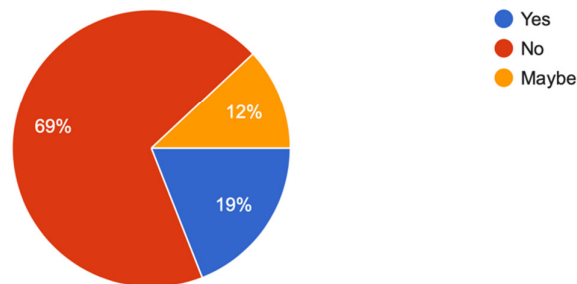


Figure 1

⁶ Cases of Pitbull and Rottweiler

Are there any particular training needs or challenges specific to these breeds?
184 responses

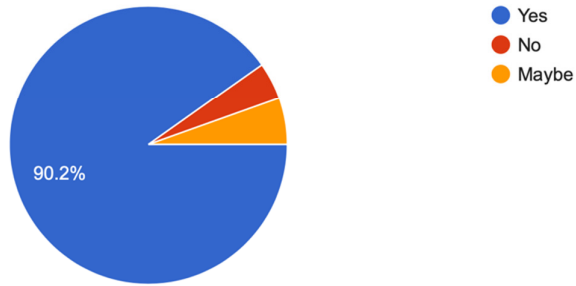


Figure 2

Have you ever owned a Pitbull or Rottweiler?
183 responses

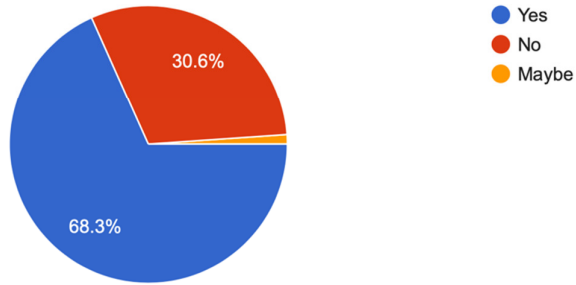


Figure 3

Do you think these breeds should be banned by the govt.?
184 responses

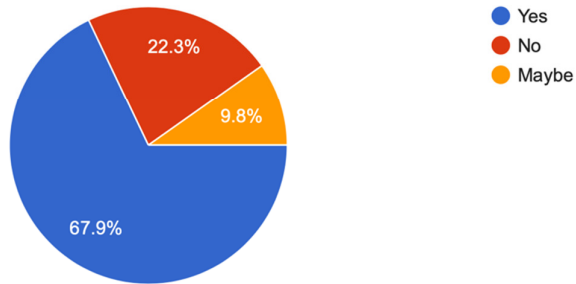


Figure 4

Would you be willing to support rescuing and rehabilitating Pitbull or Rottweilers from abusive situations?

183 responses

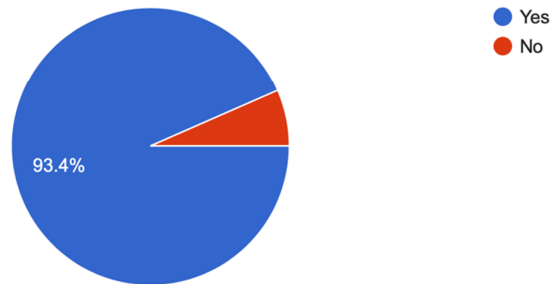


Figure 5

Data Analysis/ Results Interpreting

Based on the results of the conducted survey, 69% of people 184 do not want to keep these breeds as pets. Only 19% agreed to keep them. The primary cause of Pitbull's aggressive tendencies stems from the purpose of their breeding. Each canine breed is developed to accomplish a particular function, and pit bulls have traditionally been bred to kill. The American Society for the Prevention of Cruelty to Animals (ASPCA) claims that early Pit Bull offspring were bred to bite and grip the heads and faces of bulls and bears. In addition, the ASPCA notes that Pitbull was utilized in dog fighting competitions until the practice was outlawed in the 1800s. Due to this intent shift, conscious reproduction depends on the level of hostility. 90.2% of the 183 people want to train these breeds. The government proposed to ban American bulldogs, pit bulls, rottweilers and other violent dog breeds. of.

Conclusion

Despite comprehensive laws and policies, animal abuse and cruelty are rampant in India. The Bombay Society for the Prevention of Cruelty to Animals (BSPCA) revealed that 19,028 cases of animal cruelty were registered over five years, but no arrests or convictions were made. Stronger laws and more effective enforcement are urgently needed to ensure animal protection. The concern for animal rights is a multifaceted issue with important scientific, ethical, economic and political dimensions. To create a functioning environmental culture, it is enough

⁷to combine institutional, legislative and political power with responsive citizenship. Judicial authorities have been actively involved in the protection of animal rights in recent years. And the Supreme Court and various high courts have time and again shown compassion to animals. The lawsuits pending in the courts also hope to protect animal rights that conflict with human rights.

Reflecting and Iterating

Writing a research paper on the subject of legal recognition of animal rights requires constant improvement and iteration. Our approach to the moral treatment of animals in research must change along with society's attitudes and scientific understanding. This calls for constant evaluation of the effectiveness of current legal frameworks, attention to newly developing ethical issues, and interaction with stakeholders from a range of backgrounds and viewpoints. Iterating on a topic entails going over underlying presumptions again, assessing empirical data critically, and investigating other strategies for dealing with the challenging problems at hand. Researchers may add to the continuing discussion about animal rights and work toward more inclusive and morally sound legal frameworks that strike a balance between the demands of scientific advancement and the welfare of animals.

⁷ BSPCA

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