



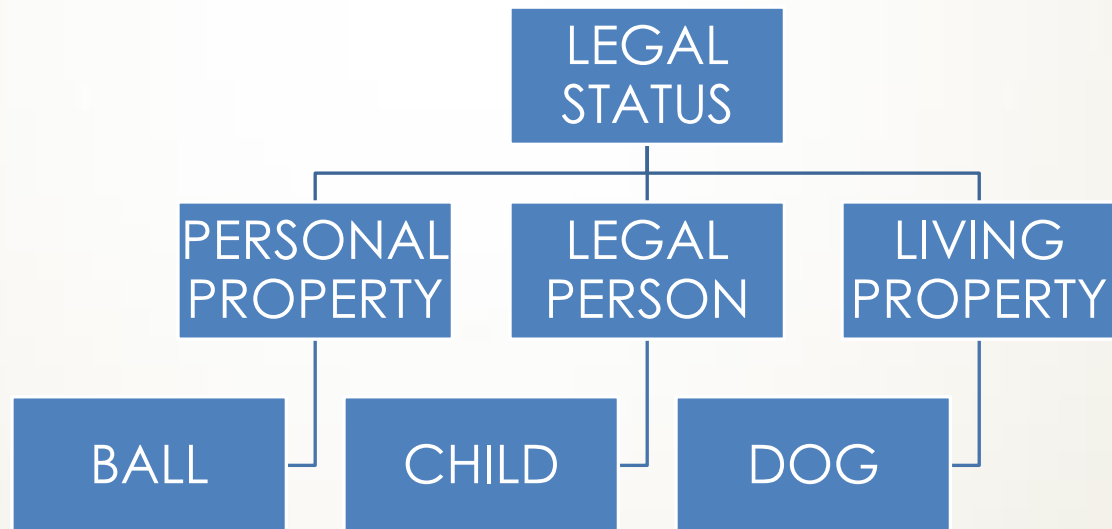
ANIMAL ETHICS

A FORAY INTO THE LAW

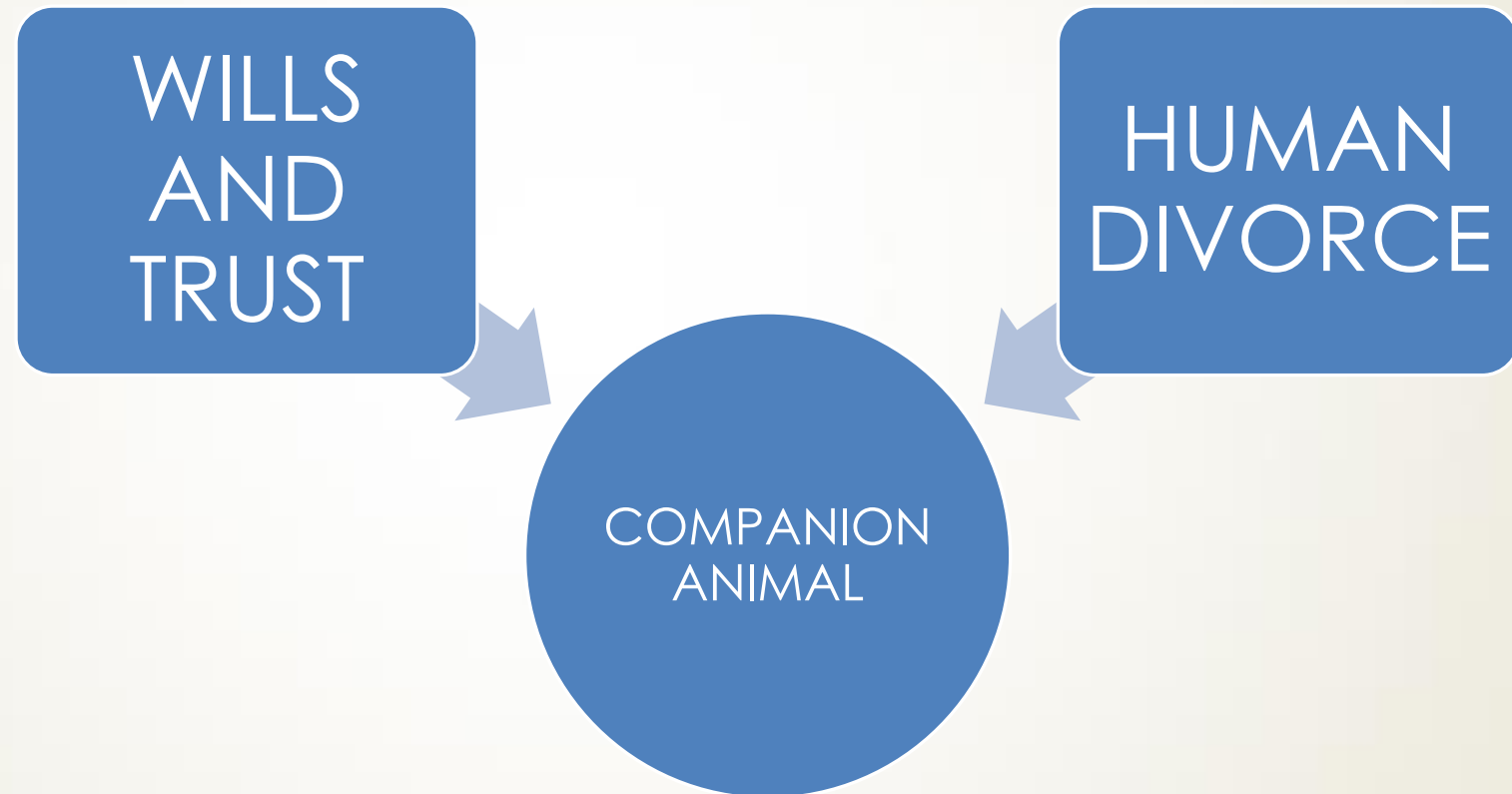
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LEGAL PERSONALITY

- ▶ Individual or entity must have the characteristic of being a legal person, i.e. the ability to be a recognized actor in the legal world
- ▶ Legal system itself decides who is a legal actor

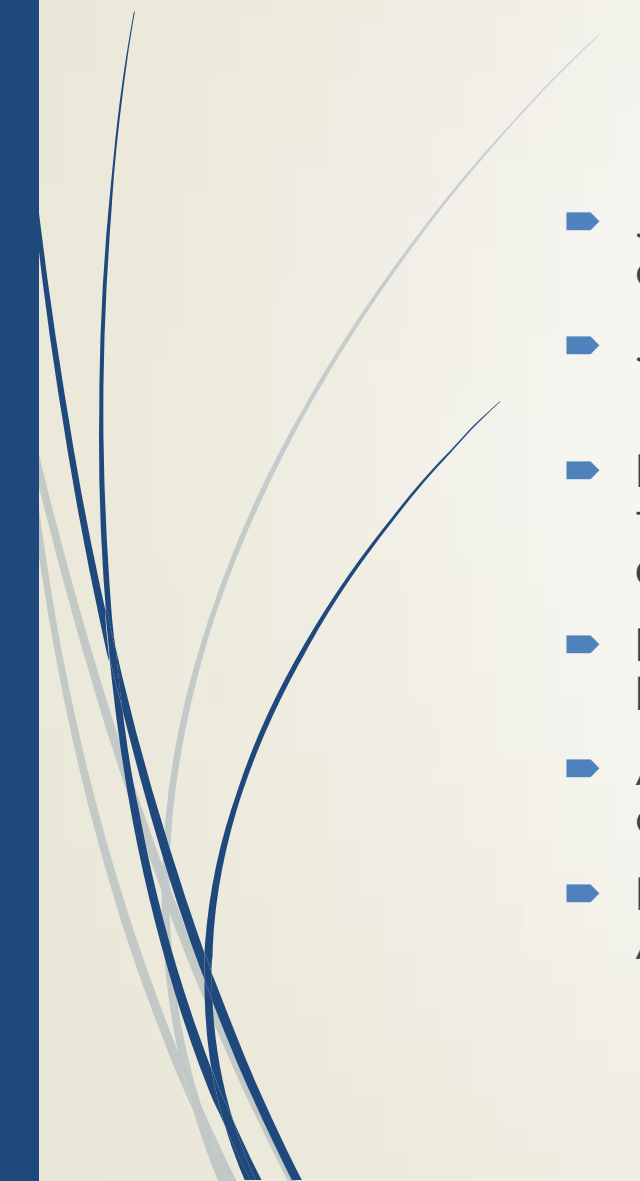


ANIMALS AS LIVING PROPERTY





JUSTICE KRISHNA IYER'S ANIMAL CITIZENS

- ▶ Justice V.R. Krishna Iyer, a visionary of modern Indian legal jurisprudence, has addressed the issue of animals in his work 'Towards a Natural World'.
 - ▶ Justice Iyer propounds a new school of thought by referring to animals as '**Animal Citizens**'.
 - ▶ He explicitly states that a duty has been cast on the State and human citizens through Articles 48A and 51A of the Constitution, which makes "**justice to animal citizens is as fundamental as social justice is to exploited people.**"
 - ▶ Iyer's idea is to focus on a symbiotic relationship between humans and non-human animals.
 - ▶ Article 51A(g), is the foundation for animal welfare and recognition of animal citizenship.
 - ▶ However, he has not delved into the legal nuances that can actually extend Article 51A(g) to animals in order to grant them a citizenship status.
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ANIMAL 'PERSONHOOD' IN INDIA

Animal Welfare Board of India v. A. Nagaraja and ors (2014)

- Since animals are incapable of taking care of their rights against humans themselves, it is **"the duty of the Court" under *parens patriae*** to ensure the same.
- **Duty imposed**, under Section 3 of PCA Act, on persons in charge of animals being mandatory in nature assumes the nature of a **corresponding right of animals**.
- It extends the ambit of **Section 3 and 11 of PCA Act 1960** to having imbibed the Five Freedoms, therefore making the Sections **analogous to Part III of the Constitution**. - **'fundamental rights' of animals**.
- protection against **mental cruelty** is necessary as well.
- Court amplifies the Right to Life as enshrined under **Article 21**.
- It may be criticized by some that the Court has incorrectly digressed in extending "right to life under Article 21" to animals because it clearly uses the words "No person shall be denied of his right to life and personal liberty". Thus, it is applicable only to 'person' and not otherwise.

ANIMAL 'PERSONHOOD' IN INDIA

- The Constitution does not define the word '**person**' anywhere. Under Article 367, it has been expressly provided that unless that context otherwise requires, for interpretation of the Constitution, the General Clauses Act 1897 shall be referred to.
- The word 'person' used in the Constitution has to be therefore understood as per Section 3(42) of the General Clauses Act 1897. The definition given states that "**person shall include company, association and body of individuals, incorporated or not.**" The definition of 'person' under the "General Clauses Act is illustrative and not exhaustive.
- 'Person' is not restricted only to human beings alone, and if it may be extended to non-human entities like corporations, there is no reason to deny the same to non-human animals as well.

ANIMAL 'PERSONHOOD' IN INDIA

Narayan Dutt Bhatt v. Union of India and ors. (2018)

- ▶ The meaning of 'person' is not confined to human beings alone and extends to other **juristic persons as well**. Hence, rights cannot become the exclusive domain of humans.
- ▶ The **essence of personhood in itself is flexible** and there is sufficient scope for a trustee-trusted relation to exist – Corporations, Companies, Hindu idols
- ▶ As opposed to natural persons, legal and juristic persons act through an **external agent, who is designated to act on their behalf for their benefit**.
- ▶ The one flaw in the two-judge bench decision is its basis of granting legal personality. The Court's reasoning for granting legal personality is based upon the '**emotional valuation**' of the entity in question.
- ▶ Therefore, the status of animals hinges on the level of importance man accords them with. This essentially might defeat the purpose of what the judgment intends to achieve, making legal personhood of animals a subjective concept. Hence, it leaves a possibility for 'emotional valuation' going either in favour of animals or otherwise.
- ▶ In the end the **Court grants the entire animal kingdom with legal entity with rights, duties and liabilities corresponding to that of living persons**. It further emphasizes on the doctrine of "*persons in loco parentis*", making State the guardian of animals and animal welfare.



FINAL THOUGHTS

- Even though there are no statutory provisions expressly granting 'rights' per se to animals, this interpretation of Article 21 by the Court increases chances for higher accountability of people in how they treat animals and, hopefully, opens the door for improved status of animals in this country.
- There has been a marked **shift from a master-servant relation between human-animal to a guardian-ward relation.**
- An emergence of a new area of jurisprudence between rights and welfare, perhaps, is gradually developing - grey area - **'rightful welfare'**, wherein animals are granted welfare as a right.
- The endorsement of rights to animals by courts with a corresponding duty on humans to ensure their welfare, perhaps, is the connotation of 'rightful welfare', which seems to be a more pragmatic approach.
- The gravity of human's duty to ensure the welfare of animals, in order to protect their rights, covers all elements to uplift the status of animals. Propelling this theory further, along with the likes of Animal Citizens, will render the opening of new avenues for animals as right-holders.