

Extending the Rights of a Living Person to the Animal Kingdom: Narayan Dutt Bhatt Versus Union of India & others

The trend to vest concerns in the environmental bodies such as the Earth, rivers, and animals has been an emerging trend in environmental legislation and jurisprudence, globally. The signs of the emerging concerns with regard to animal welfare can be reflected through laws of different countries like Ecuador¹, Bolivia², New Zealand³ etc. The High Court of Uttarakhand has declared entire animal kingdom including avian and aquatic creatures as legal entities. This order was issued by the division bench of Justices Rajiv Sharma and Lokpal Singh while hearing on a public interest litigation filed by Banbasa resident Narayan Datt Bhatt.

The petition filed by Mr. Narayan Dutt Bhatt essentially was seeking directions for restricting movement of horse carts from Nepal to India and vice versa through the Champawat District. He had pleaded that the horses be vaccinated and checked for infections before being allowed into the Indian Territory from Nepal. In line with raised concern court observed that in order to promote greater welfare of the animals they need to be given status of legal entity with corresponding rights, duties and liabilities. Therefore, scope of the petition was enlarged to encompass protection and welfare of all animals.

In extending legal personhood to animals, the Court relied on the decision in *Animal Welfare Board of India v. A. Nagaraja & Ors.*⁴ in which the Supreme Court had recognized the freedoms of animals. It then went on to highlight the laws in place for welfare of animals, including the Prevention of Cruelty to Animals Act 1960 (PCA Act), and emphasized on the need to adhere to these laws.

The Court quoted Jane Nosworthy, an expert in artificial legal persons, in putting forth the notion that “the inclusion of animals in the community of legal persons will dignify them by forcing humans to see and value animals for themselves, rather than seeing them simply as the object of property rights, or as something for humans to ‘use and abuse’.”⁵

To materialize the legal provisions set forth, Court issued various directions to ensure that the entire Animal kingdom in the state of Uttarakhand will be treated as legal entities having a distinct persona with corresponding rights, duties and liabilities of a living person. In this context it laid down various provisions to ensure animal welfare at large like, regulation and medical checkup of animals before entering India, enlisted set of rules on maximum weight to be carried by draught animals and certain pack animals, spikes or sticks to tackle animals to be banned, provision of adequate animal shelters, guidelines for transport of animals, appointment of veterinary officer, restrictions on transporting animals on foot, duties of police officers extended to ensure the implementation part, constitution of societies for prevention of cruelty to animals, treatment and housing of stray animals

¹First country to grant rights to nature under its Constitution, including “the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution.”

²Law of the Rights of Mother Earth (2010).

³Te Urewera Act (2014); In March 2017, recognized the Whanganui River, as being a legal person.

⁴[2014] SC

and right of way for carts driven by animals. To further strengthen, it declared all the citizens of the state as guardians of the animals and has endowed them with the duty to ensure their welfare and protection.

The declaration of Animals as legal personhood further requires clarification as to distinguish the rights of individual animals, rights of certain types of animals, and rights of animals as “Kingdom Animalia”. If we are to truly recognize all animals universally as legal persons having rights against exploitation, and being entitled to protection, we would have to completely overhaul our legal system. We would have to eliminate the use of animal labour and bodies for our agricultural, medicinal, nutritional and recreational needs.

Persons can be property (such as companies), and there are persons which cannot be owned (such as humans). Therefore it is not inconceivable to extend legal personhood to animals and their rights to bodily autonomy and liberty.

Issues with regard to the extension of legal entities to the animal kingdom needs to be addressed or systematically approached in order to ensure the attainment of objectives set behind the ruling laid down by the Court. For far reaching positive outcomes of the animal welfare so recognized by the state of Uttarakhand it would be beneficial to legislate precisely the provisions so as to include clear guardianship and representation of animals under our existing environmental laws. As a result of which the concept of animal persons could prove to be an effective wildlife protection tool. The aim should however be protection of animals where in this expansion of animal rights should enable protect animals better than stricter animal protection laws. Also, as the “National Wildlife Action Plan 2017” raises the need to counter loss of wildlife due to impact of climate change, this verdict by the High Court could help in throwing a legal protective net around vulnerable species already facing pressures on multiple fronts.