

A Study of Animals as Legal Persons

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Abstract

Animals have always been subject to being treated as disposable when compared to human lives and living. While there are multiple animal welfare legislations, their efficacy is still a far cry from the objectives they aimed to achieve. The laws have generally been neglectful towards animals and can even be said to have failed them; perhaps, for this reason, the concept of legal personhood of animals is increasingly becoming popular. In essence, it means that certain jurisdictions are willing to accept animals as legal persons and accord a legal person's rights to animals. While done with the view to safeguarding animals' existence, such recognition brings with itself a host of its own problems. The standard definition of a legal person is in jeopardy, and the new recognition will need certain accommodations in the current legal framework or a workaround to sort out the issue of raising the legal status of animals. Many nations are still in conflict over the newfound recognition. This paper would describe the animal welfare legislation in India and point out its inefficiency. Further, it would analyse the instances of recognition of animals as a special entity from ancient times and proceed to the modern-day act of the Punjab and Haryana, and the Uttarakhand High Court of giving all the animals the status of legal persons. It would examine its implications and provide solutions for the issues arising out of them. While perusing the legislation's nuances, it would compare the jurisdictional response to this new understanding all over the world. Lastly, it would part with asserting the need to raise animals' legal status anyway, for justice and equity.

Key Words: Legal Person, Animals, Animal Welfare Legislation, Animal Rights, Animal Personhood.

1. Introduction

“The greatness of a nation and its moral progress can be judged by the way its animals are treated.” Gandhi.

In a world dominated by humans, the lives and liberty of animals are always in jeopardy. This planet's self-declared rulers have caused innumerable species to be endangered, and many still to go even extinct. This is a result of indiscriminate killings for the resources obtained from the animals. Further, the expansion of human settlements pushes animals out of their homes.² Many animals are subjected to callous treatment in circuses, zoos, and even as pets of owners, even though love and compassion for animals are enshrined under fundamental duties.³ In contrast to independent living entities, animals have become a contrivance to satisfy human wants.

It is not true that there are no welfare legislations written for the sake of the animals. In fact, in India, such laws are abundant. But not all laws are competent and have kept in touch with the times completely. For example, Section 428 of IPC, which punishes for the killing or maiming of animals has a minuscule monetary fine, and though the terms of imprisonment are two years, such is rarely followed, and only in exceptional cases. The fine for an offence under this section

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² Jani Actman, 12 Nat Geo Stories That Exposed Wildlife Exploitation, National Geographic (Nov. 9, 2015), <https://news.nationalgeographic.com/2015/11/151107-national-geographic-wildlife-crime-traffickinganimals/>.

³ Constitution of India; art. 51A, Cl. g.

is Rs. 10, an amount so low that it places no value on the animals' lives. Similarly, the provision of Section 429 of IPC suffers from the same fate, with the punishment being grossly inadequate to be considered retributive in modern times.⁴ In fact, it is the people's approach that animal life is inconsequential in respect of a normal human life and the people themselves clamor to ease up on the punishment of the guilty if all he is charged with is harming the life of the animal. This approach trivializes the life of animals. Prevention of Cruelty to Animals Act, 1960 is the stalwart act in India enacted in defense of those animals that generally face regular human interactions. It has multiple sections that detail the treatments that the animals are to be accorded.⁵ It has established rules that try to restrain the public from handling the animals cruelly. It also attempts to police the experimentation on animals. The act also has directions regarding performing animals, a sign of the times of circuses and wandering showmen, stating that a performing animal can only be exhibited or trained by a person who is registered under the act's chapter and anything done in contravention to the same is punishable.⁶ In spite of all these laws, they are rarely ever followed and have proven grossly ineffective.

India recently passed additional guidelines to increase the scope of protection to Dogs,⁷ Fishes,⁸ and Livestock⁹, etc. They are passed under the aforementioned act and are supposed to extinguish the cruelty that these animals face at the hands of humans.¹⁰ Rules are also in place to ensure that animals will not be slaughtered for any reason at places other than at licensed slaughterhouses. Thus expressly forbids animal sacrifice in every part of the country,¹¹ though an exception has been made in consideration of religion.¹² This defeats the purpose as thousands of animals are sacrificed in the country, stating religious purposes. The Wildlife Protection Act also attempts to function as a shield by restraining animals' hunting, but the enforcement of the law is a far cry from the need of the hour.¹³

Along with the incompetence and lack of stern enforcement, the current welfare laws are also lacking as they relegate the animals to a property's status. They still allow animals to be used and only try to regulate the way we use them.¹⁴ These laws, while enacted with the intention to safeguard the animals would still be content with letting animals be regarded as objects subjected to human will. Demarcation of the animals as property is erroneous as they are distinct from other types of property that humans possess. They are not inanimate and man-made like a car, laptop, cell phone etc. Neither are they like plants lacking reasoning and neural capabilities. They have a will of their own as well as their own desires and distresses. The animals react

⁴ Humane Society International (India), 15 Animal Rights in India That Every Citizen Should Know, THE BETTER INDIA (Feb. 19, 2016, 3:55 PM), <https://www.thebetterindia.com/46721/humane-society-india-animal-laws-prevention-of-cruelty-act/>.

⁵ Prevention of Cruelty to Animals Act, 1960, § 11, 17 (1A).

⁶ Prevention of Cruelty to Animals Act, 1960, Chapter V.

⁷ Prevention of Cruelty to Animals (Dog Breeding and Marketing) Rules, 2017.

⁸ Prevention of Cruelty to Animals (Aquarium and Fish Tank Animals Shop) Rules, 2017.

⁹ Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017.

¹⁰ PETA, India Passes New Rules to Protect Animals, PETA INDIA (May 27, 2017, 7:53 PM), <https://www.petaindia.com/blog/india-passes-new-rules-protect-animals/>.

¹¹ Prevention of Cruelty to Animals (Slaughter House) Rules, 2000; Rule 3.

¹² Prevention of Cruelty to Animals Act, 1960, § 28.

¹³ Wildlife Protection Act, 1972, § 9.

¹⁴ GARY L. FRANCOINE, ANIMALS AS PERSONS: ESSAYS ON THE ABOLITION OF ANIMAL EXPLOITATION 7 (Columbia University Press, 2009).

passively, as was held for the most part in the 20th century, but are dynamic thinkers, often displaying sufficient problem-solving skills to survive daily life.¹⁵ They have the ability to act independently and possess a level of sentience. As stated earlier, animals to varying degrees can feel,¹⁶ and as such placing them in the category of objects is a severe disservice to their existence and is unquestionably unjustifiable.

II. Role of Judiciary in Protection of Animals

Judiciary is the organ that fills the breaks left by the legislature. It is the entity that is expected to interpret the laws in an equitable manner, just and in line with the principles of our constitution. In this regard, it has come a long way in reading provisions that would otherwise not be regularly expected and foreseen. Though it is definitely the duty of the judiciary to work for the good of all, and perhaps that served as motivation, recently, the Indian Judiciary has been very proactive in increasing the scope of animal protection by interpreting the law in a wide manner. One of the most vivid examples would be the recent decision of the High Court of Punjab and Haryana, and earlier the High Court of Uttarakhand to categorize animals as legal persons. This in essence, gives animals the same slew of rights that a legal person would enjoy. Of course, one should concur that such a distinction would be with certain modifications to make it applicable to the faunae in practice. This decision is quite a departure from the previously established rule of disregarding animal life forms as either Legal or Natural Persons.¹⁷ They were given protection under welfare laws but were not granted the status of personhood.

Ironically, animals were treated differently in ancient times when they were punished for a variety of offenses, almost in the way one punishes a person.¹⁸ Especially in Europe during the middle ages, there have been innumerable instances of animals standing trials; like in 16th Century, when the rats were charged and tried for harming a farmer's field. The court even awarded punishments to the tiny pests. In fact, the middle ages were rife with cases of animal trials, with pigs, dogs, snails, rats, etc. being charged for crimes against People, Property, or God. This went to the levels that the pig was charged with murder, while the owner escaped liability for a five-year-old's death that the pig had killed.¹⁹ The courts even endeavored to try the animals as closely as it would try a human.²⁰ In the case of larger animals, the punishment was quite easily doled out, but the same was not the case with the smaller animals. All the animals were held to be on the same moral standard as humans. This led to some bizarre cases where rats were acquitted because their representative argued that they are in danger of their lives due to cats and other natural predators, and hence are not present at the court. This was the picture of

¹⁵ Virginia Hughes, Like in Humans, Genes Drive Half of Chimp Intelligence, Study Finds, NATIONAL GEOGRAPHIC (July 12, 2014), <https://news.nationalgeographic.com/news/2014/07/140710-intelligence-chimpanzees-evolution-cognition-social-behavior-genetics/>.

¹⁶ Simon Worrall, Yes, Animals Think and Feel. Here's How We Know, NATIONAL GEOGRAPHIC (July 15, 2015), <https://news.nationalgeographic.com/2015/07/150714-animal-dog-thinking-feelings-brain-science/>.

¹⁷DR. AVATAR SINGH, DR. HARPREET KAUR, INTRODUCTION TO JURISPRUDENCE 351 (LexisNexis, 3rd Edition Reprint 2011).

¹⁸ Walter W. Hyde, The Prosecution and Punishment of Animals and Lifeless Things in the Middle Ages and Modern Times, 64 U.P.A.L.REV., 696, 698 (1916).

¹⁹ Sonya Vatomsky, When Societies Put Animals on Trial, JSTOR (Sep. 13, 2017), <https://daily.jstor.org/when-societies-put-animals-on-trial/>.

²⁰ Eric Grundhauser, The Truth and Myth Behind Animal Trials in the Middle Ages, ATLAS OBSCURA (Aug.10, 2015), <https://www.atlasobscura.com/articles/the-truth-and-myth-behind-animal-trials-of-the-middle-ages>.

animal legislation as recently as the 18th century. Overall, it has to be noted that this caused more barbaric acts to be committed than any good towards the welfare of animals. Though on the flip side, sometimes some acts of animal welfare did occur, like when in a bestiality case, the donkey was acquitted; it being held that the donkey had not given consent was the victim, and the person accused was executed. These practices of animal trials were some of the first instances of personalizing them and in some remote places are continuing, especially where Catholicism is dominant.²¹ There is no doubt about the absurdity of the way the trials were committed, but seeing that how the recent environmentalists and animal activists globally are clamoring to get animals the status of a legal person, perhaps the Europe of middle age was in the right direction, but only was proceeding in the wrong manner.²²

Coming back to modern India, it is one of those jurisdictions in the world, who are on the verge of accepting the standing of the animals as a legal person, not under infamous trials or customs, but through a judgment of Uttarakhand High Court in July 2018,²³ given by the bench of Justice Rajiv Sharma and Justice Lok Pal Singh, which declared “the entire animal kingdom in the state, including the avian and aquatic animals, will be treated as legal entities with distinct persona and corresponding rights, duties and liabilities of a living person.” They reasoned that such a distinction is essential for providing greater welfare to all the terrestrial, aquatic, and avian animals. Originally, the petition, a PIL was filed to restrict the arrival of unvaccinated horses from Nepal, but the scope of the petition was made larger to embrace the benefit and protection of all the animals. The people of Uttarakhand are, for the welfare of the animals to be considered *Loco Parentis*.²⁴ *Loco Parentis* means “in place of a parent”, thus the residents are expected to take over the functions and responsibilities of a parent. The judgment took the strength from an earlier Supreme Court decision that gave fundamental rights to the animals.²⁵ It reasoned that animal life must not be about mere survival or instrumental value to humans, but they should be empowered to live a life of intrinsic honor, dignity, and value. The status is not expected to give the animals all the rights of a legal person but allow the human representatives to take legal actions on their behalf.²⁶ When transferred to Punjab and Haryana High Court, Justice Rajiv Sharma gave a similar judgment in 2019,²⁷ which establishes animals as legal persons in the same way and established the same role of *Loco Parentis* to the people of Punjab and Haryana. Many of the other directions regarding the treatment of animals are similar to those passed in the earlier judgment he gave in Uttarakhand High Court.

A. Meaning Of A Legal Person

²¹ Vatomsky, Sonya Vatomsky, When Societies Put Animals on Trial, JSTOR (Sep.13, 2017), <https://daily.jstor.org/when-societies-put-animals-on-trial/>.

²² Matt Simon, Fantastically Wrong: Europe's Insane History of Putting Animals on Trial and Executing Them, WIRED (Sep. 24, 2014, 06:30 AM), <https://www.wired.com/2014/09/fantastically-wrong-europes-insane-history-putting-animals-trial-executing/>.

²³ Narayan Dutt Bhatt v. Union of India & Ors, SCC Online Utt 645.

²⁴ Apoorva Mandhani, Uttarakhand HC Declares “Entire Animal Kingdom” As Legal Entity, With Rights, Duties & Liabilities Of A Living Person [Read Judgment], LIVELAW (July 4, 2018, 6:16 PM), <https://www.livelaw.in/uttarakhand-hc-declares-entire-animal-kingdom-as-legal-entity-with-rights-duties-liabilities-of-a-living-person-read-judgment/>.

²⁵ Animal Welfare Board of India v. A. Nagaraja & Ors., (2014) 7 SCC 547.

²⁶ Meghan Scolyer, Indian Court Recognizes Animals As Legal Persons, VOICELESS (8 Aug. 2018), <https://www.voiceless.org.au/content/indian-court-recognises-animals-legal-persons>.

²⁷ Karnail Singh and Ors. v. State of Haryana, 2019 SCC OnLine P&H 704.

To understand the implication of the judgment and to consideration of animals as legal persons, it is prudent to understand what constitutes a legal person, a concept that is present in almost every jurisdiction. The word person is derived from a Latin word *persona*.²⁸ It has eventually come to mean a being that has rights and duties. There are two types of person, the first being a legal person, which is an entity having rights and obligations under law. To make someone a legal person is akin to giving them a legal personality and can be ascertained by such a system of rights and obligations. It is identified by will or capacity, which the entity is observed to possess. Salmond defined Legal Persons as “beings that either real or imaginary, who for the purpose of legal reasoning are treated in greater or less degree in the same way as human beings.”²⁹ This is different from the second type of person called a natural person, which only includes individual Human Beings as the sole natural persons. The legal personality of a Natural person is intrinsic. Natural persons are persons both ‘in law’ as well as ‘in fact’. Legal persons are persons distinct as they have legal personality in law if it is not thereby fact.³⁰ Every natural person is a legal person, but every legal person will not be a natural person. The function of legal personality is not just to regulate the behavior of the entity on which such personality is conferred but also to regulate others' conduct towards that entity. The purpose of giving legal personality to entities is thus to ease the interaction with them through the processes of law.³¹ Currently, there are two requisites of legal personality, corpus, and animus. Corpus is the body in which the animus is infused using law. Thus, a legal entity is created at first and then provided a personality. It is presumed that the Legal Person is capable of having rights and duties as a natural person.³² Further, many jurisdictions allow extensions of fundamental rights to legal persons. Germany,³³ New Zealand,³⁴ etc. among other countries have written in their legislation that legal persons are to be granted fundamental rights. Until now, for the most part, the corporations, organizations, trusts, and bodies that were officially imbued with legal personality and were considered legal persons. But its definition is being expanded to be wide enough to accommodate a variety of other entities, as legal persons are a construct of law.

B. Consequences And Remedies

The Judgment has divided many lawyers and wildlife activists. This enlargement of the definition is clearly the act of judicial activism, and while clearly, commendable has the same practical difficulties in application. Some experts say that it would be more prudent to better enforce existing laws than make new laws. On the other hand, most are expressing delight at the judgment and already envisioning a world where animals would be better treated than they are now, seeing that current legislation regarding animal welfare has a negligible effect for the most part.³⁵ This distinction enables the animals to be defended in courts. An entity can be appointed

²⁸LEONARD GEDDES, THE CATHOLIC ENCYCLOPEDIA (New York: Robert Appleton Company, 1911).

²⁹ John H Farrar, Salmond and Corporate Theory, 38 V.U.W.L.REV., 925, 926 (2007).

³⁰SINGH & KAUR, supra note 17.

³¹ P. Bryant Smith, Legal Personality, 37 YALE L.J. 283, 296 (1928).

³²V.D. MAHAJAN, JURISPRUDENCE AND LEGAL THEORY 337 (Eastern Book Company, 5th edn. 2016).

³³German Constitution; art. 19, Cl. 3.

³⁴ New Zealand Bill of Rights Act 1990; §28.

³⁵ Ridhima Gupta, After Ganga, Uttarakhand HC Declares Animals & Birds Have Same Rights As A “Living Person”, THE LOGICAL INDIAN (July 24th, 2018, 5:00 PM), <https://thelogicalindian.com/awareness/uttarakhand-hc-animal-kingdom/>.

to represent animals on their behalf in court. This is clear that giving the status of legal person to animals won't give them rights like the right to vote in an election, but rather the rights against exploitation, experimentation, representation, etc.

Presuming that the judgment is not overruled, the biggest impact will be defining a legal person. The definition has already been broadened by the Uttarakhand High Court if receives assent from the higher body will make it more binding over all of India. If followed, the judgment can open a Pandora box as it addresses the need to rethink the meaning of a legal person and the animals. The welfare laws were framed when influenced by religious ideologies, it used to be believed that humans have dominion over animals. Thus, the laws were framed as such that animals hold the position of at most a man's property. Today we have definite proof that almost all the animals have a certain level of sentience. Animals have the ability to feel joy, sadness, fear, etc.³⁶ The interests of the animals should have the same level of moral consideration. This decision affirms that. The law might evolve to accommodate the animals in its domain in a manner that animals having complex mental facilities and social structures would be given rights as a legal person, sooner than the animals of lower cognitive abilities.

But the change will not be without its own issues. Firstly, under the current system, the natural environment is held as a trust by the government. The natural resource animals who are held as a trust. Giving personhood to animals would require guardians who would protect their legal interests as well as represent them.³⁷ In the Uttarakhand High Court's decision, the people are mandated with the role of a parent or a guardian, but along with that, the government should also be expected to play a similar role as a parent. This should be not just the case when the complaint is filed for the animal, but also when it is against it.³⁸

Secondly, in making an animal a legal person, an animal would also be liable to be sued, for any act it commits. In that regard, the representative or guardian of animal would be liable to compensate for the damage caused by the animal. Under current laws, the owner of a domestic animal is held liable under Absolute Liability. He is bound to pay compensation for any act of the animal that harms someone else. This would continue even if we give the pet animals the status of a legal person. But for the wild animals, no such system of compensation is in place. If animals are assigned the status of legal person, the government has to take up the guardian's mantle, similar to the case in Macedonia.³⁹

Lastly, making every animal in the animal kingdom a person would be inconvenient at best and traumatic at worst for various industries that depend on them. For example, poultry, dairy, fishery industries are heavily dependent on the existence of animals. India alone is the 5th largest egg producer and 18th largest broiler producer globally with the sector valued at around 15.38

³⁶PETER SINGER, ANIMAL LIBERATION 10–15 (Harper Collins, Revised ed, 2002).

³⁷ Mandhani, Apoorva Mandhani, Uttarakhand HC Declares “Entire Animal Kingdom” As Legal Entity, With Rights, Duties & Liabilities Of A Living Person [Read Judgment], LIVELAW (July 4, 2018, 6:16 PM), <https://www.livelaw.in/uttarakhand-hc-declares-entire-animal-kingdom-as-legal-entity-with-rights-duties-liabilities-of-a-living-person-read-judgment>

³⁸ Thompson Reuters, Macedonian court convicts bear of stealing honey, THOMPSON REUTERS (Mar. 13, 2008, 8:15 PM), <https://www.reuters.com/article/idUSL13835831>.

³⁹ Id.

billion dollars and is only expected to grow.⁴⁰ Similarly, dairy and fish industry are also a major industry with India occupying the 1st position⁴¹ and 3rd position⁴² respectively globally in net production. Allowing the animals involved in these industries' status will effectively kill the industries and create an enormous economic loss for the country. This would also disrupt the way of life of a large section of the population. There are two ways one can get around the issues. The first way would be to give the entire animal kingdom the status of personhood, but rather than legal personhood, they are given special personhood. This would be in line with the rules being followed in Germany, Austria, and Switzerland, etc.⁴³ Thus they will not be eligible for the full set of rights that a legal person would have, but nevertheless, have a certain set of legal rights for themselves. The only issue would be due to the immense diversity of the animal kingdom the rights would have to be made variable, depending upon the complexity of the animal, which brings us to the second solution. This would involve not giving the status of a legal person to all the animals, but to only those that display higher cognitive function and sufficient sophistication.⁴⁴ Thus classes of animals would be defined and only the highest among them would be awarded the status of a legal person. While this would be more in tune with the current legal scenario and not be as disruptive, it would defeat the very purpose of bestowing them legal personhood by making the enhanced protection unavailable for all. The most prudent approach would be an amalgamation of both the solutions, with the Legal Personhood given to sufficiently complex and sentient beings, like Dolphins, etc., and special personhood being granted to other classes of animals. This would solve the issue of awarding legal personhood to entities like rats and insects, but still giving endangered lower cognitive species protection through special personhood.

III. Concurrent Jurisdictions In Modern Times.

In 2008, a bear in Macedonia was convicted of stealing honey. The case was eventually decided in the favour of the beekeeper and the state was ordered to pay the beekeeper \$3500, as the bear had no owner.⁴⁵ The court reasoned that doctrine of strict liability can apply in the case of the animal having an owner, but as the bear being an endangered species was under state protection, the state can be presumed to be the owner.⁴⁶ Many countries have amended their civil codes to change the status of animals. Some notable ones are Germany, Austria, and Switzerland, etc. who have declared that animals can no longer be subject to laws as an object or property.⁴⁷ They are treated as a special category. This while has not given them the status of a legal person but has still imbued them with stronger rights.

In 2014, Romanian MP introduced a bill that grants the dolphins the legal personhood of a 'non-

⁴⁰ Ricky Thaper, Indian Poultry Industry at a glance, BENISON MEDIA (May 21, 2018), <http://benisonmedia.com/indian-poultry-industry-at-a-glance/>.

⁴¹ FAO of the UN, Gateway to dairy production and products, FAO OF THE UN (2019), <http://www.fao.org/dairy-production-products/production/en/>.

⁴² NFDB, About Indian Fisheries, NFDB (2016), <http://nfdp.gov.in/about-indian-fisheries.htm>.

⁴³ German Civil Code, § 90a; see also Austrian Civil Code, art. 285; see also Swiss Civil Code; art. 641a.

⁴⁴ Mrinalini Shinde, Here's the Problem with Declaring Animals as Legal Beings in India, THE QUINT (July 11, 2018), <https://www.thequint.com/voices/opinion/uttarakhand-high-court-declares-animals-legal-beings-questions>.

⁴⁵ THOMPSON REUTERS, *supra* note 37.

⁴⁶ Lowering the Bar, Bear Convicted, LOWERING THE BAR (Mar. 20, 2008), <https://loweringthebar.net/2008/03/bear-convicted.html>.

⁴⁷ German Civil Code, § 90a; Austrian Civil Code, art. 285; Swiss Civil Code, Art 641a

human person'. This would give these aquatic mammals legal rights.⁴⁸ They can no longer be used for experimentation or human entertainment. Ecuador and Bolivia have both granted a detailed set of rights to nature under its legislation.⁴⁹ New Zealand has gone so far as to grant the Te Urewara National Park the legal entity's status.⁵⁰ Quite similar to the way river Ganges and Yamuna were given legal personhood in India (though it was later refuted), New Zealand gave personhood to Whanganui River, a decision verily favourable for environmental litigation.⁵¹

US Courts on the other hands denied the right of personhood to a chimpanzee when a writ of Habeas Corpus was filed. The court reasoned that rights and duties go hand in hand and rights can be given only in the case of the entity assuming some duty or responsibility. The judgement was pronounced even though many experts gave an opinion that the chimpanzees have complex cognitive functions.⁵² But the US legislature in some states has passed laws that the pets would be a part of the custody battle. The pets can even be a subject to joint custody in which the best interests of that pet will be looked after. In some US states the pets can be considered beneficiary of the trust, which at least gives them status of some sort of quasi-legal person. This is definitely the first step towards the recognition of animals as more than an object.⁵³ Thus the mindset is slowly changing with some judges willing to see the animals for who they are and not what they are and acknowledging the need and urgency of definite rules on this issue.⁵⁴ Australian laws still consider animals as property which is a legacy of the common law system. It has not progressed to adapt to the newer understanding of animals.⁵⁵ In the same vein though, France has given animals the status of living and sentient beings, and no longer property.⁵⁶ This would be mostly symbolic but is a testament of how the view is changing. In 2016, the Argentinian court, while deciding the case where a chimpanzee was treated inhumanly for a long time, treated the animal as a legal person with rights and ordered the chimp to be released in the wild sanctuary.⁵⁷

Perhaps not in the sense of attesting legal personalities, but many native tribes in various

⁴⁸ Bogdan Cristel, Matthias Williams, In election year, Romania debates giving human rights to dolphins, REUTERS (Feb. 15, 2014), <https://uk.reuters.com/article/oukoe-uk-romania-dolphins/in-election-year-romania-debates-giving-human-rights-to-dolphins-idUKBREA1D1J920140214>.

⁴⁹ Dinah Shelton, Nature as a legal person, Vertigo - la revue électronique en sciences de l'environnement [Online], Hors-série 22 |(2015); see also Lidia C. Pecharroman, Rights of Nature: Rivers That Can Stand in Court, 7 MDPI 1, (2018)

⁵⁰ Katherine Sanders, Beyond Human Ownership'? Property, Power and Legal Personality for Nature in Aotearoa New Zealand, 30 J.ENV.L. 207, 207 (2018).

⁵¹ Eleanor Ainge Roy, New Zealand river granted same legal rights as human being, THE GUARDIAN (16 Mar 2017, 04.50 GMT), <https://www.theguardian.com/world/2017/mar/16/new-zealand-river-granted-same-legal-rights-as-human-being>.

⁵² Steven Wise, Why the First Department's Decision In Our Chimpanzee Rights Cases Is Wildly Wrong, NON HUMAN RIGHTS BLOG (June 22, 2017), <https://www.nonhumanrights.org/blog/first-department-wildly-wrong/>.

⁵³ Suzanne Monyak, When the Law Recognizes Animals as People, THE NEW REPUBLIC (Feb. 2, 2018), <https://newrepublic.com/article/146870/law-recognizes-animals-people>.

⁵⁴ Nick Turner, US civil rights group hails historic progress in the fight to secure fundamental rights for nonhuman animals, INDEPENDENT (16 May, 2018, 11PM), https://www.independent.co.uk/news/long_reads/animal-sentience-historic-progress-nonhuman-animal-rights-a8352686.html.

⁵⁵ Geeta Shyam, The legal status of animals: The world rethinks its position, 40(4) ALT L.J. 266 (2015).

⁵⁶ Jean-Marc Neumann, The Legal Status of Animals in the French Civil Code, 1 GLOBAL J. ANIMAL L. 1, 12 (2015).

⁵⁷ Presented By A.F.A.D.A About The Chimpanzee "Cecilia"- Non-Human Individual, Expte. Nro. P-72.254/15, Tercer Juzgado De Garantías, Judicial Power Mendoza (2016).

countries do personify the animals. A tribe in the Philippines, named as Ifugao has already established animals as having legal personalities and consider it a heinous crime if someone maliciously kills an animal.⁵⁸ The natives of Papua New Guinea believe the animals and humans to have a linked destiny, and to have sprung from similar stock.⁵⁹ Though in most of the places, the belief of natives is insufficient to get a nationwide rule established. They are also prone to personifying only some animals based on their religious or cultural beliefs, thus often ignoring other animals of similar intelligence. Nonetheless, the way of personalization of the animals is characteristically similar to giving them personhood.

All these engagements of various jurisdictions, some holding the age-old belief, some attaining realization recently, considering that the animals can be legal personalities provide a backdrop of reanalysing the definition of personhood and how does one classify an entity as a person. It is an addition to the increasing international dialogue on non-human personhood. It is apparent that slowly but gradually every country will be forced to acknowledge animals' status as an object that they have given is faulty. The acknowledgment would result in a global change in perspectives and raise the global population's collective morality towards the treatment of animals.⁶⁰

IV. Conclusion

The judgment to give the status of the legal person to animals while not unique but is expected to improve animal welfare litigation and improve the conditions of animals in India. The judgment is in harmony with the Supreme Court decision⁶¹ of 2014 that extended the protection of Article 21 of the Indian Constitution to the animals. It further augments the already existing animal welfare laws. This judgment is a reflection of how cultural progression has occurred. No longer will the empathy towards animals be a mere obligation, but would be a definitive assertion.⁶² The change in legal status is not just the sign of the times, but also in tune with correcting the wrong demarcation that animals had been considered under for such a long time.

Many countries have already engaged in raising the animals' personhood status with the activists all proposing extension of the scope of legal personhood to animals.⁶³ There are International Entities like Non-Human Rights Project, which is actively engaged in ensuring a rise in the animals' status to legal persons. They believe that the animals should be given on par treatment based on the concern for their welfare and respect to their rights. They are a global organization that is actively trying to promote this innovative concept.⁶⁴ There are also national organizations

⁵⁸ Peter Paul, Some Origins of Laws and Legal Codes Regarding Animals, Part III, 5 COMMUN. ANIMAL CONT. 16, 26 (1986).

⁵⁹ PAUL A. REES, THE LAWS PROTECTING ANIMALS AND ECOSYSTEMS (Wiley & Sons, 2017).

⁶⁰ Laura Bridgeman, Romanian Dolphin Personhood Law is a Step in the Right Direction, OUR GREEN PLANET (2014), <https://www.onegreenplanet.org/news/romanian-dolphin-personhood-law-is-a-step-in-the-right-direction/>.

⁶¹ Animal Welfare Board of India v. A. Nagaraja & Ors. (2014) 7 SCC 547; see also Animals and Birds Charitable Trust and Ors. v. Municipal Corporation of Greater Mumbai and Ors 2015 (4) ABR 242.

⁶² DTE Staff, Uttarakhand HC order declaring animals as legal entities reflects cultural progress: experts, DOWN TO EARTH (July 6, 2018), <https://www.downtoearth.org.in/news/wildlife-biodiversity/uttarakhand-hc-order-declaring-animals-as-legal-entities-reflects-cultural-progress-experts-61036>.

⁶³ Jessica Berg, Of Elephants and Embryos: A Proposed Framework for Legal Personhood, 59 HASTINGS. L.J. 370 (2007).

⁶⁴ Non-Human Rights Project, Our Mission, NON-HUMAN RIGHTS PROJECT (2019),

engaged in animal advocacy and spreading awareness and fighting for the wider change in status.⁶⁵

The animal welfare laws are existent, but they are suppressed by even the trivial rights of a Human. They do not provide adequate protection to animals, and serve as a Band-Aid, rather than the real issue. Perhaps the best way to start, to speed up the process would be to start small and initially would be to grant the status to the higher order beings that demonstrate sufficient cognition and higher brain functions, the rights of Bodily integrity and Autonomy over others. Then, seeing its effect and results, we can proceed from there.

The decision to acknowledge the status of animals to that of a legal person is a welcome step, even if the decision is confined to these three states for now, holding only persuasive value over entities of other territories⁶⁶. Even with the judgment though there is a need to sensitize the people and spread the awareness. Because in the end, more than the laws, it is the people who choose to follow them that represents the security and coexistence that animals would have against human atrocities. However, if such a change is legislated lucidly such that it includes the manner of representation and classification of animals and a clear guardianship system under our existing environmental laws, this emergent concept would be an effective animal protection tool.

<https://www.nonhumanrights.org/litigation/>.

⁶⁵ FIAPO, ABOUT US (2019) <http://fiapo.org/>.

⁶⁶ Neon Laboratories Limited v. Medical Technologies Limited, (2016) 2 SCC 672.