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# **A COMPARATIVE STUDY OF ANIMAL PERSONHOOD IN USA AND INDIA: A JURISPRUDENTIAL ANALYSIS OF JUDICIAL PRECEDENT**

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## **ABSTRACT**

The status of nonhuman animals is experiencing a dramatic change in its legal status on the planet as a whole as it triggers the departure of the past welfare-based systems and instead the legal status of animals as possibly legal persons. The paper analyses this development by comparing jurisprudence of India and the United States with regard to the role of courts, constitutional principles, and theoretical frameworks to influence the new discourse of animal personhood. The key element in such analysis is the identification of animal sentience which has become more and more the standard upon which the moral and legal responsibility is assumed. With increasing scientific knowledge about animal cognition and affect, issues of animals having interests of their own that should be granted protection mount significant pressure on legal systems to align current property-based systems with the fact that animals have real interests as well. The relative divergence between the United States and India could be explained by classic discussions in jurisprudence. To a great extent, the United States follows a positivist paradigm of law, in which courts are loath to attribute any personhood to any entity other than a human being or an established corporate entity unless specifically directed in so doing by legislature. This method is consistent with the opinion that legal validity is based on compliance with formal sources of law and not morality. As a result US courts often refuse to grant animals standing in habeas corpus and other petitionary rights on the grounds that animals lack the capacity to bear responsibility or to exercise the autonomy necessary to qualify as someone who has rights.

In contrast, Indian jurisprudence increasingly reflects an interpretive and morally infused understanding of law. Indian courts have grounded animal protection in constitutional guarantees, fundamental duties, and evolving principles of ecological justice. This approach aligns with the view that legal interpretation must incorporate moral reasoning, coherence, and principles of fairness even when statutory language is silent or limited. Through expanding the meaning of the right to life, relying on constitutional morality, and recognising the intrinsic worth of nonhuman beings, Indian courts have gradually embraced an ecocentric paradigm in which animals function as legal entities capable of possessing rights. The Indian model demonstrates that legal systems can evolve toward personhood without requiring animals to mirror human capacities for rationality or responsibility. Instead, legal subjectivity can be grounded in sentience, vulnerability, and the moral duty of humans to ensure the flourishing of other species. Through comparative analysis, the paper highlights that the future of animal personhood will depend on whether legal systems adopt a purely positivist approach or embrace an interpretive, principle-based model. The study concludes that India is uniquely positioned to lead this global shift by operationalising constitutional values in service of nonhuman life, while the United States remains constrained by procedural barriers and formalist conceptions of legal standing.

**KEYWORDS:** Animal Personhood, Animal Sentience, Comparative Jurisprudence, Judicial Interpretation, Right of Nature, Positivism, Ecocentric

## **1. INTRODUCTION**

The concept of legal personhood has long been one of the most important parts of jurisprudence, traditionally reserved for human beings and selected artificial entities such as corporations and trusts.<sup>1</sup> Within this anthropocentric framework which is a human centric model, animals were regarded as property objects of human ownership without independent legal standing. However, the increasing body of scientific evidence confirming animal sentience their capacity to experience pain, emotion, and consciousness has prompted a paradigmatic shift. The global legal community is witnessing a gradual evolution from property-based classifications toward sentience-based recognition, wherein animals are considered subjects with intrinsic interests

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<sup>1</sup> Visa A.J. Kurki, *Legal Personhood and Animal Rights* 11–15 (Oxford Univ. Press 2021).

deserving of protection.<sup>2</sup> This transformation represents not merely a change in legislative language but a deeper reorientation of moral and legal philosophy concerning the status of nonhuman life. The recognition of animal sentience challenges the foundational assumptions of traditional legal systems. It demands that law reconcile scientific truth with moral reasoning acknowledging that beings capable of suffering ought not to be excluded from the scope of justice.<sup>3</sup> Yet, despite moral progress and social advocacy, the extension of legal personhood to animals remains fraught with theoretical and procedural complexities. Jurisdictions diverge in their approaches some adhere to formal positivist frameworks that require legislative authorization, while others integrate ethical principles directly into constitutional interpretation. The contrast between the United States and India encloses this jurisprudential divergence. The United States operates within a *positivist framework* that emphasizes the separation of law and morality.<sup>4</sup> Courts remain reluctant to extend rights to nonhuman entities without explicit statutory mandate, as reflected in cases like *Nonhuman Rights Project v. Lavery*<sup>5</sup> and *Cetacean Community v. Bush*<sup>6</sup>. India, conversely, has evolved an *ecocentric constitutional morality*, drawing from its philosophical traditions of compassion and coexistence. Landmark judgments such as *A. Nagaraja v. Union of India*<sup>7</sup> and *Karnail Singh v. State of Haryana*<sup>8</sup> reveal an interpretative judicial approach that embeds moral and ethical reasoning within constitutional guarantees. Thus, where the U.S. model prizes procedural legitimacy, India's model foregrounds moral purpose and constitutional duty. This paper grounds its analysis in three distinct philosophical frameworks. For the U.S. model, it applies H.L.A. Hart's positivist theory, including his *interest and will theories* of rights, to explain the judiciary's restraint in granting legal personhood to animals.<sup>9</sup> Hart's separation of law and morality underscores the structural limitations of a system that privileges form over substance.<sup>10</sup> In contrast, India's evolving jurisprudence finds its moral foundation in J.S. Mill's utilitarian ethics

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<sup>2</sup> H.L.A. Hart, *The Concept of Law* 185–90 (3d ed. Oxford Univ. Press 2012).

<sup>3</sup> Gary L. Francione, *Animals as Persons: Essays on the Abolition of Animal Exploitation* 7–9 (Columbia Univ. Press 2012).

<sup>4</sup> Charlotte E. Blattner, *The Recognition of Animal Sentience by the Law*, 9 *J. Animal Ethics* 121, 122 (2019).

<sup>5</sup> *Nonhuman Rights Project, Inc. v. Lavery*, 152 A.D.3d 73 (N.Y. App. Div. 2017); *Cetacean Cmty. v. Bush*, 386 F.3d 1169 (9th Cir. 2004).

<sup>6</sup> *Cetacean Cmty. v. Bush*, 386 F.3d 1169 (9th Cir. 2004).

<sup>7</sup> *Animal Welfare Bd. of India v. A. Nagaraja*, (2014) 7 S.C.C. 547 (India)

<sup>8</sup> *Karnail Singh v. State of Haryana*, C.R.R. No. 533 of 2013, 2019 SCC OnLine P&H 704 (India)

<sup>9</sup> Ashleigh P.A. Best, *A Comparative Study of Animal Personhood in the USA and India: A Jurisprudential Analysis of Judicial Precedent*, 14 *J. Animal & Nat. Res. L.* 45, 47 (2018).

<sup>10</sup> Douglas E. Edlin, *Law and Morality in H.L.A. Hart's Legal Philosophy* 121–23 (Cambridge Univ. Press 2008).

which tie moral worth to the capacity for suffering and M.K. Gandhi's philosophy of Ahimsa, which establishes compassion and nonviolence as the moral and constitutional duties of humankind.<sup>11</sup>

All these considerations lead to the central research question of this study - "*How do the jurisprudential foundations of the United States and India influence the recognition of animal personhood, and what model offers a more coherent and morally sustainable framework for the future?*" To address this question, the paper undertakes a comparative jurisprudential analysis of the legal and philosophical foundations shaping animal personhood in both jurisdictions. Conversely, it employs John Stuart Mill's utilitarian philosophy and Mahatma Gandhi's ahimsic framework to interpret India's ecocentric and morally interpretive model, where compassion and sentience guide constitutional reasoning.<sup>12</sup> By situating these theories within their respective legal contexts, the paper seeks to assess the comparative effectiveness, philosophical coherence, and practical challenges of both approaches in advancing the recognition of nonhuman beings as legal persons.

## 1.1 LITERATURE REVIEW

The scholarly discourse on animal personhood has evolved from ethical debates to serious jurisprudential inquiry, with significant contributions across law, philosophy, and moral theory. Early groundwork was laid by Steven M. Wise (2000) in *Rattling the Cage: Toward Legal Rights for Animals*, where he advanced the argument that certain nonhuman animals particularly great apes, dolphins, and elephants possess cognitive capacities warranting legal personhood.<sup>13</sup> Wise's advocacy, grounded in cognitive ethology, has shaped much of the contemporary litigation strategy in the United States, including the *Nonhuman Rights Project* cases<sup>14</sup>, which rely on legal standing and habeas corpus as entry points to challenge animal property status.

Gary L. Francione (2012), in *Animals as Persons: Essays on the Abolition of Animal Exploitation*, pushed this argument further by rejecting welfare-based frameworks and advocating for complete abolition of animal exploitation. He emphasized that so long

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<sup>11</sup> John Stuart Mill, *Utilitarianism* 35–38 (Hackett Publ'g Co. 2001)

<sup>12</sup> M.K. Gandhi, *The Moral Basis of Vegetarianism and Other Essays on Moral and Spiritual Living* 24–25 (Navajivan Publ'g House 1961).

<sup>13</sup> Steven M. Wise, *Rattling the Cage: Toward Legal Rights for Animals* 45–47 (Perseus Books 2000).

<sup>14</sup> *Nonhuman Rights Project*, *supra* note 5

as animals are legally treated as property, welfare laws will fail to protect them meaningfully. Francione's work situates personhood as a moral and legal necessity, distinguishing between superficial humane treatment and genuine recognition of rights.<sup>15</sup>

David Favre (2013), in *Living Property: A New Status for Animals Within the Legal System*, proposed an intermediate model in which animals are recognized as "living property" entities that remain under human ownership but possess independent legal interests. His model serves as a transitional framework between property and personhood, particularly relevant in positivist jurisdictions such as the United States.<sup>16</sup>

Martha C. Nussbaum (2023), in *Justice for Animals: Our Collective Responsibility*, builds a capabilities-based approach to animal justice, arguing that moral and legal systems must ensure that animals have the opportunity to flourish according to their species-specific capacities. Her theory moves beyond utilitarianism, introducing an ethical framework that links legal rights with moral responsibility and human duty.<sup>17</sup>

Visa Kurki (2021), in *Legal Personhood and Animal Rights*, reconceptualizes personhood as a flexible legal construct that can vary across contexts, rather than as a binary status. Kurki's analysis demonstrates that legal personhood does not require human-like rationality but can be extended on the basis of functional and moral justification. This notion supports an interpretative legal model like India's, where constitutional morality and compassion form the basis of judicial recognition.<sup>18</sup>

Charlotte E. Blattner (2019), in *The Recognition of Animal Sentience by the Law*, uses a comparative law lens to highlight how many jurisdictions already embed sentience in their legal systems. She argues that acknowledging animal sentience imposes both moral and legal duties, transforming welfare into obligation. Her work underscores that recognizing sentience can bridge the gap between ethics and enforceable rights.<sup>19</sup>

In the Indian context, Ashleigh P.A. Best (2018), in her *Comparative Study of Animal Personhood in the USA and India*, emphasized that Indian jurisprudence through cases such as *A. Nagaraja v. Union of India* and *Karnail Singh v. State of Haryana* has moved toward recognizing animals as legal entities guided by ecocentric reasoning.<sup>20</sup>

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<sup>15</sup> Francione, supra note 3 at 10

<sup>16</sup> David Favre, *Living Property: A New Status for Animals Within the Legal System*, 93 Marq. L. Rev. 1021, 1023–27 (2013).

<sup>17</sup> Martha C. Nussbaum, *Justice for Animals: Our Collective Responsibility* 18–22 (Simon & Schuster 2023).

<sup>18</sup> Kurki, supra note 1 at 56-63

<sup>19</sup> Charlotte E. Blattner, *The Recognition of Animal Sentience by the Law*, 9 J. Animal Ethics 121, 122–25 (2019).

<sup>20</sup> Best, supra note 9 at 45,47-50

Similarly, Taniya Malik (2020) explored how India's constitutional framework and fundamental duties provide a unique moral foundation for animal welfare laws, distinguishing them from Western positivist systems.<sup>21</sup>

Across these works, several common themes emerge. First, the recognition of animal sentience serves as the foundational criterion for moral and legal consideration.<sup>22</sup> Scholars agree that animals' capacity for suffering and emotional complexity demands a departure from anthropocentric interpretations of law. Second, there is an ongoing debate regarding the legal status of animals whether they should remain as property, be viewed as "*living entities*," or be granted full personhood. Third, judicial innovation has emerged as a key driver of progress. In India, courts have interpreted constitutional provisions through ecocentric and compassionate reasoning, while in the United States, judicial restraint reflects a commitment to Hart's positivist principle that rights must originate from legislative sources. Finally, both traditions acknowledge that legal recognition alone is insufficient without corresponding moral evolution and administrative enforcement mechanisms. While the existing scholarship provides a robust ethical and theoretical foundation, three critical gaps persist. First, there is a lack of comparative jurisprudential synthesis between positivist and moral-interpretive models of personhood. Most analyses treat the U.S. and Indian approaches separately rather than through an integrated theoretical lens. Second, there is limited engagement with moral-philosophical reasoning particularly how frameworks like Mill's utilitarianism and Gandhi's ahimsa can complement or challenge Western legal positivism.<sup>23</sup> Bridging these philosophies can deepen understanding of how moral and legal authority interact in shaping personhood. Third, while Indian courts have embraced ecocentric reasoning, implementation remains weak due to administrative and political inertia. Similarly, the U.S. system's legislative rigidity hinders progressive reform. This underscores the need for an interpretative, principle-based synthesis that combines legal precision with moral obligation.

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<sup>21</sup> Taniya Malik, *Protection of Animal Rights in Indian Legal System*, *Bharati L. Rev.*, Vol. VIII, Issue 4, 56–58 (2020).

<sup>22</sup> Blattner, *supra* note 18 at 127.

<sup>23</sup> John Stuart Mill, *Utilitarianism* 35–38 (Hackett Publ'g Co. 2001); M.K. Gandhi, *The Moral Basis of Vegetarianism and Other Essays on Moral and Spiritual Living* 24–25 (Navajivan Publ'g House 1961); Malik, *supra* note 9, at 57–58.

## 2. THEORETICAL FRAMEWORK

H.L.A. Hart's legal positivism provides a philosophical foundation for understanding the United States confined approach toward animal personhood. Hart's central premise lies in the separation of law and morality that the validity of law derives from its source rather than its moral content.<sup>24</sup> According to his concept of the Rule of Recognition, a law is valid if it emerges from a recognized legal authority, such as legislation or judicial precedent, irrespective of its ethical implications. This framework inherently limits the judiciary's ability to extend personhood to entities not explicitly recognized by statute. Hart's theories of rights the "*Will Theory*" and the "*Interest Theory*" further illuminate this constraint. *Under the Will Theory, rights exist only where an entity possesses the capacity to exercise choice or control over duties imposed on others.*<sup>25</sup>

As William C. Starr explains, Hart's distinction between *primary* and *secondary* rules reflects a broader commitment to viewing law as a system of obligations that presupposes the capacity for rational agency.<sup>26</sup> Starr notes that "*legal personality presupposes a being capable of bearing obligations and exercising choices within this framework,*" a conception that aligns directly with the Will Theory of rights, under which "a right exists only where its holder can control its exercise, waive it, or claim its enforcement".<sup>27</sup> Within this framework, entities incapable of volitional control such as nonhuman animals may be objects of legal protection but cannot, in Hart's terms, be bearers of rights.<sup>28</sup> This theoretical constraint underpins the U.S. judiciary's reluctance to recognize animals as legal persons, as their lack of autonomy precludes participation in the reciprocal structure of rights and duties upon which Hart's model depends.

Since animals lack the cognitive and will powers to claim or waive rights, they fall outside this area. *The Interest Theory, however, broadens the scope by suggesting that rights may be attributed to entities capable of having interests even if they cannot actively assert them.*<sup>29</sup> The "*Will Theory*" restricts the attribution of rights to entities capable of exercising autonomous choice and control over duties, later theorists such

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<sup>24</sup> Hart's, supra note 2 at 18-20

<sup>25</sup> Id. at 100-105

<sup>26</sup> William C. Starr, Law and Morality in H.L.A. Hart's Legal Philosophy, 67 *Marq. L. Rev.* 673, 678 (1984).

<sup>27</sup> Id. at 679

<sup>28</sup> Hart's supra note 2 at 87-89

<sup>29</sup> Id. at 90-91

as *Visa A.J. Kurki* have sought to refine the “Interest Theory” to overcome this exclusionary framework. Kurki contends that the essential criterion for holding a legal right is not the capacity to claim, waive, or enforce it, but rather that the corresponding duty normatively protects an aspect of the entity’s welfare that is intrinsically beneficial to beings of its kind.<sup>30</sup> Under this formulation, animals akin to infants or persons with cognitive disabilities may validly be considered right-holders insofar as legal duties safeguard their welfare interests, irrespective of their inability to exercise agency.<sup>31</sup> As Kurki observes, the “Interest Theory” offers a more coherent and inclusive account of legal doctrine by recognizing that duties imposed for the protection of welfare inherently confer correlative rights on those protected. This conceptual shift provides a robust philosophical foundation for extending legal personhood to nonhuman animals, aligning with contemporary understandings of sentience and moral considerability, while still operating within a positivist framework.

This creates a narrow theoretical entry point for animal protection within positivist systems, but it remains largely underdeveloped in American jurisprudence. In the U.S. context, this positivist theory exists in landmark cases such as *Nonhuman Rights Project v. Laver*<sup>32</sup> and *Cetacean Community v. Bush*<sup>33</sup>, where courts declined to recognize animals as “persons” entitled to constitutional protection. The reasoning consistently emphasizes that animals cannot bear legal duties or exercise autonomy, rendering them ineligible for personhood under current legal definitions. Thus, procedural formalism and statutory positivism act as barriers to recognizing animals as rights-holders, confining their protection to welfare statutes that reinforce property status rather than moral agency. The outcome of this study shows that the American model reflects the limitations of positivism, that it preserves legal certainty and institutional consistency but it fails to accommodate the evolving moral and scientific understandings of the animal sentience.<sup>34</sup> Legal personhood for animals remains blocked by a rigid adherence to form over ethical substances.

In contrast, when we talk about the Indian model towards animal personhood it

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<sup>30</sup> Kurki, supra note 1 at 56-63

<sup>31</sup> Id. at 65-66

<sup>32</sup> *Nonhuman Rights, Inc v. Lavery*, 152 AD.3d 73 (NY. App. Div. 2017)

<sup>33</sup> *Cetacean Cmty. V. Bush*, 286 F.3d 1169 (9<sup>th</sup> Cir. 2004)

<sup>34</sup> Blattner, supra note 20 at 121,15-126

embodies a morally interpretive and ecocentric model rooted in the philosophies of John Stuart Mill and Mahatma Gandhi.<sup>35</sup>

J.S. Mill's Utilitarianism ties moral worth to the capacity for pleasure and pain, arguing that any being capable of suffering deserves moral consideration. His utilitarian ethics extend beyond species boundaries, establishing a "species-neutral" moral logic that aligns with modern recognition of animal sentience.<sup>36</sup>

This philosophy supports the view that animal welfare is not a matter of human preference but of moral obligation a principle reflected in India's progressive judicial approach.

Extract from J.S Mills Utilitarianism theory:

"According to the Greatest Happiness Principle, the ultimate end, with reference to and for the sake of which all other things are desirable... is an existence exempt as far as possible from pain, and as rich as possible in enjoyments, both in point of quantity and quality; ... and not to them only, but, so far as the nature of things admits, to the whole sentient creation."<sup>37</sup>

The Supreme Court's reasoning in *Animal Welfare Board of India v. A. Nagaraja* (2014)<sup>38</sup> provides a clear judicial manifestation of Mill's utilitarian principle that moral worth is determined by the capacity for pleasure and pain. In striking down the traditional practice of Jallikattu, the Court emphasized that animals experience suffering and distress comparable to human pain and that such suffering cannot be justified on grounds of culture or entertainment. This recognition of sentience as the foundation for legal protection reflects Mill's "species-neutral" moral logic, which extends moral consideration to all beings capable of experiencing happiness or

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<sup>35</sup> M.K. Gandhi, *Young India*, 1947

<sup>36</sup> Proctor, Helen S et al. "Searching for Animal Sentience: A Systematic Review of the Scientific Literature." *Animals* : an open access journal from MDPI vol. 3,3 882-906. 4 Sep. 2013, doi:10.3390/ani3030882

<sup>37</sup> John Stuart Mill, *Utilitarianism* 35-38 (Hackett Publ'gh Co. 2001)

<sup>38</sup> *Supra* note 7

suffering. By interpreting Article 21<sup>39</sup> to include the dignity and well-being of animals, and by invoking Article 51A(g)<sup>40</sup> as a moral duty of compassion, the Court operationalized utilitarian ethics within India's constitutional framework. Thus, the *Nagaraja* judgment embodies Mill's principle of maximizing happiness and minimizing suffering not merely as a moral claim but as a constitutional obligation toward all sentient beings.

As Mahatma Gandhi profoundly observed,

*“The greatness of a nation and its moral progress can be judged by the way its animals are treated”. This principle encapsulates the ethical foundation of India's constitutional compassion. Gandhi's doctrine of Ahimsa transforms the utilitarian concern for minimizing suffering into a moral and spiritual duty of non-violence toward all sentient beings.”*<sup>41</sup>

Complementing Mill's utilitarian perspective is M.K. Gandhi's doctrine of Ahimsa, which envisions nonviolence and compassion toward all living beings as fundamental to moral and social order. Gandhi's ahimsic ethics resonate deeply within India's constitutional fabric, particularly through Article 51A(g),<sup>42</sup> which enshrines the fundamental duty of compassion toward all living creatures. This moral foundation has enabled Indian courts to reinterpret constitutional provisions expansively, particularly Article 21<sup>43</sup>, which guarantees the right to life not only for humans but also for nonhuman beings.

The judicial applications of these principles are evident in landmark cases such as *Animal Welfare Board of India v. A. Nagaraja* (2014)<sup>44</sup> and *Karnail Singh v. State of Haryana* (2019)<sup>45</sup>. In *A. Nagaraja*, the Supreme Court recognized the intrinsic worth of animals and extended the meaning of “life” to encompass dignity and well-being,

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<sup>39</sup> INDIA CONST. art 21

<sup>40</sup> INDIA CONST. art 51A(g)

<sup>41</sup> Gandhi, supra note 35 at 23

<sup>42</sup> Id. 62

<sup>43</sup> Id. 63

<sup>44</sup> Supra note 7

<sup>45</sup> Supra note 8

marking a decisive move toward ecocentric jurisprudence.<sup>46</sup>

To justify this, it is given in Para 62 -63 of the Animal Welfare Board v. A Nagaraja 2014 that,

*“Every species has a right to life and security, subject to the law of the land, which includes depriving its life out of human necessity. Article 21 of the Constitution, while safeguarding the rights of humans, protects life and the word ‘life’ has been given an expanded definition. Any disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, fall within the meaning of Article 21.”*

*“So far as animals are concerned, in our view, ‘life’ means something more than mere survival or existence or instrumental value for human beings, but to lead a life with some intrinsic worth, honour and dignity. Animals have also got intrinsic worth and value. Article 51A(g) of the Constitution enjoins that it shall be the duty of every citizen to have compassion for living creatures, which means concern for suffering, sympathy, kindness etc.”<sup>47</sup>*

Also, in the case of Karnail Singh v. State of Haryana (2019) extracts of para 29-30 are given below:

*“The entire animal kingdom including avian and aquatic are declared as legal entities having a distinct personal with corresponding rights, duties and liabilities of a living person.”*

*“All the citizens throughout the State of Haryana*

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<sup>46</sup> Mill, supra note 24 at 45-48

<sup>47</sup> A. Nagaraja, supranote 26, Para 62-63

*are hereby declared persons in loco parentis as the human face for the welfare/protection of animals. Animals have a right to live and are required to be protected by law. The rights and privacy of animals are to be respected and protected from unlawful attacks.*<sup>48</sup>

The outcome of this in India's model represents a fusion of morality and law, where animal personhood is grounded in sentience, vulnerability, and human duty rather than rational autonomy. Through utilitarian and ahimsic ethics, Indian courts construct an ecocentric paradigm that recognizes the intrinsic value of all living beings transforming moral principles into enforceable constitutional norms.<sup>49</sup>

The proximity of positivist framework with the utilitarian and ahimsic foundations of Indian jurisprudence reveals two fundamentally divergent pathways toward the recognition of animal personhood. The United States, grounded in Hart's separation of law and morality, preserves legal certainty but remains constrained by a rights paradigm that ties personhood to rational autonomy and legislative authorization. Consequently, animals are denied juridical standing despite the moral and scientific consensus affirming their sentience. In contrast, the Indian model, informed by Mill's utilitarian concern for the minimization of suffering and Gandhi's ahimsic ethic of compassion, dissolves this rigid boundary by embedding moral reasoning within constitutional interpretation. Through Article 21's<sup>50</sup> expanded conception of life and Article 51A(g)'s<sup>51</sup> duty of compassion, Indian courts have translated ethical imperatives into enforceable legal norms, constructing an ecocentric framework that affirms animals' intrinsic worth. This theoretical divergence not only anchors the comparative analysis that follows but also underscores the normative possibility of reconciling legality with morality an evolution that may ultimately define the future of animal personhood.<sup>52</sup>

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<sup>48</sup> Karnail Singh v. State of Haryana, 2019 SCC OnLine P&H 704, para 29-30

<sup>49</sup> Mill, supra note 24 at 47-48

<sup>50</sup> INDIA CONST. art 21

<sup>51</sup> INDIA CONST. art 51A(g)

<sup>52</sup> Gladden, Matthew. "The Diffuse Intelligent Other: An Ontology of Nonlocalizable Robots as Moral and Legal Actors." Social Robots: Boundaries, Potential, Challenges, 2016.

### **3. COMPARATIVE ANALYSIS: USA AND INDIA**

The contrast between the United States and India in recognizing animal personhood reflects two fundamentally different jurisprudential models. While both legal systems acknowledge the moral relevance of animal welfare, their philosophical underpinnings positivist formalism in the United States and ecocentric moral constitutionalism in India determine the extent to which animals can be seen to hold the rights rather than objects of property.

#### **3.1 LEGAL POSITIVISM AND LIMITS OF PERSONHOOD IN USA**

The United States operates under a legal system rooted in Hart's positivist framework, emphasizing the separation of law and morality. In this model, the judiciary's interpretative space is limited by the Rule of Recognition, which requires that legal validity stem from formally recognized authorities such as statutes or precedents.<sup>53</sup> There is a big gap between what we know is morally right and what is legally required. Scientific proof of animal sentience is ignored by the law until lawmakers write it into a specific statute.<sup>54</sup> In landmark cases such as *Nonhuman Rights Project v. Lavery* (2014)<sup>55</sup> and *Cetacean Community v. Bush* (2004),<sup>56</sup> American courts have consistently reaffirmed this positivist stance. The reasoning revolves around the premise that animals, lacking the capacity to bear legal duties or exercise rational autonomy, cannot qualify as "persons" under the law. This approach reflects Hart's Will Theory, which restricts rights to entities capable of exercising control or choice. Even the Interest Theory, which could theoretically allow rights for sentient beings, remains underutilized because the U.S. judiciary prioritizes procedural validity over moral argumentation.

The consequence of this legal formalism is that animal protection in the U.S. remains confined to welfare legislation such as the Animal Welfare Act, 1966<sup>57</sup> and Endangered Species Act, 1973<sup>58</sup> that reinforces hierarchical human-animal relations. Judicial innovation is minimal, and moral reasoning is seen as external to law's domain. This positivist rigidity ensures legal consistency but at the cost of moral evolution,

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<sup>53</sup> Steven M. Wise, *Rattling the Cage: Toward Legal Rights for Animals* 45–47 (Perseus Books 2000).

<sup>54</sup> *Id.* at 100–05.

<sup>55</sup> *Nonhuman Rights Project, Inc. v. Lavery*, 152 A.D.3d 73 (N.Y. App. Div. 2017)

<sup>56</sup> *Cetacean Cmty. v. Bush*, 386 F.3d 1169 (9th Cir. 2004).

<sup>57</sup> *Animal Welfare Act of 1966*, 7 U.S.C. § 2131 et seq.;

<sup>58</sup> *Endangered Species Act of 1973*, 16 U.S.C. § 1531 et seq.

effectively stalling the recognition of animal personhood.

### 3.2 ECOCENTRIC AND MORAL JURISPRUDENCE IN INDIA

India's legal system, by contrast, integrates moral philosophy with constitutional interpretation, creating a jurisprudence that bridges law and ethics. Influenced by J.S. Mill's utilitarianism and M.K. Gandhi's doctrine of Ahimsa, Indian courts recognize that moral obligation and compassion toward animals are not merely ethical virtues but constitutional imperatives.

In *Animal Welfare Board of India v. A. Nagaraja* (2014),<sup>59</sup> the Supreme Court redefined the right to life under Article 21 to include the dignity and well-being of animals, effectively extending constitutional protection beyond human beings. The Court explicitly invoked Article 51A(g), emphasizing the duty of compassion as a binding moral principle for all citizens. Similarly, in *Karnail Singh v. State of Haryana* (2019)<sup>60</sup>, the High Court declared all animals to be legal entities, appointing citizens as guardians responsible for their welfare. These judgments mark a departure from the anthropocentric tradition, embracing an ecocentric model where legal subjectivity is grounded in sentience and interdependence rather than rational autonomy. Unlike the U.S. courts that hesitate to fill legislative gaps, Indian courts actively interpret constitutional provisions to align with moral, ethical, and environmental values.<sup>61</sup> This approach reflects both Mill's utilitarian emphasis on minimizing suffering and Gandhi's ahimsic vision of universal compassion. The resulting jurisprudence reframes animals not as passive beneficiaries of welfare laws but as active subjects of rights, entitled to protection for their intrinsic worth.<sup>62</sup>

### 3.3 COMPARATIVE SYNTHESIS: DIVERGENT PHILOSOPHIES, CONVERGENT POTENTIAL

When examined comparatively, the jurisprudential divide between the United States and India becomes a reflection of their broader legal philosophies. The U.S. model, founded on positivist control, prioritizes institutional authority, procedural integrity, and legislative supremacy. This leaves little space for moral evolution. In contrast, the

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<sup>59</sup> *Animal Welfare Bd. of India v. A. Nagaraja*, (2014) 7 S.C.C. 547 (India).

<sup>60</sup> *Karnail Singh v. State of Haryana*, 2019 SCC OnLine P&H 704, ¶¶ 29–30.

<sup>61</sup> Martha C. Nussbaum, *Justice for Animals: Our Collective Responsibility* 18–22 (Simon & Schuster 2023).

<sup>62</sup> Mill, *supra* note 44, at 45; Gandhi, *supra* note 44, at 26.

Indian model exemplifies interpretive activism, where courts act as moral agents, using constitutional morality to bridge the gap between law and ethics.<sup>63</sup> However, this interpretive freedom comes with challenges. India's moral jurisprudence often struggles with administrative inertia, political influence, and enforcement deficiencies, resulting in a gap between judicial declarations and on-ground realities.<sup>64</sup> The U.S. model, though morally conservative, benefits from stronger institutional coherence and could, if combined with moral interpretation, provide a stable foundation for expanding personhood.<sup>65</sup> Ultimately, the comparative insight reveals that a synthesis of both systems offers the most sustainable path forward. The moral interpretivism of India, rooted in compassion and utilitarian reasoning, can inspire the formal precision and legislative integration of the U.S. system.<sup>66</sup> Together, they point toward a global jurisprudence where animal personhood is not a symbolic moral gesture but a legally enforceable recognition grounded in both sentience and justice.<sup>67</sup>

#### **4. FINDINGS AND DISCUSSIONS**

The comparative jurisprudential analysis of the United States and India reveals that the question of animal personhood is not merely legal but deeply philosophical. The recognition or denial of rights to nonhuman beings ultimately depends on how each legal system conceptualizes law's relationship with morality. While the United States remains committed to positivist proceduralism, India demonstrates a moral-interpretive constitutionalism that expands the boundaries of personhood beyond human exclusivity.<sup>68</sup>

##### **4.1 KEY FINDINGS**

1. The jurisprudential basis of each system determines the extent of legal innovation possible. The U.S. model, rooted in Hart's positivist framework, confines the judiciary to interpreting explicit statutory provisions, preventing moral or scientific arguments from influencing personhood recognition. Conversely, India's courts, informed by Mill's utilitarian ethics and Gandhi's

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<sup>63</sup> Hart, *supra* note 36, at 87–89.

<sup>64</sup> Gandhi, *supra* note 44, at 28.

<sup>65</sup> Best, *supra* note 43, at 52–53.

<sup>66</sup> Taniya Malik, *Protection of Animal Rights in Indian Legal System*, *Bharati L. Rev.*, Vol. VIII, Issue 4, 56–58 (2020).

<sup>67</sup> Mill, *supra* note 44, at 47–48.

<sup>68</sup> Martha C. Nussbaum, *Justice for Animals: Our Collective Responsibility* 18–22 (Simon & Schuster 2023).

ahimsic philosophy, interpret constitutional provisions as living instruments infused with moral responsibility and compassion. This allows a shift from anthropocentrism to ecocentrism.<sup>69</sup>

2. Both systems acknowledge animal sentience, yet operationalize it differently. In the United States, sentience is accepted as a biological fact but lacks normative force within the law. In India, sentience functions as a jurisprudential foundation, justifying the extension of Article 21<sup>70</sup> of the Indian Constitution and the recognition of animals as entities possessing intrinsic worth.
3. The U.S. courts defer legislative authority, adhering to the rule of recognition. As a result, legal personhood claims such as those in *Nonhuman Rights Project v. Lavery 2014*<sup>71</sup> were rejected as ultra vires. Indian courts, in contrast demonstrate a more judicially creative environment where the fillings constitutional silence through moral interpretation. Decisions such as *A. Nagaraja (2014)* and *Karnail Singh (2019)* exemplifies how the judiciary integrates ethical reasoning within the legal domain.
4. While India's ecocentric jurisprudence is philosophically advance, it suffers from administrative weaknesses and political inconsistency. Judicial declarations of animal personhood often lacks implementation frameworks, it leads to a more symbolic recognition without substantive enforcement. The United States, though more institutionally stable remains morally conservative, constrained by positivism that resists transformative reform.<sup>72</sup>

Collectively, these findings indicate that India's moral-constitutional model provides a more coherent and ethically grounded approach to recognizing animal personhood, though its impact depends on translating judicial principles into enforceable statutory reforms.

## 4.2 DISCUSSIONS

The findings indicate that India's ecocentric jurisprudence offers a more coherent and morally sustainable model for the recognition of animal personhood. By embedding compassion, duty, and sentience into constitutional interpretation, India bridges the

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<sup>69</sup> Id. at 25-27

<sup>70</sup> INDIA CONST. art.25-27

<sup>71</sup> *Nonhuman Rights Project, Inc v. Lavery*

<sup>72</sup> Id. at 70–71

divide between law and morality realizing what Fuller termed the “*inner morality of law*.”<sup>73</sup> However, the model’s success is undermined by weak institutional mechanisms, limited policy integration, and political interference in animal welfare governance. In contrast, the U.S. system exemplifies the strength and weakness of positivism. Hart’s framework ensures legal stability and predictability, but by severing law from moral content, it risks moral stagnation. The rigidity of the Rule of Recognition prevents courts from evolving law in light of ethical or scientific advancement. While this prevents judicial overreach, it also perpetuates an outdated anthropocentric hierarchy inconsistent with contemporary understandings of animal sentience and welfare.<sup>74</sup>

From a comparative jurisprudential standpoint, a synthesized framework emerges as the most viable path forward one that combines India’s interpretive moralism with America’s structural precision. The incorporation of Mill’s utilitarian ethics and Gandhi’s ahimsa within a codified statutory scheme could transform moral ideals into enforceable duties. Such a hybrid model would ensure that the recognition of animal personhood is not merely judicial rhetoric but an administratively realizable legal reality. Ultimately, the comparative study demonstrates that the future of animal personhood jurisprudence lies in balancing moral inclusivity with institutional coherence. Legal systems must evolve beyond the binary of “*person*” and “*property*” to recognize animals as sentient entities with legally protected interests, reflecting both ethical progress and legal discipline.

## **5. CONCLUSION**

This comparative study establishes that the recognition of animal personhood is not simply a legal evolution but a moral reckoning within the philosophy of law itself. The United States and India embody two contrasting yet complementary paradigms. The American legal system, grounded in H.L.A. Hart’s positivism, upholds a strict separation between law and morality, measuring validity through the *Rule of Recognition* rather than moral justification. Within this model, rights flow from

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<sup>73</sup> Dybowski, Maciej. “Theory of Legal Evidence - Evidence in Legal Theory; Law and Philosophy Library 138; Springer (2021).” Theory of Legal Evidence - Evidence in Legal Theory, Springer International Publishing.

<sup>74</sup> “Rule of Recognition in a Modern Legal System.” LawTeacher.net. 11 2013. Business Bliss Consultants. 12 2025

legislative authority, not ethical reasoning, which confines animals to the world of welfare beneficiaries rather than autonomous subjects of law. Judicial refusals in cases such as *Nonhuman Rights Project v. Lavery* underscore this positivist rigidity preserving institutional predictability but silencing moral progress.

In contrast, India's jurisprudence reimagines law as a living moral enterprise. J.S. Mill's utilitarian principle helps to understand that moral worth arises from the capacity for pleasure and pain, and by M.K. Gandhi's ahimsic vision of nonviolence and compassion, Indian courts have infused the Constitution with ecological and ethical consciousness. Through Articles 21, 48A, and 51A(g), the judiciary has transformed compassion from a moral virtue into a constitutional duty. Landmark judgments such as *Animal Welfare Board of India v. A. Nagaraja* (2014) illustrate this evolution expanding "life" to encompass dignity, well-being, and coexistence, thereby embedding animals within India's moral community. This shift represents a movement from anthropocentric rights to ecocentric justice, where the law acknowledges sentience as the core criterion of personhood. Yet, this moral ascendancy in Indian jurisprudence is tempered by administrative fragility. Despite profound constitutional articulation, enforcement mechanisms remain weak, and legislative codification lags behind judicial philosophy. Whereas in the United States, while they are more legally consistent and procedurally disciplined, they remain morally inert unable to translate scientific recognition of sentience into legal personhood due to its adherence to statutory literalism.

The comparative analysis reveals that India's ecocentric model offers a more coherent and morally sustainable jurisprudence, one that reconciles law's normative function with ethical responsibility. The U.S., however, demonstrates the value of procedural integrity and institutional clarity. The future of animal personhood thus lies in the synthesis of both models where the formal precision of Hart's positivism is tempered by Fuller's inner morality of law and animated by Gandhi's moral universalism. In this integrated vision, legality and morality cease to be opposites together, they forge a jurisprudence that measures justice by its inclusivity toward all sentient beings.

## **5.1 RECOMMENDATIONS**

1. Legislature in both countries should enact comprehensive frameworks that explicitly recognize animal sentience as the foundation of legal protection. The codification of sentience bridges the gap between positivist authority with moral reasoning. It creates a more unified and enforceable legal standard.
2. India must operationalise its constitutional compassion through empowered welfare boards, local guardianship systems and clear administrative accountability to convert judicial pronouncements into tangible protections.
3. Continuous judicial and legislative training in animal ethics, behavioural science and moral philosophy should be institutionalized to ensure that decisions align with evolving scientific and ethical understandings.
4. Indian jurisprudence should continue balancing Mill's utilitarian concern for minimizing suffering with Gandhi's duty-based ahimsa to sustain the moral coherence of its ecocentric framework.
5. Drawing on India's constitutional morality and the U.S.'s procedural precision, an international declaration on animal personhood should be pursued establishing a globally harmonized recognition of sentient life grounded in dignity, justice, and interspecies harmony.

## **6. FINAL REFLECTIONS**

The evolution of animal personhood compels jurisprudence to transcend its traditional boundaries and engage directly with its moral foundations. The legitimacy of law can no longer rest solely on procedural authority or positivist certainty; it must also embody humanity's ethical responsibility toward all sentient beings. India's model of constitutional compassion offers a promising path forward, harmonizing the structural discipline of Hart's legal order with the moral conscience of Gandhi's principle of ahimsa. As legal thought advances toward an ecocentric consciousness, justice is redefined not as a privilege reserved for the rational but as an expression of dignity inherent in all who can feel and suffer. Yet, while this philosophical and judicial evolution marks genuine progress, it must be accompanied by more effective and accountable administrative action to ensure that the moral promise of animal personhood is realized in practice.