HUMANE KILLING OF POULTRY AND FARM ANIMALS: COMPARATIVE ANALYSIS OF INDIA, U.S.A AND E.U

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Chapter 1: Introduction

From a society of hunter-gatherer, we have reached to a post domestic society, where Meat eating is abundant but the process is outsourced to the slaughterhouse. Whereby in today’s modus operandi animal are treated as an object and their welfare is still in denial. It is ironical that the term killing and humane are used in conjunction to content human standards of animal welfare.

The new movement of turning vegan will take decades until humans finally understand the destruction caused to the environment and balance of nature. As per American Journal of Clinical Nutrition¹, the livestock require 17 time more land, and 10 times more water to sustain themselves then required for feeding humans. This clearly shows that the world hunger can be tackled if animal based food consumption is reduced. However, as animal based food consumption also varies as per religious requirement and social belief of people² this is an ongoing battle. Thereby, the eminent issue is, understanding our duties toward animal and fulfilling the same towards them.

The humane movement on the other hand has devoted little attention to the welfare of animal agriculture including animal slaughter, whose jurisprudence is still in developing phase. In the case of “Animal legal defense fund v dept of environment”, where question of banning metal claws was concerned the judged stated that this is in domain of legislation. and the concern of animal welfare enshrined within the idea, that the source of suffering of animal should not be cruelty. In A. Nagaraj case, animal welfare is described as a condition where the animal is in good state of welfare if (as indicated by scientific evidence) it is healthy, comfortable, well nourished, safe, able to express innate behaviour and if it is not suffering from unpleasant health conditions such as pain, fear and distress.⁵

Thereby, the animal welfare concerns itself with the duty humans have towards animal to be cruelty free, and that duty include cruelty free slaughter and treatment with dignity throughout their life span.

In the legislation of U.S.A, India and E.U, one can see influence of religious affinity, to social and moral cry. However moral rights are subjective and will always be dependent on the religious belief of the country.

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Resources <10.5851/Kosfa.2014.34.4.507> Accessed 14 September 2021
⁴ [1985], 123 AD 2d 368.
⁵ [2014],7 SCC 547
Thereby the question of Humane slaughter gets filtered with respect to the various other social and religious filter of a jurisdiction.

India: In India, 20 out of 28 states have various state legislature to ban cow slaughter. This vigilance did not emerge out of Animal welfare but with religious devotion in gab of idea of Ahimsa. However as per FAO (Food and agriculture organization) reports Milk, meat, and egg consumption in India is rising much faster than that of cereals\(^6\). This clearly suggest the increase in breeding of chicken. In the law commission report of 2017, the cruelty imparted on chicken for breeding was pointed out as well. Therefore, India approach in banning cow slaughter is not related to animal welfare, had this been the case it would have been applicable to other meat producing animals as well. Henceforth, in a country where consumption of goat, bovine, fish is rampant, it is important to analyse current legislation with respect to humane killing for food and its implementation at all stages of their life which ensure a peaceful journey till the end.

U.S.A – As per Northern American meat Institute “The meat and poultry industry is the largest segment of U.S. agriculture. U.S. meat production totalled 52 billion pounds in 2017 and U.S. poultry production totalled 48 billion pounds in 2017”\(^7\). Thereby U.S.A being a huge consumer of meat-based food also have various legislation one of them being Humane slaughter act. however it’s poor execution and USDA (United states department of agriculture) futility put it in the shoes of every other country, which is yet to be onboard with animal welfare idea. In January, 2008 horrifying pictures of dairy cows living in inhumane condition went viral whereby some were gravely ill and some couldn’t even stand due to being battered, shocked and nearly drowned \(^8\), although action by USDA was taken. but, This is a normal scenario of American slaughter house as USDA has failed to keep in check most of them\(^9\)

European Union: EU is much advanced than other jurisdiction in tackling the animal welfare. it banned religious kosher and halal meat and made in mandate for pre stunning of animal, although this collided with various religious belief of particular muslim and jews community but, Despite that, animal were kept on upper pedestal. The European countries have begun to outlaw practices that are known as common husbandry practices in the United States. Battery cages, veal crates and sow stalls are just a few examples of enclosures that are in the process of being phased out in some parts of Europe, while still common in the US. food animals are governed by big money industry; most regulations are designed to protect this industry. In a union of countries such as the EU, a door is opened to newer ideas about the role of animals and their relationship with humans. In Europe, there is a variety of lobby’s controlling the regulation of animals. Although some countries are still faithful to

\(^6\) Supra Note 2.  
the Christian idea that we have dominion over the animals, several other countries have moved away from this, believing that animals need to be protected for their own sake. This explains why the EU regulations are shifting. Several EU member states no longer hold the view that animals only have value as property. Animals cannot be given a moral status and still be treated as though they have none. Thereby, despite developing studies in the area of humane treatment of farm animal EU is constantly trying to set a benchmark for others to follow.

In conclusion despite India having various legislation in coherence with international treaty and its pledge for humane welfare, the area of animal law still need serious executive introspection along with development of jurisprudence on same.

Chapter 2: Historical evolution of animal slaughter In India

Meat has always been a important part of the diet of the people whether its European country or India. Despite India being claimed as agrarian diet. In India the history can be traced back to Harrapan age. Whereby one of the research studies confirmed that meat was a main part of their diet. The findings suggest that the people of the 'Indus Valley' were huge meat eaters. More specifically, they favoured beef over other meats. These discoveries were published in the Journal of Archaeological Science in a paper titled "Lipid residues in pottery from the Indus Civilisation in northwest India."

The researchers investigated lipid (cell component) residue in pottery vessels employed throughout the Indus Valley Civilisation, notably during the mature Harappan period (2600/2500 BC to 1900 BC), as the title implies.

The research focuses on five villages in India: Alamgirpur (UP), Masudpur (Haryana), Lohari Ragho (Hisar), Khanak (Bhiwani, Haryana), Rakhigarhi (Haryana), and Farmana (Haryana) (Rohtak, Haryana). A lipid residue study was performed on 172 ceramic fragments collected from these locations by the research team. The 'ceramic lipid residue analysis' has lately emerged as a useful method for determining ancient people's eating patterns; Ceramics are one of the most common items discovered during archaeological excavations of 'proto' and historic South Asian sites, and they have been employed in many important archaeological studies all around the world. Vegetarianism gained popularity in India around the fourth century BC, notably among Buddhists, Jains, and Hindus. However, the bulk of Hindus continued to eat cow flesh until the Rig Veda period (about 1500 BC). Livestock were a source of happiness and livelihood at the time; cattle were cash; and cattle influenced social standing. As a result, the majority of civilised civilizations followed a cattle-
breeding culture. The castrated were commonly eaten by the Vedic Indians.\textsuperscript{14}

Therefore it is an obvious fact that with the huge consumption of meat they must be also subjected to killing in the Slaughter house, one of the study suggested that Bovine, cow and bull were killed with axe or sword; this is similar to that of Jhatka bali\textsuperscript{15}. Not only for consumption purposes but also for sacrificial purposes animal hold great value; one of the sacrificial ceremony called as Sulgava sacrifice required piercing live bull with spike or lance to appease Lord Rudra \textsuperscript{16}. These instances from the past shows that animal pain and suffering while killing them has not been much of a concern.

With time the pity situation of these animal became more concerning. During Colonial era reports suggest that the slaughter house of Kolkata were hub to most barbarious practices such as flaying\textsuperscript{17}. However as per data the practice was prevalent in different part of India too but to the extent as practiced in kolkata.

In truth, the SPCA's reports are rich with proof of the unlucky creatures being slain in most slaughterhouses in terrible ways. According to these stories, the slaughterhouse at Kurriah was used to butcher bullocks.\textsuperscript{18} It housed a simple shelter that was open to the public on all sides, attracting the attention of not just the neighborhood's youngsters, but also the wretched animals chained outdoors\textsuperscript{19}. The cattle were then herded in one by one until there were a half-dozen or more\textsuperscript{20}. While one man withdrew the limb from the ground, another man flung the monster down on its side and bound its legs with a vicious neck wrench\textsuperscript{21}. The same procedure was followed with the whole numb. They were shackled and battered on the filthy floor for perhaps 10 or 15 minutes until the arrival of the 'mollah,' an official whose job it was to make the first, partial cut\textsuperscript{22}. After that, a second guy finished the butchery by cutting the spine. They were subjected to additional brutality by having their heads twisted into a posture that favoured the first butcher's terrible ritual\textsuperscript{23}. The butchering of the calves at the slaughterhouses at Kurriah involved even more barbarism\textsuperscript{24}. The calves were initially brought in, 20 in a group, roped together, The wretched creatures were flung down one by one, and one man would place his foot on the corpse and slit the throat. The animals were only permitted to stay for a few minutes before being inhumanely tossed into the slaughterhouse in a heap one atop the other while still alive, seized by the hind and foreleg. They were abandoned there to perish\textsuperscript{25}. Sheep were slaughtered in two of Chitpore's two biggest slaughterhouses.

\begin{thebibliography}{99}
\bibitem{} Ibid.
\bibitem{} Killing Of Animal At One Stroke.
\bibitem{} Stripping Off The Skin ( Mostly Done While Animal Were Alive )
\bibitem{} Samiparna Samante, 'Calcutta Slaughterhouse: Colonial And Post-Colonial Experiences Calcutta Slaughterhouse: Colonial And Post-Colonial Experiences' [2006] 41(20) Economic And Political
\end{thebibliography}
buildings in Pucca were more cleaner and in better shape than those in Kurria. However, the surgeries were carried out in the same cruel manner as when calves were slaughtered, with the difference that the animals were permitted to lie until they died rather than being flung around. The slaughter of pigs revealed an element of cruelty that reached a level of barbarism that is hard to believe. The unhappy critters were herded into the slaughterhouse and left to fend for themselves till the next morning! The goal of this heinous abuse seems to be to weaken the poor creatures so that they would have less difficulties when they were killed; They were pulled one by one, a bit apart, by either a leg or the tail, about daybreak, and slain by the typical poking of the throat, then tied until dead. Similarly, fowl and poultry were slain indiscriminately. Pigeons were also exposed to the terrible practise of having their wings looped back into one another. Ducks were claimed to be kept in fine condition in stalls in the Tireetee market. Thus, it appears that in the case of practically every animal slaughtered for human consumption, the uttermost barbarity that cleverness may have conceived, rather than simple ignorance, was used against him or her. No methods, such as those used in Europe and elsewhere, were used to induce pain insensibility or shorten its duration. Pain, on the other hand, was inflicted in order to heighten one and lengthen the other.

On the same hand Europe was developing a painless method of slaughtering animal by a blow in the brain which would instantaneously kill them. However for the longest of time legislation in this area couldn’t be devised and implemented due to the fear of hurting religious sentiment of some community practices. But after a complain registered by local about how the unsanitary conditions were leading to spread of disease and nuisance the British govt decided to establish a slaughter house under the control of the municipal and Act VIII of 1865 was passed with respect to the same having proper drainage system and sanitation facility among spaceous in nature for affectively carrying out the slaughter however they also failed to keep in check the recommendation provided by the committee.

However on the perusal of the laws and provisions it can be confirmed that the laws were not for the painless death of the animal or humane slaughter in fact it was for safety of humans as the condition earlier in which they were butchered render it dangerous for consumption purposes.

Section 2 of Act VII of 1865 read as follows “all butchers and private persons should have free access to the slaughterhouses for the purpose of slaughtering animals intended for public or private consumption; third, butchers intending to avail themselves of the slaughterhouses should apply to the suburban municipality for a licence and a ticket for each of their assistants; fourth, all animals should be brought to the slaughterhouses 12 hours before the time fixed for slaughtering; fifth, no diseased cattle should be brought to the slaughterhouse; sixth, any cattle suspected of being diseased should be removed to a pen attached to the establishment and kept under observation; seventh, no dying or dead cattle should be taken into the slaughterhouses, and any such cattle brought to slaughterhouse

26 Ibid
27 Ibid
28 Ibid
should be seized and treated like animal affected with contagious diseases; eighth, to avoid confusion and fraud in the quality of meat, carcasses should be divided into three classes. The stamps affixed to the meat should be of different colours and numbered 1, 2, 3; ninth, no meat should be removed from the slaughterhouses until it had been so stamped; tenth, the skin, entrails, and offal of slaughtered cattle should be collected in the offal room, there to be washed and cleaned before their removal; eleventh, butchers should not be permitted to sell meat in the slaughterhouse premises, but might sell the offal and skin within the yard; but no purchaser of the above material should be on any account admitted within the building.”

As per Report of Peta despite several legislation has failed to affectively provide them a dignified life and death they claims that while there are rules against animal torture, transportation, and killing, they are inadequate and frequently broken. Many animals die before they reach the slaughterhouses because they are transported in confined vehicles that are driven carelessly. Injuring animals is also prohibited. Traders, on the other hand, often beat them, rub chilli seeds or smoke in their eyes, and break their tails. PETA claims that instead of implementing the rules, the federal government is attempting to politicise the matter by prohibiting cow slaughter.

In USA infact the history of Slaughter is more cruel whereby animals were slaughtered not only for food but charged as criminal as well and then slaughtered; many times they were accused of crimes and put to death. However Europe also has its share in history when we talk about the slaughtering of pregnant animal for meat; however they were more considerate and more rigid methods were applied efficiently in comparison to other two countries.

Chapter 3: Laws for humane slaughter in India

“Indian ethos has always considered animals quintessential aspect of human living. Kautilya’s Arthshastra talks extensively of animal welfare. For example, it prohibited killing or injuring protected species and animals in reserved parks and sanctuaries. Village headman was responsible for preventing cruelty to animals and a person found treating an animal cruelly could be restrained in any manner.”

Although India has enacted The Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as the 'PCA Act')with the goal of preventing unnecessary pain and suffering in animals, and it establishes the responsibility of those in charge of the animals to take all

29 Act VII Of 1865 (Bengal Meat And Slaughter Houses)
30 Peta, 'PETA Calls On All States To Stop Illegal Slaughter As Per Supreme Court Order' (PETA India, March) <https://Www.Petaindia.Com/Blog/Peta-Calls-States-Stop-Illlegal-Slaughter-Per-Supreme-Court-Order/> Accessed 17 November 2021
31 Admin, 'History Of Animal Exploitation' (Crate Free USA, Jun 17,
33 Ibid.
35 Law Commission Of India, Transportation And House-Keeper Of Egg-Laying Hens (Layers) And Broiler Chickens(Law Com 269,2017) Para 1.3
reasonable steps to guarantee their well-being. It establishes the Animal Welfare Board of Inquiry (AWBI), which will issue regulations under the PCA Act to guarantee that animal welfare standards are fulfilled and that animals are not exploited. Treating animals cruelly is defined in Section 11(1) of the PCA Act, which states that if a person "...keeps or confines any animal in any cage or other receptacle that does not measure enough in height, length, or width to enable the animal a fair chance for movement"; or....(k) sells for sale or possesses in his possession any animal that is experiencing agony due to mutilation, malnutrition, dehydration, overcrowding, or other ill-treatment..., it would be considered cruelty and penalised under this section.

Pre slaughter legislation

The Food Safety and Standards (Licensing and Registration of Food Businesses) Regulations, 2011 (hereinafter referred to as—the FSSR]) [Notification – F.No. 2-15015/30/2010 dated 01.02.2011] has been framed under section 92(2)(o) read with section 31 of the Food Safety and Standards Act, 2006 (hereinafter referred to as—the FSSAI). The FSSR lays down certain guidelines for the Pre-Slaughter Handling of Animals especially with respect to the transport of animals. The guidelines contained in Part IV Rule 6.4 “(a)(1) provide, inter alia, - Only healthy animals in good condition after verification and certification by a qualified veterinary inspector would be transported; transportation of Animals from endemic areas of a disease to non-endemic areas with a provision for protective vaccination and quarantine for 30 days, before further transportation, would be necessary; female animals in advanced stages of pregnancy would not be transported; all animals must be treated humanely and sufficient space to stand or lie must be provided while being transported; light feeding, watering facilities must be provided at regular intervals along with an attendant handling first aid and loading during extreme temperatures must be avoided; Inspection for safety, such as, checking for undamaged floors, walls, ensuring suitability such as covering to avoid weather conditions etc, before loading the animals is mandatory.”

Chapter VII of the Rules of 1978 (included through the amendment of 2001) specifically deals with transport of poultry. The Rules of 1978 provide the following: “(i) Rule 79(a) lays down only birds in healthy and good conditions, examined and certified for fitness by a veterinary doctor, shall be transported. (ii) Rule 79(c) and (d) lays down that the birds being transported shall be fed and watered before being placed in containers for transportation, and arrangements shall be made to feed and water them during transportation, with watering ensured every 6 hours. (iii) Rule 80 lays down that in case of road travel, containers shall not be placed one a-top another and shall be covered properly in order to provide light, ventilation and to protect from rain, heat and cold air. (iv) Rule 81 lays down that in case of rail travel, consignment on journey for over 12 hours to be accompanied by an attendant. Adequate facilities for ventilation and protection for exposure to weather shall be made, and no other merchandise (which may result in mortality of the birds) shall be transported in the same wagon. (v) Rule 82

35 Prevention Of Cruelty To Animals Act, 1960
36 Ibid. Sec 11(1)
37 He Food Safety And Standards (Licensing And Registration Of Food Businesses) Regulations, 2011.
lays down in case of air travel, the containers carrying poultry shall be kept near the doors and unloaded immediately upon arrival. (vi) Rule 83 lays down specifications for containers—dimensions of containers for month old chicks, 3 month old chicks and adult stock, Geese and Turkeys, Chicks and Poultry and birds per container. It also lays down special requirement for containers for chicks and poults, such as prohibition on use of wire mesh or net as bottom for container, properly secured to vehicle, properly labelled, continually transported for no more than 6 hours, transportation cannot be stationary for longer than 30 minutes and provision of fire extinguishers in transport vehicles.”

The Ministry of Road Transport and Highways vide Notification No. G.S.R. 546 (E) Dated 8th July, 2015 amended the Central Motor Vehicles Rules, 1989, by Central Motor Vehicles (Eleventh Amendment) Rules, 2015 and added Rule 125E, “which provides that the motor vehicles for carrying animals shall have permanent partitions in the body of the vehicle so that the animals are carried individually in each partition where the size of the partition in case of poultry shall not be less than 40 9 cm sq. The space provided however does not conform to the international standards for the same.”

However one of the most important legislation of them all which led to ban on cow slaughter, although it is move toward a vegan future however it has colour of religious vigilism instead of animal welfare.

From pressure of various political leaders and constituent debates first amendment was mad
consideration, though only as one of many elements, in arriving at a judicial verdict as to the reasonableness of the restrictions.”

“i) that a total ban on the slaughter of cows of all ages and calves of cows and calves of she-buffaloes, male and female, is quite reasonable and valid and is in consonance with the Directive Principles laid down in Article 48; (ii) that a total ban on the slaughter of she-buffaloes or breeding bulls or working bullocks (cattle as well as buffaloes) as long as they are useful as milch or draught cattle is also reasonable and valid; and (iii) that a total ban on the slaughter of she-buffaloes, bulls and bullocks (cattle or buffalo) after they cease to be capable of yielding milk or of breeding or working as draught animals cannot be supported as reasonable in the interest of the general public.”

These revisions were challenged again in Abdul Hakim Quraishi versus State of Bihar (1961), as infringing Article 19(1). (g). The petitioners argued that, as a result of raising the age limit, there would be no bullocks, buffaloes, or she-buffaloes available for slaughter, as few of the animals survived in India up to the age of 15, and that millions of members of the minority community would be deprived of cattle-beef, which was a staple item of their diet. States' affidavits attempted to explain the increase in the limit from 15 to 2 years or 25 years.” The court reiterated Mohammad Hanif Judgement in the same.

Again and again whenever question of cow slaughter ban has arised court has always tried to strike a balance between the right of the butchers to carry on their trade and public interest. In the case of State of Gujarat Vs. Mirzapur Moti Kureshi Kassab Jamat and Ors it was held that “With the growing adoption of non-conventional energy sources like biogas plants, even the waste material has come to assume considerable value. After the cattle cease to breed or are too old to do work, they still continue to give dung for fuel, manure and biogas, and therefore, they cannot be said to be useless. The backbone of Indian agriculture is the cow and her progeny in a way. The whole structure of the Indian agriculture and its economic system is indirectly dependent on the cow.”

It was thus considered necessary to impose total prohibition against slaughter of progeny of cow.

Therefore time and again many states have made laws for protecting interest of the cattle however no laws have been introduced for poultry animals or pigs even not goats.

The European Commission-funded Wellbeing Quality Project has proposed twelve criteria for evaluating poultry welfare. The requirements They imply the lack of protracted hunger and the absence of extended thirst, thirst, resting comfort, thermal comfort, mobility, and absence lack of injuries, infections, and pain generated by treatment processes, social behaviour expression, other behaviour expression, good relationship between humans and animals, as well as a pleasant emotional condition however in India Poultry animals are kept in battery cages where they are lined and stocked in number of thousands, This method of stocking the hens, leads to sore

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40 Ibid.  
41 Ibid.  
42 AIR 1961 S.C. 448  
43 State Of Gujarat Vs. Mirzapur Moti Kureshi Kassab Jamat And Ors, 26 October, 2005 (Unreported)  
44 Supra note 40
feet, minor and major abrasions, broken bones and other bodily injuries to the birds. It also increases the risk of diseases in the flock.

Not only that the broiler chicken are grown and reared with the goal of gaining the most weight in the quickest amount of time. Trait selection is used to breed birds in order to produce maximal weight with the highest feed conversion ratio, with little concern for the bird's wellbeing. Broilers are prone to joint, bone, and ligament diseases because to rapid muscular development on an infantile skeletal base. As a result, these birds have deformed legs and are lame.45

This goes against the judgement passed by the various courts stating that that keeping birds in cages is equal to illegal imprisonment of the birds, which violates their right to dwell in the open air / sky. As a result, the High Court ordered that such illegally imprisoned birds be released into the free sky/air46. In Abdulkadar Mohamad Azam Sheikh v. State of Gujarat26, the Gujarat High Court took a similar stance, stating that "it is the obligation of every citizen to ensure that no undue pain or suffering is inflicted on any animal or bird."47

Even the law commission fail to notice the barbaric ways chicken are killed for their meat, where they are left to bleed until they dead, slowly and painfully. Therefore the law on cow slaughter ban has been a political agenda and not in line with the animal welfare. In the Constituent assemble debates as well the reason cited for ban of cow slaughter has been given as religious affinity of Hindu and not the atrocities committed on them48

Chapter 4 : Laws in USA

Western culture has created laws to protect animals from abuse since the early nineteenth century. While these regulations were created to safeguard animals like cows, sheep, and horses, they have now expanded to include all domestic animals, including dogs and cats. However, in recent years, a substantial number of states in the United States have revised their anti-cruelty legislation. The majority of states in the United States now ban the application of their anti-cruelty laws to farm animals, at least in part.

Specifically, laws have been adopted in twenty-eight states that create a legal domain where some acts, no matter how cruel, are exempt from anticruelty rules if they are considered "recognised," "ordinary," "customary," or "normal" farming methods. These statutes have given farmers the authority to determine what constitutes cruelty to animals in their care. Similarly, anti-cruelty laws in certain states exclude poultry, which accounts for over ninety-five percent of the more than seven billion agricultural animals slaughtered each year.

The most important federal law that deal with slaughter of animal is The Humane Methods of Livestock Slaughter Act of 195849 (hereinafter referred to as the "Humane Slaughter Act" or "Act") was passed in 1958. To be deemed humane, cattle must be "made insensible to pain by a single blow or

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45 Ibid.
46 Muhammadbhai Jalalbhai Serasiya V. State Of Gujarat, 2015 JX (Guj)378:2014 26
47 (CR.A/1635/2010)
48 Aj Noorani, 'Frontline' (The Ban On Cow Slaughter, 24

www.supremoamicus.org
gunshot, or an electrical, chemical, or other means that is swift and effective, before being tied, lifted, tossed, cast, or chopped..." according to the Humane Slaughter Act. However, Despite the previous definition of humane slaughter, the Act also allowed "slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter in which the animal suffers loss of consciousness due to anaemia of the brain caused by simultaneous and instantaneous severance of the carotid arteries with a sharp instrument."  

Therefore, The first animal rights case arose from a conflict between people who wanted to protect farmed animals and others who wanted to safeguard ritual or "kosher" killing as a religious activity. Kosher killing has been regarded compassionate since ancient times, since it had been done customarily. The animal would be pinned to the ground and his carotid artery severed, causing him to pass out fast. Because modern American health rules prohibited the animal from being held on the ground, the "shackle and hoist" method was devised: the fully aware animal would be tied by a back leg and lifted into the air, where his carotid artery would be sliced. A hip might occasionally dislocate, a leg would shatter, the panicked animal would struggle, and the artery would not be severed cleanly. the court in the case upheld the exception and religious slaughter was permitted. This was the only case filed under the act challenging the same.

The most fundamental flaw in the HMSA is that it does not apply to poultry. Only "livestock" is included, therefore animals slaughtered for their fur and animals slain in scientific research aren't included. at least not in the way the USDA now interprets it. This is an issue not only because poultry account for the vast majority of animals slaughtered in the United States each year, but also because the poultry industry's killing techniques are particularly concerning. At best, the high-speed assembly-line procedure used in contemporary chicken facilities, which involves suspending aware birds upside-down by metal shackles and dragging their heads through a trough of electrified water before having their throats slit by a mechanised knife, is a distressing operation. In the worst-case scenario, birds are imprisoned and suffer shattered legs; in the best-case scenario, they live. Along with HMSA, USDA also involves in the meat inspection and if it is not as per the standards mention in the act the same is held liable

Similarly, The first area of concern, how animals produced for food or food production are handled on the farm while being grown, is unregulated by federal law. Similarly, interstate movement of animals for sale or slaughter is governed by a restricted, allegedly cruel, and mostly unenforced federal legislation. The legislation that governs actual slaughter is similarly complicated. And Because federal law only protects animals bred for food or food production to a limited extent, each state must enact its own humane slaughter legislation if all animals raised for food or food production are to be safeguarded from cruel treatment. At the moment, twenty-seven states have passed humane slaughter legislation. Nine of them do not ban the use of a horrific form of stunning before

50 Ibid
51 Ibid
52 Jones V. Butz, 374 F. Supp. 1284
slaughter (the manually operated sledgehammer), and four of them have not even charged a person or department with enforcing the rule.

Cattle of all ages are subjected to harsh treatments by agribusiness. Day-old baby calves, for example, are transported from the dairy farm before they can walk, causing them to be thrown, dragged, or trampled. In certain regions of the nation, dairies are starting to tolerate this method. Cattle producers often frequently bring down disabled cows and sell them for slaughter when they are physically incapable of travelling. Some societies see this as normal, although the abuse of downers is condemned by most decent producers. Before they leave the farm, the majority of downer cows are malnourished or in poor physical condition.

The calves are fed a liquid diet that prevents the rumen from functioning normally. Cattle are also dehorned, castrated, and hot-iron branded without the use of anaesthetics.

Poultry are also subjected to brutal husbandry methods, such as the removal of beaks from chickens. Furthermore, starving of laying hens is a typical practise to force them into the next laying cycle. "Forced moulting" is the phrase for this. Egg layers are kept in cramped conditions with no access to a nest box and limited range of motion. Suffocation is another typical method of disposing of male chicks or live unhatched eggs.

Agribusiness's brutal methods are not limited to hens. Even the court give priority to economic benefits in the case of agri-business. In one of the case A defendant accused of starving his horses contended that depriving horses of nutrients so they could be sold for meat was a "regular agricultural business," not a crime. iOS Witnesses testified for the defendant, stating that it was common practise to "neglect... horses for sale... for flesh." 53 The defendant claimed that such horses are frequently refused veterinary treatment and adequate diet and are confined to "killer cages." 54 Witnesses also indicated that "certain activities in the farming sector... would be regarded cruel but for the fact that they are practises within the industry" such as veal calves' upbringing and slaughter. 55 The defendant was found guilty of animal cruelty by the court. 56 No witness "indicated that in reality they were in the business of rearing horses to be sold for dog food or that they had formed the distinct aim of sending the horses in issue to 'killing pens' for that reason," according to the defendant. 57 The omission of traditional agricultural practises from anti-cruelty legislation poses two serious issues in this case. First, if the defendant had successfully demonstrated that the practise was commonplace through further testimony, the anticruelty Act would not have applied to the conduct of starving his horses, and the court would not have found him criminally guilty. The defendant's issue wasn't that he starved his horses; it was that he couldn't show that enough other

53 Commonwealth V. Bames, 629 A.2d 123
54 Ibid
55 Ibid
56 Ibid
individuals were doing the same thing. Anything is clearly possible under the new statutes if everyone does it. Second, if the defendant could show that he intended to be cruel, he would be found guilty.

Although the laws are available but due to the federal nature and autonomy of states whether they want to incorporate such laws have reduce the efficiency of the laws also exclusion of certain animals in the law render it not affective with regards to animal welfare.

Chapter 5: Eu legal framework

In Europe, the EU and various European nations have moved to criminalise what are known in the United States as conventional husbandry practises. Battery cages, veal crates, and sow stalls are just a few types of enclosures that are being phased out in some regions of Europe while remaining popular in the United States.

The European Convention for the Protection of Animals Kept for Farming Purposes serves as the foundation for several of the EU's recent farming measures. Directives are regulations that will not take effect until later.

As a result, all member states will have enough time to adapt their present procedures to the directives' recommendations and implement the new practises into their own legislation. The Convention covers animals produced for food, wool, skin, or fur, as well as other farming reasons. The treaty's essential tenets include appropriate food, drink, and medical treatment, as well as freedom of movement, air, and light. This contrasts from state anti-cruelty laws in the United States since state anti-cruelty laws do not allow for such liberties. The EU has established species-specific laws based on the treaty's core principles.

A. Calves and Cattle

Without legislation, veal cages and other harsh techniques are widely utilised in the United States and other nations. Three hundred and sixty-five days out of the year, cattle are frequently kept indoors. These practises are unpleasant for animals and frequently result in pain, fear, and anxiety. However, After the age of eight weeks, the EU's basic guidelines for calf raising ban the keeping of calves in individual cages or boxes. Individual boxes may not have complete walls until eight weeks; instead, they must be perforated to allow calves to view each other. The box must also be spacious enough for the calf to turn around in. The restrictions went into effect in 1998 for new or rebuilt farms, and they will apply to all farms on December 31, 2006. The European Commission established a criterion that ensures an adequate diet with minimum iron and fibre levels. All animals must be provided with adequate food and water, according to Swiss Animal Protection Ordinance. Calves, in particular, must have enough iron in their diet. Calves older than three weeks are allowed to eat straw, hay, or other comparable forage. Muzzles are not permitted on calves. Tethering calves older than four months is illegal, with a few

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58 European Convention For The Protection Of Animals Kept For Farming Purposes, March 10, 1976, E.T.S.
60 Commission Decision 97/182/EC, 1997 O.J. (L 76) 30
61 The Swiss Animal Welfare Ordinance
exceptions for breeding and feeding. Calves between the ages of two and four months must be housed with other calves, and calves kept separately must have eye contact with animals of the same species. This is identical to the EU norm, except that calves in Switzerland must have some type of interaction with the same species for a longer length of time throughout their early growth. Both countries are permitting enough iron in the animals' diets, avoiding forced anaemia in veal calves. Veal crates were also outlawed in the United Kingdom in 1990.

**Domestic Poultry**

Domestic chickens are frequently maintained in confined and desolate circumstances. In the United States, egg layers are frequently denied supplies for building nests and instead are crammed into battery cages, stacked wire cages, and other situations that force the birds to resort to cannibalism. The method of beak trimming and burning is often employed to avert this. Hens are frequently compelled to moult too soon, shortening their lifespan and putting stress on their health. Broiler birds raised for meat frequently develop too quickly for their bones to hold their weight. Furthermore, in the United States, the Humane Slaughter Act does not apply to fowl.

The New Laying Hens Law is a European directive that governs the circumstances of laying hens maintained in battery cages. It prohibits the use of newly constructed battery cages beginning in 2003. Existing battery cages must enhance the amount of space allocated to each bird. Minimum laying hen protection regulations allow for 70-155 square inches per hen, depending on the number of hens in a cage. For four or more hens, the minimum allowed is 70, while for one hen, it is 155. A typical sheet of paper is 94 square inches in size. In the United States, each hen is allowed a minimum of 54 square inches of room.

Breeding birds and layers of all species in Switzerland are required to have nesting boxes that are shielded, shaded, soft-floored, or litter lined. All other domestic fowl can be housed on perches or a slatted floor if necessary. Bathing facilities for ducks are required. Birds' beaks must not be trimmed in order for them to feed correctly. Chicks who have been chosen for execution must not be placed on top of one another while they are still alive.

Norway has made beak cutting and burning illegal. The United Kingdom has regulations prohibiting the most extreme forms of forced moult, such as complete restriction of food, water, and light.

Kicking animals, hitting them with sticks, ropes, or knotted thongs, or hitting them with anything else that may cause pain, whipping a horse, force feeding animals, and fire branding animals (with the exception of marking hooves, claws, shells, or horns) are all prohibited under the “Norwegian Animal Welfare Act”. This clause is critical in preventing abuse in animal agricultural businesses. Provisions like this are exclusively found in state anti-cruelty acts in the United States, and many of them exclude animal husbandry techniques. Animal farming is not excluded from this clause in Norway.

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62 Ibid.
63 Norwegian Animal Welfare Act

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64 Paige M Tomaselli, 'Detailed Discussion Of International Comparative Animal Cruelty Laws' (Animal Law Legal Center, -
Castrating poultry, ear docking and tail docking unless no more than one-third of the ear is removed, putting a ring in a pig's nose to prevent the pig from rooting in soil, dehorning an animal, clipping or burning the beak of poultry, or cutting the comb in poultry are also prohibited in Norway, unless the Ministry of Agriculture has enacted regulations to the contrary.

The “Animal Husbandry Section of the German Animal Welfare Act” stipulates that animals must be fed, cared for, and housed in a manner appropriate to their species. Species-specific freedom of movement cannot be restricted to the point that the animal suffers unnecessarily. Except in extreme circumstances, it is illegal to force an animal to do tasks that are plainly beyond its power or capabilities, regardless of its condition. It's also against the law to force feed an animal. As a result, in Germany, force feeding ducks and geese, which is prevalent for liver enlargement, is prohibited.

A treaty governing the killing of farm animals has been overwhelmingly ratified by the "European Convention for the Protection of Animals from Slaughter", which was adopted on May 10, 1979. 1) It is desirable to assure the protection of killed animals; 2) Slaughtering procedures that minimise animal suffering and pain should be implemented universally; 3) Fear, distress, suffering, and pain inflicted on an animal during slaughter may impact the meat quality.

In other words, each country that signs the treaty commits to safeguard animals during slaughter in order to cause the animal the least amount of pain and preserve the meat's quality.

From unloading until slaughter, the treaty covers all phases of slaughtering. Animals must be unloaded as quickly as possible, shielded from harsh weather, and ventilated properly.

Personnel in charge of animal transportation and storage must also be certified. Care must be used when transporting animals. Unloading requires the use of appropriate flooring, footholds, and equipment. Animals are not afraid or aroused in any way. Lifting animals by the feet, head, or tail in a way that causes pain or suffering is specifically prohibited under the treaty. Instruments can be used to guide animals when they are transferred, but only for a limited time.

Electric shocks can be used on bovine animals and pigs, but they must not last more than two seconds, be evenly spaced and given to the relevant muscles, and the animals must have enough room to move when shocked. It is forbidden to inflict tail bending or breaking, blows (hitting), or kicks. Crate-bound animals must be unloaded with caution to avoid harm.

Animals must be butchered as soon as they arrive at the slaughterhouse. Animals that cannot be murdered right away must be sent to a slaughterhouse to be lairaged. Keeping animals in stalls, enclosures, or covered areas at slaughterhouses to feed, drink, or rest them before slaughter is known as lairage. The animals must once again be safeguarded from

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65 Ibid.

adverse weather conditions. The flooring must not be moist or slick. Covered spaces with feeding and drinking troughs are essential in slaughterhouses. If animals are going to spend the night, they must be tied up in a fashion that permits them to lie down. Animals that are hostile to one other should be separated. Animals' health must be checked twice a day, and ill, weak, or damaged animals must be slain right away.

With the exception of religious or ceremonial slaughter, emergency slaughter, the slaughter of poultry and rabbits if allowed techniques inducing spontaneous death are utilised, and the killing of animals for health control, all animals must be stunned before being slaughtered. Animals should not be restrained in a way that causes them unnecessary pain. It is forbidden to use a puntilla, hammer, or pole axe.

Why Animal Husbandry Practices Are Being Banned In Europe
Many typical US husbandry techniques are being phased out or have already been prohibited in Europe, as can be observed. Cruel methods that are popular in the United States are now deemed breaches of animal welfare standards on both sides of the Atlantic. Because of the position of animals, this is the case. Animals may be viewed as property and governed primarily for the owner's benefit. Animals have moral worth since they are sentient entities, and humans play a significant role in their preservation. There is a powerful agricultural lobby in the United States. The food animal business is dominated by enormous money, and most policies are geared to protect it.

A union of countries, such as the EU, opens the door to novel views regarding animals' roles and relationships with humans. Animal legislation in Europe is governed by a number of lobbying groups. While some countries adhere to the Christian belief that humans have dominion over animals, others have moved away from this belief, thinking that animals must be safeguarded for their own reason. This helps to clarify why EU laws are changing. Several EU member states have abandoned the notion that animals are exclusively valuable as property. Animals can't have a moral standing and be treated as if they don't have one.

Eu going ahead with its commitment for protecting welfare of animals, the European Court of Justice (ECJ) has concluded that EU member states can legally prohibit stun-free killing. Despite religious resistance.

The killing of animals without reversible stunning was outlawed in the Flemish province of Belgium in 2017. The act was challenged by Jewish and Muslim organisations in the country, who cited religious freedom as a reason.

According to the judgement, "the idea that an animal should be stunned before being killed fits the basic purpose of animal welfare protection."

Initially, Jewish and Muslim organisations in Belgium claimed that prohibiting stun-free killing would violate the EU Charter of Fundamental Rights' provision of religious freedom. They said that such a prohibition would make kosher or halal slaughter

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66 Ibid
67 Ibid
68 Court Of Justice Of European Union, PRESS RELEASE No 163/20
69 Ibid
impossible. These dietary practices require livestock to be conscious when their throats are slit.

"The consequence of this rule is, in essence, to prohibit the murder of animals using traditional Jewish and Muslim ceremonies, and to demand that such animals be stunned before to slaughter to alleviate their pain," according to a statement released ahead of the verdict. However, the ECJ determined that the restriction only applied to "one part of the unique ceremonial act of killing," not the slaughter itself. The rule also provided a "fair balance" between animal care and the "freedom of Jewish and Muslim believers to exhibit their religion," according to the statement.

Chapter 6: Animal welfare v animal right: can humane killing be included in domain of animal rights

Animal welfare refers to the quality of an animal's existence and how well it adapts to its surroundings. This method is founded on research, and it makes decisions based on evidence of animal suffering. Animal welfare groups work to ensure that animals have pleasant physical and social experiences. Previously, animal welfare success or failure was judged by five freedoms, however this has lately been modified to five domains:

1. Dietary requirements
2. The Natural Environment

Animal welfare activists can assess an animal's quality of life using these five tools. When judged by these standards, a factory farm, for example, performs badly, but a high-welfare farm that enables animals to roam freely does better.

Animal rights, on the other hand, is a philosophy that asserts that humans should not utilise animals for any purpose. Animals are employed for a variety of purposes in modern culture, including food, work, and entertainment. Animal rights advocates, on the other hand, have a clear objective in mind: to put an end to humans' usage of animals.

Different perspectives on the breadth and degree of animal rights have mirrored philosophical and legal advances, scientific notions of animal and human nature, and religious and ethical concepts of the correct animal-human connection. Throughout history, ancient Greek and Roman philosophers have debated the right treatment of animals and the role of animals in human morality. Initially, every law and regulation passed in a constitutional state limited the allowed uses of animals, but history shows that animals have always been viewed as property by humans. Animals are still recognised as property under the law since they do not have the same legal standing as humans. Prior to the current decade, it had grown more difficult to accept that a state could be legally obligated to prohibit people from exploiting animals as property for reasons unrelated to another human's rights or interests. This viewpoint has steadily

70 Ibid
72 Ibid.
73 Ibid.
shifted, and we have recently come across a number of countries that have enacted constitutional clauses pledging the state to safeguard animal interests and improve animal welfare.1

ANIMAL RIGHTS FROM A PHILOSOPHICAL POINT OF VIEW

In his biological explanation, Aristotle constantly stated that animals existed for their own purpose, but he also believed that nature created all creatures for the sake of humans. This became one of his most divisive statements, as well as one of his most impactful on the issue. Animals were frequently graded according to their complexity and perfection, with the hierarchy ranging from the barely alive to the simply conscious, intelligent, and totally spiritual. The spectrum of ranking living creatures was rated in this massive chain, from those who are considered to live for the purpose of it to those forms at the higher end. This chain of ranking is the most persistent, yet, utterly erroneous way of looking at all living beings in the world.

The Stoics, who believed in the philosophy of personal ethics informed by the system of logic, insisted that animals were slaves and accordingly always treated them as a contemptible and are rarely to be noticed. These ideas soon got strongly embedded in Christianity and were later encoded into Roman law. Furthermore, under the stoics, arguments that promoted respect for animals faded away, and animal welfare remained a concept unspoken of.

ANIMALS AND THE LAW

The prevalent concept that the cosmos was created for humans conquered the ancient Roman and Greek civilizations. "Hominum cause omne jus constitum," declared Roman jurist Hermogenianus, "all law was founded for the sake of men." It was also noted in "Salmond on Jurisprudence," which stated, "The law is designed for mankind and allows no fellowship or bonds of responsibility between them and the lesser animals." The most essential implication of this viewpoint is that animals have traditionally been classified as "legal objects," rather than "legal beings." Legal items do not have rights of their own, whereas legal people have; they exist in the legal arena to serve legal persons.

His position merely provides animals with indirect protection from laws intended to defend societal morality or animal owners' rights, such as criminal non-cruelty statutes or civil statutes that allow owners to seek compensation when their animals suffer injuries or damages.

"We have to examine the various issues raised in these cases, primarily keeping in mind the welfare and well-being of the animals and not from the standpoint of the Organizers, Bull tamers, Bull Racers, spectators, participants, or the respective States or the Central Government, since we are dealing with a welfare legislation of a sentient-being, over which human-beings have no control,"74 the Supreme Court of India previously held.

The notion of "personhood" exists in Western jurisprudence, and its relevance and practical application are hotly discussed. It argues that

74 WWF-I V. Union Of India (UOI) &Ors, (2013) 8 SCC 234.
animals should be treated equally to humans in every way. For the sake of this discussion, this includes possessing duties and rights as an individual person. Rivers and goddesses have been given "personhood" in several countries. Animal welfare is the most widely held Animal Rights doctrine in India, and it is the foundation of provisions of the Prevention of Cruelty Act and the Wildlife Protection Act. The Hon'ble Supreme Court of India is currently hearing a number of petitions.

However, as per the author the animals are still date regarded as the property and until they are not provided with basic right, because in absence of these their rights can be sacrificed as long as there is some socially recognized benefit and the apt example is killing of animals for meat. Wherever there is conflict between human and animals rights the right of humans are preference. therefore talking about animal right is merely in legalist abstract sense what we require is animal welfare which enshrine our duties toward them.

Chapter 7: Conclusion and Recommendation

Although in India, a series of legislations on the Prevention of Cruelty to Animals (Transport of Animals on Foot) Rules,65 the Prevention of Cruelty to Animals (Slaughter House) Rules,66 and the Prevention of Cruelty to Animals (Establishment and Regulation of Societies for the Prevention of Cruelty to Animals (Establishment and Regulation of Societies for the Prevention of Cruelty to Animals 67 In 2003, a measure prohibiting cow slaughter was introduced under item 15 of the State List, which allowed for animal preservation, and until Article 252(1) of the Constitution, states were free to establish legislation in this area.

The EU, on the other hand, is taking significant measures to enhance animal welfare on farms and in transit to slaughter. Several guidelines prohibiting cruel and inhumane behaviours are now in the works and will be implemented soon. The prohibitions on sow stalls, veal crates, and battery cages are the most notable. If passed into law, the new transportation regulation would enhance the space provided to animals that must travel vast distances to reach their destinations and place tighter constraints on the length of transit. The Swiss animal welfare legislation is extensive and well-suited to satisfy the country's contemporary animal welfare standards.

On the other hand, the US has slipped behind the EU and other European nations in terms of increasing farm animal welfare. The absence of enforcement is one of the key issues afflicting the US animal welfare system. Humane slaughter regulations, for example, exist to preserve the animal's welfare as well as the product's quality. Companies will continue to violate them if no action is done when they are breached.

Another issue is people's attitudes toward animals. Companion animals receive one treatment, whereas farm animals and research animals receive a different treatment. In contrast to companion dogs, dogs engaged in research are not protected against harsh treatment. We have become reliant on animals in the United States for food, research, and companionship. Our society perpetuates the assumption that animals are property with no moral rights as a result of this reliance. There will be little to no progress in animal welfare regulations if moral concern is not taken into account.
Other nations should follow the EU's lead and adopt distinct legislation for companion animals, agricultural animals, and research animals, as the EU has done. Each animal species has its own set of requirements in order to fulfill its function in society. Animals would be used less without enough explanation and necessity if they were considered as sentient beings deserving of moral and legal attention. Animals' legal position would be expanded, which would result in more legislation safeguarding them. Hopefully, both across the Atlantic and in the United States, the future will bring more reform.

In Europe, a trend is emerging in law that provides legal protection to animals for their own good. The goal of animal welfare law is usually to protect animals from undue suffering and injury. Animal welfare regulations no longer exist merely to protect the animal's owner.

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