Quite presciently, Mohandas (Mahatma) Gandhi, India’s much venerated freedom fighter, reportedly said that that the true measure of a civilization and its moral progress is how a country treats its animals. ‘The animal’, which Jacques Derrida famously derided as an asinine assertion, remains subject to a multitude of competing and conflicting normativities in the modern Indian imagination. Even as Ganesha, the elephant headed Hindu God, has a ten day festival dedicated to his name which is celebrated with pomp and splendour across most parts of India, the famous Guruvayur temple located in the state of Kerala, also one of India’s richest temples, has been embroiled in controversy due to the shabby treatment accorded to the temple elephants who spend long hours chained in captivity every day. Even as Jain monks walk around India's bustling metropolises bare footed and with their mouths covered with cloth lest they accidentally crush underfoot or ingest even an insect, a new array of global fast food restaurants serve up a dizzying range of birds, mammals, fish, and cephalopods to a growing number of flesh-hungry, capital-flush, Indian consumers. Across India's national parks and wildlife sanctuaries, animal conservationists and social activists repeatedly lock horns over whether ecological justice requires the Indian state to throw millions of poor tribal people out of the forests where they have lived for hundreds of years so that animals may have their interests better protected. Even as a right-leaning, conservative, chauvinistic national party attempts to use its electoral victory at the national level to leverage a nation-wide prohibition on the slaughter of cows and to promote the worship of cows, howls of protest emanate as states, religions, tribes, and caste communities re-assert their right and historical-cultural prerogative to kill, eat, and injure cows. Of course, many of the cows in question roam freely through the streets of Indian cities; a large number of them die every day due to the consumption of plastic-infused garbage that is left rotting on the roads and street corners. Many other cows (and goats and sheep and camels and chicken) die every year as they are ritualistically executed to propitiate a bewildering array of divinities and deities. A clear, unambiguous and universalized stance towards animals is easier said than realised in a multicultural, federal, pluralistic, and democratic polity where a number of religions, traditions, and cultures articulate competing and conflicting conceptualisations of the human-animal relationship.

Law in India has certainly attempted to provide some answers about how to think about animals and our relationship with them. For example, the Indian Ministry of Environment and Forests recently clarified that dolphins were to be considered as non-human persons. Further, India has the distinction of being possibly the only constitutional order that demands of every Indian citizen a fundamental duty to have compassion for living creatures. This constitutional order has been established through constitutional text and interpretation of the constitutional text by courts has attempted to bring some clarity to difficult philosophical and political questions. The courts in India have often attempted to adjudicate on the complex, many layered context that animates the relationship between animals, humans and the law in India. Over the past six decades a number of decisions have examined this question in specific areas, most notably, cruelty to animals, conservation of wildlife and prevention of poaching, and religious and cultural traditions involving sacrifice/ pain to animals. As recently as September 2015, the Supreme Court of India was asked to adjudicate on a public interest litigation seeking the Court’s intervention to protect the country’s
animals from sacrifice in the name of religion. While refusing to intervene, the Court spoke from behind the mantle of protection afforded to religious groups that is enshrined in the Indian constitution. The decision, surprisingly enough, comes in the wake of a judicially mandated non-anthropocentrism that the Supreme Court of India has carefully elaborated over the past decade. A careful reading of the legal archive suggests that the animal is implicated in the secular liberal modern legal framework and the religious-communitarian-tradition-linked customary social order; both of these normative force-fields simultaneously constitute the landscape of justice in modern day India.

In this paper, we attempt to map out the complex, paradoxical relationship between law and violence in and through the figure of the animal. Our enquiry addresses both the systemic violence that the body of the animal encounters in the contemporary socio-economic order, and the epistemological and ontological violence uncovered and/or generated through a philosophical engagement with the notion of the animal vis-à-vis the human. We anchor our musings in the terrain of the legal archive in India, and thus imagine and engage with the limits and possibilities of a truly post-colonial and post-human justice.