

FROM WELFARE STATUTE TO PENAL CODE: THE ENFORCEMENT CRISIS AND SENTENCING DISPARITY IN INDIA'S ANTI-CRUELTY LEGAL FRAMEWORK

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ABSTRACT

*India regulates cruelty to animals through three statutes never designed to operate together. The Prevention of Cruelty to Animals Act, 1960, the dedicated welfare statute, prescribes a penalty for a first offence that has remained unrevised since enactment and today ranges from ten to fifty rupees; Section 325 of the Bharatiya Nyaya Sanhita, 2023, a general penal provision inherited in substance from the Indian Penal Code, 1860, treats the killing or maiming of an animal as an offence against property and permits imprisonment of up to five years; and the Wild Life (Protection) Act, 1972 imposes a mandatory minimum sentence of three years for offences against species specified under Schedule I. This paper examines how a single act of cruelty can attract three fundamentally different sentencing outcomes under Indian law, and argues that this disparity is not incidental but structural, rooted in an unresolved doctrinal conflict between treating an animal as property and recognising it as a sentient being entitled to protection in its own right. Drawing on the Supreme Court's decision in *Animal Welfare Board of India v. A. Nagaraja* and on the specific legislative vacuum the Bharatiya Nyaya Sanhita's deletion of Section 377 of the Indian Penal Code has created for offences of bestiality, this paper explains why India's animal protection framework continues to fail in practice notwithstanding its progressive constitutional foundation, and it proposes statutory harmonisation capable of aligning penal severity with the gravity of the underlying conduct rather than with a classificatory scheme inherited from nineteenth-century property law.*

KEYWORDS: *Animal Cruelty; Prevention of Cruelty to Animals Act; Bharatiya Nyaya Sanhita; Animal Sentience; Sentencing Disparity.*

1. INTRODUCTION

India, the world's seventh largest country by area, ranks among its most biodiverse regions, home to four of the world's thirty-six recognised biodiversity hotspots and to species ranging from the Bengal tiger to the Great Indian rhinoceros.¹ India's cultural and religious tradition places considerable emphasis on animal welfare, a value the Constitution itself elevates into a national priority: Article 51A(g) casts upon every citizen the fundamental duty to protect and improve the natural environment, including forest, lake, river and wildlife, and to have compassion for living creature, while Article 48A directs the state to endeavour to protect and improve the environment and to safeguard the country's forest and wildlife.² In 2014, the Supreme Court extended this constitutional commitment further still in *Animal Welfare Board of India v. A.*

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¹ Ministry of Environment, Forest and Climate Change, India's Sixth National Report to the Convention on Biological Diversity (2021).

² India Const. arts. 48A, 51A(g).

*Nagaraja*³, holding that the right to life under Article 21 is not confined to human life alone but extends to animals, conferring upon them an intrinsic right to live with dignity and free from human-inflicted pain.

Notwithstanding this progressive constitutional architecture, a considerable gap persists between what the law promises and what animals actually experience on the ground, a gap that has produced a systemic enforcement crisis across the country. Everyday abuse, ranging from the poisoning of street dogs to severe neglect and physical torture, is rarely punished with any real effect, and the principal reason lies in the fact that India's day-to-day criminal justice system continues to operate on a body of outdated law that sits in considerable tension with the country's own constitutional ideal. The Prevention of Cruelty to Animals Act, 1960 remains the primary legislation addressing animal abuse, but its penal provision has grown outdated and ineffective across six decades of continuous, unrevised operation: Section 11 prescribes, for a first offence of cruelty, a nominal fine ranging from ten to fifty rupees, a penalty never once revised since the Act's enactment and correspondingly incapable of functioning as a genuine deterrent today.⁴

The inadequacy of this framework was illustrated with particular clarity by a recent Assam case, in which a man brutally attacked a sleeping stray puppy with a knife, inflicting injury that led to the animal's death. The accused, convicted by the trial court roughly a year later, was released under the Probation of Offenders Act, 1958 without any custodial punishment at all, an outcome that attracted considerable public attention and starkly illustrated the limited punitive reach of the Prevention of Cruelty to Animals Act, under which even severe cruelty frequently produces consequence immaterial to the gravity of the underlying conduct, notwithstanding prompt police investigation and successful prosecution.⁵

Most offence under the Prevention of Cruelty to Animals Act are further classified as non-cognizable and bailable, meaning police cannot arrest an accused without a warrant and possess only limited independent authority to investigate,⁶ a procedural weakness that has, in practice, driven prosecutor and animal welfare advocate alike toward Sections 428 and 429 of the erstwhile Indian Penal Code to secure genuine custodial consequence for abuser, provisions that protected animal not because they were living being but because they were considered valuable human property, exposing an abuser to up to five

³ Animal Welfare Board of India v. A. Nagaraja, (2014) 7 S.C.C. 547 (India).

⁴ The Prevention of Cruelty to Animals Act, 1960, § 11, No. 59, Acts of Parliament, 1960 (India).

⁵ Gauhati High Court, Criminal Revision Petition (Animal Cruelty, Assam, 2022) (unreported); see also PETA India, Case Update: Assam Puppy Stabbing (2022).

⁶ The Prevention of Cruelty to Animals Act, 1960, § 11, sched. (India) (read with the First Schedule, Code of Criminal Procedure, 1973).

years' imprisonment only where the animal killed belonged to someone and carried recognised economic value, while an abuser torturing an ownerless stray animal fell largely outside the law's practical reach.⁷

This landscape has grown more complicated still with the Bharatiya Nyaya Sanhita's complete replacement of the Indian Penal Code. While the Bharatiya Nyaya Sanhita carries forward comparable property-based protection against animal mischief, it has simultaneously created a new legislative crisis by entirely deleting Section 377 of the Indian Penal Code, the sole penal provision under which acts of bestiality, sexual assault against animal, had been prosecuted. Although the Supreme Court's decision in *Navtej Singh Johar v. Union of India*⁸ (2018) expressly directed that Section 377's application to bestiality and non-consensual act must remain intact even as consensual same-sex conduct between adults was decriminalised, the Bharatiya Nyaya Sanhita erased the provision entirely without replacement. Sexual violence against animal has, in consequence, been inadvertently decriminalised under mainstream Indian penal law, forcing prosecutors back to the Prevention of Cruelty to Animals Act's fifty-rupee ceiling for conduct the Supreme Court had specifically directed should remain a severe, punishable offence. This paper investigates the resulting sentencing disparity and enforcement failure, examining the clash between outdated welfare statute and modern penal law, and it argues that India must urgently modernise its animal protection framework not merely to protect animal welfare but to fulfil its own constitutional identity as a compassionate and civilised nation.

1.1 Research Objectives

- To analyse how the fifty-rupee fine under Section 11 of the Prevention of Cruelty to Animals Act, 1960 has become entirely outdated and fails to function as a criminal deterrent.
- To examine how animal cruelty offence have shifted from the Indian Penal Code to the Bharatiya Nyaya Sanhita, and the practical consequence of that shift for animal protection.
- To assess the critical legal consequence of the Bharatiya Nyaya Sanhita's complete deletion of Section 377 of the Indian Penal Code.
- To propose actionable legal and policy reform capable of raising statutory penalty and closing the gap in India's anti-cruelty framework this paper identifies.

1.2 Research Methodology

This study adopts a doctrinal methodology, involving systematic examination of statutory provision, constitutional principle and judicial precedent rather than

⁷ Indian Penal Code, 1860, §§ 428-429 (repealed 2024) (India).

⁸ *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1 (India).

social survey. It analyses the Constitution of India, the Indian Penal Code, 1860, the Bharatiya Nyaya Sanhita, 2023 and the Prevention of Cruelty to Animals Act, 1960, together with Supreme Court ruling, principally *Animal Welfare Board of India v. A. Nagaraja* and *Navtej Singh Johar v. Union of India*, and draws on secondary academic source including peer-reviewed journal and Law Commission report to critically assess India's enforcement crisis, expose the legislative gap in its penal architecture, and propose statutory reform aligned with the nation's constitutional ideal of compassion.

1.3 Scope

This paper confines its analysis to the statutory and judicial framework governing cruelty to companion, stray and domesticated animal in India, together with the specific bestiality gap the Bharatiya Nyaya Sanhita's deletion of Section 377 has created; it addresses the Wild Life (Protection) Act, 1972 only comparatively, in Section 7, to illustrate the sentencing disparity this paper's central argument identifies, without undertaking a comprehensive independent analysis of India's wildlife protection regime.

2. THE MEANING OF ANIMAL RIGHTS IN INDIAN LAW

Animal rights constitutes a philosophical and social movement grounded in the belief that non-human animal possess interest and entitlement comparable to those of human being, right to life and right to safe habitat among them.⁹ In India, these interests find expression through the Directive Principles of State Policy and the Fundamental Rights the Constitution guarantees, interpreted and extended over time through Supreme Court jurisprudence. Every person bears a constitutional duty to protect animal, and given the familiar juristic proposition that one person's duty correlates with another's right, the citizen's duty to protect animal life under Article 51A(g) may itself be understood as constituting a right animals hold, one the Constitution recognises even without conferring formal legal personhood upon every animal directly. This conceptual foundation, duty on one side generating right on the other, supplies the interpretive lens through which this paper's subsequent sections examine the specific statutory and judicial development shaping India's animal protection framework.

Comparative jurisprudence offers a useful reference point for this rights-based conception. Several jurisdictions have moved beyond a purely welfare-oriented framework, which regulates human treatment of animal without conferring any independent legal status upon the animal itself, toward a rights-oriented or sentience-based framework that recognises the animal's own interest as directly cognisable in law. New Zealand's Animal Welfare Amendment Act, 2015 formally recognised animal as sentient being for the first time in statute,

⁹ Peter Singer, *Animal Liberation* 1-10 (Random House 1975).

and the European Union's Lisbon Treaty similarly recognises animal as sentient being in Article 13 of the Treaty on the Functioning of the European Union, requiring member states to pay full regard to animal welfare requirement in formulating policy.¹⁰ India's own judicial development, examined in this paper's Section 4, tracks this same conceptual trajectory, moving from a welfare-oriented understanding of the Prevention of Cruelty to Animals Act toward the considerably more rights-oriented recognition *Animal Welfare Board of India v. A. Nagaraja* and its successor decisions have supplied, even though India's own statutory text has not yet been amended to reflect that same conceptual shift explicitly.

3. THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1960 AND THE FIFTY-RUPEE CRISIS

The Prevention of Cruelty to Animals Act, 1960 remains India's primary legislation addressing cruelty to animal, enacted with the objective of preventing unnecessary pain or suffering and defining animal broadly as any living creature other than a human being.¹¹ When passed over six decades ago, the Act was hailed as a genuinely progressive step for a young nation, yet it has remained practically unchanged since, transforming over time from a protective instrument into a significant barrier to justice.

Section 11's definition of cruelty is, on its face, comprehensive, encompassing beating, kicking, over-riding, over-driving, over-loading, torturing or otherwise subjecting an animal to unnecessary pain or suffering, employing a diseased or infirm animal for labour, administering an injurious substance, confining an animal in a cage or receptacle that does not permit reasonable movement, and failing to supply sufficient food, water or shelter.¹² Its penal consequence, however, achieves virtually nothing: a first offence carries a fine of merely ten to fifty rupees, and a subsequent offence committed within three years attracts a fine of twenty-five to one hundred rupees, or imprisonment extending to three months, or both. From an economic perspective, these figures are entirely obsolete; fifty rupees carried meaningful value in 1960 but constitutes a negligible sum today, functioning in practical effect as a nominal fee permitting an offender to inflict horrific violence upon a living, feeling creature at a cost lower than an ordinary street-side snack.

Beyond its weak fine, the Act suffers a crippling procedural weakness: most offence under Section 11 are classified non-cognizable and bailable, meaning a local police officer possesses no legal authority to arrest an abuser, or even to

¹⁰ Treaty on the Functioning of the European Union, art. 13, 2012 O.J. (C 326) 47 (EU).

¹¹ The Prevention of Cruelty to Animals Act, 1960, § 2(a), No. 59, Acts of Parliament, 1960 (India).

¹² The Prevention of Cruelty to Animals Act, 1960, § 11, No. 59, Acts of Parliament, 1960 (India).

initiate formal investigation, without first obtaining a magistrate's warrant. For an already overworked police force managing a heavy backlog of human crime, this classification creates a considerable institutional bottleneck; local police stations frequently show marked reluctance to register a First Information Report or pursue a warrant for conduct carrying a fifty-rupee penalty, and the resulting under-reporting leaves animal abusers with a pervasive sense of practical immunity.

4. CONSTITUTIONALISING ANIMAL WELFARE: FROM ARTICLE 51A(g) TO LEGAL PERSONHOOD

Where the statute proved inadequate, constitutional courts have supplied doctrine. Article 51A(g)'s fundamental duty to protect the environment and show compassion for living creature carries no independent penal consequence, but courts have repeatedly invoked it as an interpretive aid capable of reading the Prevention of Cruelty to Animals Act expansively.

The decisive development came in *Animal Welfare Board of India v. A. Nagaraja*, arising from a challenge to Jallikattu, the bull-taming event conducted during the Tamil harvest festival. The Supreme Court held that the term life in Article 21 could not be confined to human life alone, that animals possess intrinsic worth and a right to live with dignity independent of their utility to human being, and that the Prevention of Cruelty to Animals Act, read with Article 51A(g), guarantees animal what the Court termed five freedom: freedom from hunger, thirst and malnutrition; freedom from fear and distress; freedom from physical and thermal discomfort; freedom from pain, injury and disease; and freedom to express normal pattern of behaviour.¹³ The Court banned Jallikattu, bullock-cart racing and comparable practice as incompatible with the Act, and directed Parliament to amend the Act's penal provision to supply a genuinely effective deterrent, a direction Parliament has not, in the intervening decade, implemented.

The Court repeated that direction in *Gauri Maulekhi v. Union of India*¹⁴, a separate proceeding in which an animal rights trustee sought enforcement of rule and penalty revision the concerned Ministry had promised but not delivered, securing only a further direction that the competent authority finalise pending rule within three months, illustrating how even a favourable Supreme Court order translates, in this specific domain, into further procedural direction rather than substantive penal reform. A more doctrinally radical move came from the Uttarakhand High Court in *Narayan Dutt Bhatt v. State of Uttarakhand*¹⁵, which declared the entire animal kingdom, including avian and

¹³ *Animal Welfare Board of India v. A. Nagaraja*, (2014) 7 S.C.C. 547, 61-63 (India).

¹⁴ *Gauri Maulekhi v. Union of India*, W.P. (C) (Sup. Ct. India).

¹⁵ *Narayan Dutt Bhatt v. State of Uttarakhand*, 2018 S.C.C. OnLine Utt. 645 (India).

aquatic species, to be legal entities possessing a distinct persona with the right, duty and liability of a living person, and declared every citizen of the state a person *in loco parentis* for the animal kingdom's welfare and protection. The following year, in *Karnail Singh v. State of Haryana*¹⁶, the Punjab and Haryana High Court reached a comparable conclusion, extending equivalent personhood status to animals within that state and imposing a corresponding guardianship duty on its citizens.

5. THE PENAL SHIFT AND THE PROPERTY-VERSUS-SENTIENCE CONFLICT

Because the Prevention of Cruelty to Animals Act lacks genuine penal weight, prosecutor and animal welfare advocate have historically sought alternative avenue for securing actual custodial consequence for abuser. Parallel to the welfare statute, Indian criminal law has always contained a separate route to prosecuting the killing of an animal, situated not among offence against the person but among offence against property. Section 428 of the erstwhile Indian Penal Code penalised the killing, poisoning, maiming or rendering useless of any animal worth ten rupees or more with up to two years' imprisonment, and Section 429 extended that punishment to up to five years where the animal was a horse, mule, camel, ox, bull, cow or other cattle, or any animal worth fifty rupees or more.¹⁷

While these provisions gave police the practical means to make arrest and secure custodial sentence, they introduced a profound ethical and legal contradiction into Indian jurisprudence. The old Indian Penal Code did not protect animal because they were living, sentient creature capable of feeling pain; instead, it protected them under the chapter addressing offences against property, viewing an animal through a strictly anthropocentric lens that valued it only as a financial asset belonging to a human being. This produced a disturbing double standard: where an abuser killed a pedigree dog belonging to a wealthy owner, the law intervened forcefully because valuable human property had been destroyed, but where that same abuser committed an act of extreme torture against a community stray dog, the provisions proved considerably harder to apply, since the stray animal possessed no legal owner and no assigned market value. This property-versus-sentience model sits in direct tension with India's own constitutional identity: while Article 51A(g) commands citizens to show compassion for the intrinsic value of living creature, the everyday penal law valued animal only through a price tag.

This property-versus-sentience conflict is not merely of historical interest; it continues to structure how prosecutors and courts approach animal cruelty case

¹⁶ *Karnail Singh v. State of Haryana*, 2019 S.C.C. OnLine P&H 704 (India).

¹⁷ Indian Penal Code, 1860, §§ 428-429 (repealed 2024) (India).

even today, since Section 325 of the Bharatiya Nyaya Sanhita, examined in this paper's Section 6, retains the same property-chapter placement its predecessor provisions occupied. A charge framed under a property offence naturally invites a court to weigh harm by reference to the property's value, precisely the anthropocentric calculus that produced the disparate treatment of the pedigree dog and the community stray this section has already illustrated, and it does so notwithstanding the considerably more sentence-oriented constitutional doctrine this paper's Section 4 has traced through Nagaraja and its successor decisions. The persistence of this structural mismatch between constitutional doctrine and statutory classification supplies the doctrinal foundation for the harmonisation this paper's Section 8 ultimately recommends.

6. THE TRANSITION TO THE BHARATIYA NYAYA SANHITA AND THE DELETION OF SECTION 377

The Bharatiya Nyaya Sanhita, 2023, which entered into force on 1 July 2024, consolidated both prior provisions into a single Section 325, punishing mischief by killing, poisoning, maiming or rendering useless any animal with imprisonment of either description extending to five years, or fine, or both.¹⁸ The new code introduces a somewhat broader definitional structure for animal cruelty specifically, distributing the offence across several distinct provision: Section 321 addresses cruelty to animal, Section 322 addresses killing or maiming, Section 323 addresses poisoning, Section 324 addresses animal fight and related activity, and Section 325 addresses neglect.¹⁹ Yet this reform remains only partial. Section 325 continues to sit, in its statutory location, within the Bharatiya Nyaya Sanhita's chapter addressing offences against property, immediately alongside provision punishing mischief to irrigation work, road and lighthouse, meaning the new code has carried forward the same property-based classification this paper's Section 5 has already critiqued rather than relocating animal cruelty among offences against the person or a dedicated sentence-based category.

More consequentially still, the Bharatiya Nyaya Sanhita has introduced an unprecedented crisis by completely deleting Section 377 of the Indian Penal Code without replacement. Section 377 had historically penalised unnatural offence, a category prosecutors relied upon to criminalise bestiality, the sexual assault of animal by human. When the Supreme Court progressively read down Section 377 in *Navtej Singh Johar* to rightly decriminalise consensual adult same-sex relationship, the five-judge bench was careful to preserve the provision's continued application to non-consensual act and to bestiality specifically, explicitly recognising that non-human animal are legally incapable of giving consent and that sexual violence against them must accordingly

¹⁸ Bharatiya Nyaya Sanhita, 2023, § 325, No. 45, Acts of Parliament, 2023 (India).

¹⁹ Bharatiya Nyaya Sanhita, 2023, §§ 321-325, No. 45, Acts of Parliament, 2023 (India).

remain a severe, punishable offence.²⁰ The Parliamentary Standing Committee on Home Affairs reviewing the Bharatiya Nyaya Sanhita bill had, in fact, specifically recommended retaining Section 377 insofar as it criminalised non-consensual act against men and transgender person and act of bestiality, consistent with the Bill's own stated objective of moving toward gender-neutral offence.²¹

Despite this clear judicial direction and legislative committee recommendation, the drafters of the Bharatiya Nyaya Sanhita eliminated Section 377 entirely. Because the new code's sexual offence chapters are strictly anthropocentric and gender-specific, addressing human victim exclusively, this erasure has left a genuine statutory vacuum: sexual assault against an animal is today no longer explicitly recognised as a distinct offence under mainstream Indian penal law. Where an individual commits an act of sexual violence against an animal, prosecutors can no longer pursue the substantial custodial term the Indian Penal Code previously made available, and are instead forced back onto Section 11 of the Prevention of Cruelty to Animals Act, meaning that a perpetrator of severe sexual violence against a defenceless animal presently faces a maximum statutory penalty of fifty rupees, precisely the gap this paper's Section 7 examines as the starkest illustration of the sentencing disparity its central argument identifies.

This gap has already generated real-world consequence documented in subsequent legal commentary, which records that prosecutors confronted with credible allegation of bestiality since July 2024 have had no recourse beyond the Prevention of Cruelty to Animals Act's fifty-rupee ceiling, precisely the outcome the Parliamentary Standing Committee's recommendation was intended to forestall.²² The gap is, moreover, not confined to bestiality alone: because Section 377 had also been the sole Indian Penal Code provision addressing non-consensual sexual assault against men and transgender person, its wholesale deletion has produced a parallel and equally significant protective vacuum for human victim, a related consequence beyond this paper's specific scope but one that underscores the same underlying legislative failure, deletion without considered substitution, this paper's analysis of the animal cruelty context identifies.

²⁰ Navtej Singh Johar v. Union of India, (2018) 10 S.C.C. 1, 253-256 (India).

²¹ Parliamentary Standing Committee on Home Affairs, 246th Report on the Bharatiya Nyaya Sanhita Bill, 2023, 15 (2023).

²² Dr Rofi Khan, *The Law That Forgot Half Its Citizens: Male Sexual Assault and the BNS Section 377 Gap* (2026); see also Jus Corpus, *The Omission of Section 377 from the Bharatiya Nyaya Sanhita* (2024).

7. INCONSISTENCIES IN THE PUNISHMENT OF ANIMAL CRUELTY

A comparison of the Prevention of Cruelty to Animals Act, 1960, the Bharatiya Nyaya Sanhita, 2023 and the Wild Life (Protection) Act, 1972 reveals significant inconsistency in how India punishes cruelty to animal, inconsistency that depends more on the classificatory happenstance of which statute governs a given animal than on the seriousness of the underlying conduct.

Statute	First-Offence Penalty	Cognizability
Prevention of Cruelty to Animals Act, 1960 (§ 11)	Fine of ₹10 to ₹50; repeat offence ₹25-₹100 or up to 3 months' imprisonment	Non-cognizable, bailable
Bharatiya Nyaya Sanhita, 2023 (§ 325)	Imprisonment up to 5 years, or fine, or both; no minimum prescribed	Cognizable, non-compoundable
Wild Life (Protection) Act, 1972 (Sched. I offences)	Mandatory minimum 3 years, extendable to 7 years, plus minimum fine of ₹10,000	Cognizable, non-bailable

Table 1: Comparative Sentencing Under India's Three Anti-Cruelty Statutes. Source: Authors' compilation from the statutory provisions discussed in this paper.

As this comparison demonstrates, punishment for materially similar conduct depends substantially on the species of animal involved rather than on the gravity of the offender's conduct: identical cruelty inflicted upon a street dog, a domesticated bull and a Schedule I protected species could attract, respectively, a fifty-rupee fine, up to five years' discretionary imprisonment, or a mandatory minimum of three years, purely as a function of statutory classification. This disparity extends to enforcement infrastructure as well. Wildlife offence are investigated and prosecuted by specialised authority with dedicated institutional support, whereas prosecution under the Prevention of Cruelty to Animals Act frequently depends on private citizen and animal welfare organisation operating with limited resource and facing considerable procedural constraint. Offence under Section 325 of the Bharatiya Nyaya Sanhita are non-compoundable and must generally proceed to trial, while the Prevention of Cruelty to Animals Act contains no specific compounding provision at all, a gap that has, in practice, permitted many case to be resolved informally through token fine or undertaking rather than genuine adjudication. The statute Parliament specifically enacted to safeguard animal welfare accordingly remains, in comparative terms, the least effective of the three, while the more stringent penal sanction available to prosecutors derive from legislation designed

primarily to protect property interest or wildlife conservation rather than animal welfare as such.

8. POLICY RECOMMENDATIONS AND CONCLUSION

To close the legal gap this paper has traced and to fulfil India's constitutional promise of compassion toward living creature, the following reforms are proposed.

- Parliament should amend Section 11 of the Prevention of Cruelty to Animals Act to index penalty to contemporary value, prescribing a minimum fine of twenty-five thousand rupees and mandatory community service at an animal shelter for a first offence, and rigorous imprisonment extending to three years for repeat offence.
- Severe act of animal torture, poisoning and maiming should be reclassified as cognizable and non-bailable, conferring on local police the statutory authority to make immediate arrest and commence formal investigation without first obtaining a magistrate's warrant.
- To address the legislative vacuum the deletion of Section 377 of the Indian Penal Code has created, the Bharatiya Nyaya Sanhita should incorporate a specific, gender-neutral provision expressly criminalising sexual violence against animal, classified as cognizable and non-bailable and carrying a minimum sentence of seven years' imprisonment sufficient to restore the deterrent effect Section 377 previously supplied.
- The Ministry of Home Affairs, in coordination with State Animal Welfare Boards, should issue standard operating procedure directing local police to link animal cruelty report automatically with the broader mischief and public safety provision of the Bharatiya Nyaya Sanhita, ensuring consistent charge-framing across jurisdiction.
- Sustained public education should equip citizens to recognise and report animal neglect and cruelty, cultivate respect for animal welfare from an early age through school and family example, and encourage the immediate reporting of witnessed cruelty to police or the relevant authority.

This paper has critically evaluated the systemic enforcement crisis and structural sentencing disparity that continue to define India's animal protection framework. The analysis reveals a profound paradox at the heart of Indian jurisprudence: on one hand, the nation possesses a genuinely progressive constitutional architecture, secured through Articles 48A and 51A(g) and a judiciary willing to extend the right to life under Article 21 to all sentient being in *Animal Welfare Board of India v. A. Nagaraja*; on the other, the daily

mechanism of criminal justice remains bound by the outdated, largely toothless text of the Prevention of Cruelty to Animals Act, 1960.

The system's primary failure is economic and structural. By capping first-offence penalty for brutal animal torture at a mere fifty rupees, the law treats animal abuse as a minor municipal nuisance rather than a serious criminal offence, and because these penalty are non-cognizable and bailable, local police lack both the legal mandate and the practical motivation to enforce them, producing widespread under-reporting and a durable culture of impunity for abuser. The transition from the Indian Penal Code to the Bharatiya Nyaya Sanhita has failed to resolve these structural issue and has, in the specific instance of Section 377's deletion, created a new and serious vulnerability: while the old property-based model was doctrinally flawed, it at least supplied police with the punitive capacity to secure custodial sentence for animal slaughter or maiming and for bestiality specifically; its replacement has, through legislative oversight rather than considered policy choice, inadvertently decriminalised sexual violence against animal notwithstanding the Supreme Court's explicit direction in *Navtej Singh Johar* that such conduct remain a severely punishable offence. Closing this gap, together with the broader sentencing disparity this paper's Section 7 has documented across India's three anti-cruelty statutes, is essential if the daily operation of Indian criminal law is finally to reflect the compassionate constitutional identity Articles 48A, 51A(g) and the Supreme Court's own jurisprudence have already proclaimed.