

Animal Protection Laws and Challenges in India

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Abstract

Animal welfare and protection is of the significant public interest, bio-diversity and for sustaining ecological balance of the earth, globally as well as within India. This article promptly focuses upon the challenges, legislations and reforms which deal with the nonhuman animals in the present time and moreover the optimistic approaches to tackle the critical issues faced by animals as a whole in addition to make humans realize the importance of nonhuman species on the earth and to make them more zoophilic and animal friendly. Firstly, the article will be dealing with the animal rights issues in India including beliefs, culture and practices of human activities endangering animal lives. Secondly, the article will focus upon legislations and laws for the protection of wildlife. Thirdly, article points upon approaches and necessary actions that could be taken to minimize cruelty against animals. Finally, the article will be ending with the empirical conclusion to enhance the position of the animals in India.

Keywords: Bio-diversity, zoophilic, ecological balance, Animal welfare

INTRODUCTION

“The greatness of a nation and its morals progress can be judged by the way its animals are treated”

M.K. Gandhi

There are multidisciplinary issues faced by India regarding protection and cruelty of the animals and wildlife. The legal policies regarding conservation of forests and independent animals is not quite fruitful notwithstanding the fact that safeguarding of forests is included in the list of fundamental duties under Art. 51(g) of the Constitution of India. There are some grave animal rights issues present in the country which needs immediate and pragmatic attention are as follows:

ANIMAL EXPERIMENTATION

There are various instances when animals are poisoned and killed in brutal experiment which includes cosmetic testing, biological testing, medicinal and chemical testing, etc. To measure various effects of experiments several animals are injected with doses containing chemicals and other toxic substances [1]. Following the footsteps of the European Nations and Israel, India also banned animals cosmetic testing, becoming the first country in South Asia to do so.

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HUNTING

Animal rights activists opposes hunting of animal for meat and entertainment purposes whether done in forest or slaughterhouse. Around the world hunting is carried out for commercialization and trading purposes to earn hefty amount of money [2]. In India, Wildlife Protection Act, 1972 had provisions which prohibits hunting. Acc. to Section 9 of Wildlife Protection Act, 1972 “No person shall hunt any

wild animal as specified in schedules, I, II, III and IV except as provided under section 11 and 12”.

ANIMAL IN ENTERTAINMENT

There are numerous games and plays where animals are exploited in the name of entertainment purposes around the world such as rodeos, horse racing, greyhound racing, marine mammals on displays and animals used in movies and media entertainment. When the animals are treated for money in barbaric ways and no better care is made, potential for abuse is the constant problem.

CULTURAL PRACTICES

In matter of festivals, superstition and cultural beliefs, animal abuse prevails, hunting and killing of animals is a part of many religious and cultural practices around the world. Two very renowned cultural sport practices in India are as follows:

- *Kambala* is an annual Buffalo sport held traditionally by local landlords in coastal towns of Karnataka. The legal status of Kambala is made known by the judgment of the Hon'ble Supreme court of India on 7th May, 2014 as “Bulls cannot be used as performing animals, either for Jallikattu events or Bullock-cart races in state of Tamil Nadu, Maharashtra or elsewhere in the country.”
- *Jallikattu* is a traditional animal sport event in Tamil Nadu where bulls are set free into the crowd and multiple human participants attempt to catch large humps on the bulls' dorsum. Various incidents of grievous hurt, injury and death associated with this sport harming people as well as bulls in large numbers have been reported, according to the data around 43 humans and 4 bulls were killed in Jallikattu in between 2008 to 2014. In 2014, Hon'ble SC in A. Nagaraja Judgment, held Jallikattu as cruelty to bulls. Due to strong protest in 2017 state government has issued an ordinance that authorized the continuation of Jallikattu event again [3].

The Hon'ble Supreme Court in *Animal Welfare Board of India case* recognized that acts of cruelty towards animals, is unconstitutional and banned the unsafe Jallikattu sport, as per opinion of the Court, Jallikattu violated S.3, S.11(1)(a), S.11(1)(m), S.11(1)(n) and S.22 of Prevention of Cruelty to Animals Act, 1960 [4].

Legislations for Protection of Animals

There are various laws made by the governments for protection, welfare and preservation of the animals and wildlife around the country [5]. Below is the list of several laws protecting animal rights and their life in India:

Protection Guaranteed under the Constitution

The Indian Constitution values lives and welfare of animals intrinsically and makes it a Fundamental duty of citizens of India to care and treat animals with dignity and sympathy [6].

- Art.48 provides state with a duty to organize agriculture and animal husbandry for preservation and improvement of breeds and prohibiting slaughter of cows and calves as well as draught cattle.
- While determining constitutionality of the legislation court should strike balance between the requirements contemplated by Art. 48 and that of a large section of people using their carcass for food and traders and dealers connected with slaughter of such animals.
- Art. 48A provides for the directives to state for the protection and improvement of the environment and to safeguard the forest and wildlife.
- Art. 51A (g) cast fundamental duty upon citizens of India to protect and enhance the quality of natural environment including lakes, forests, rivers and wildlife and to have compassion for all living creatures.

WILDLIFE PROTECTION ACT, 1972

Wildlife Protection Act, 1972 is a legislative act of Central government which provides the protection to the wild species, birds and plants, balancing the ecological and environmental safety of

the country. The act prohibits hunting, poisoning, killing, poaching, or harming any wildlife creature. It also states for establishment of Wildlife Advisory Board in every state [7].

Wild Animals

- Acc. to sec. 2(37) of W.P. Act, 1972, wildlife means and includes any animal, aquatic species or land vegetation and for matters connected with any habitat and thus making definition quite wide and significant.
- The act completely bans hunting of wild animals (animals specified under schedule I, II, III and IV) and the offence is punishable with imprisonment max. To 3 years or fine of Rs. 25000 or with both as the case maybe.
- Sec-48A of W.P. Act forbids transportation of wild animals, or any article associated with animals or any specified plant except after ascertaining that the prior permission of the chief wildlife officer or any authorized official by the state government has been taken.

Aquatic Animals

- The W.P. Act, 1972 also covers aquatic marine animals in India. Schedule I-IV of the Act provides for the list of all the protected species of marine life. E.g.–fire coral, sea fans, organ pipe, giant grouper, sea horse, etc.
- India has completely banned the setting up of any ‘Dolphinarium’ and moreover use of dolphins has been prohibited for any commercial purposes of entertainment or any such matter.

Zoo Animals

- i. Rules and regulations connected with zoo animals are also incorporated under W.P. Act, 1972. Section 38A of the Act states that there should be an establishment of Central Zoo Authority (CZA) by the Union government.
 - There is minimum possible standard for keeping of animals inside the zoo.
 - The task is to recognize as well as derecognize zoos in India.
 - Recognize and acknowledge endangered animal species to provide them with space in zoos for captive breeding, etc. [8].
- ii. Section 38H of the given Act provides that no zoos will be allowed to run in India without prior authorization from the Central Zoo Authority (CZA).

The SC has directed that no Zoo shall allow for any breeding of animals above the number fixed by the Central Zoo Authority. The Hon’ble SC has further directed the Central Zoo Authority to make panoptic guidelines as to: (i) methods of dealing with applications of recognition of Zoos and (ii) the manner in which the animals kept in derecognized zoos in India should be dealt with.

The Prevention of Cruelty to Animals Act, 1960

The Prevention of Cruelty to Animals Act, 1960 is the central law passed by Indian Parliament to prevent infliction of injury, suffering and unnecessary pain on animal as well as promotion and protection of animals by establishment of Animals Welfare Board of India.

In landmark case of *Compassion Unlimited plus Action*, [9] Hon’ble SC held that any action which causes infliction of unnecessary pain and harm to animals is an offence and such actions are in contravention of the rights provided under S.11 and S.3 of the PCA act that are granted to animals.

- i. According to section 11 (b), anyone who makes any unhealthy animal, suffering from infirmity or any kind of wound or due to an overage.
- ii. According to section 11 (d), anyone who conveys or carries, whether upon any conveyance or not, any nonhuman animal in such a manner or position as subject to unnecessary pain or suffering.
- iii. According to section 11 (e), anybody who keeps animal in any type of confinement or a cage which is not sufficiently big enough for the movement of animal.

- iv. According to section 11 (h), any owner who is unable to provide with the sufficient drink, food or shelter to its pets.
- v. According to section 11 (j), any owner of a pet who allows his animal infected by any contagious disease to die on street/road.

Further, The section 11 of the PCA act provides for the punishment to the offender, in the case of offence committed for first time, with the fine which cannot be less than 10 rupees but which may be extended to 50 rupees and furthermore, in case of subsequent offence committed within 3 years from the previous offence, with fine which cannot be less than 25 rupees but which may be extended to 100 rupees or with imprisonment for term which may extend to 3 months, or with both.

Provisions for Protection of Animals under Indian Penal Code, 1860

The IPC, 1860 incorporates some provisions related to protection and conservation of animal species [10].

1. According to Section 428 of the IPC, 1860, killing, poisoning, maiming and rendering any animal useless of value of ten rupees or upward shall be punishable with imprisonment of either description for a term which may extend to two years or with fine or with both. Section 429 of the IPC provides the term of imprisonment of either description which may extend to 5 years or with fine, or with both and is applicable when the cost of animal is above Rs. 50.
2. Any person who causes criminal intimidation to any other person and prevents him, owner of the pet, from taking care or safety of his pet can be held liable to be punished u/s 503 of the IPC.

Solutions and Approaches to Existing Animal Right Issues in India

The several empirical steps that could be taken to prevent Cruelty to nonhuman species are as follows:

1. Complaint can be lodged to any local SPCA (Society for Prevention of Cruelty to Animals).
2. Police station can be contacted and an F.I.R. can be lodged under the Prevention of Cruelty to Animal Act, 1956.
3. Legal notice could be sent to the animal abusers from the help of lawyer or an NGO.
4. Getting a Wildlife Case Registered as Wildlife Offence Report (WLOR) can be registered under section 50(4) of the Wildlife Protection Act, 1972.
5. Offences mentioned under W.P. Act are non-bailable and cognizable offences as per Criminal Procedure Code. Section 43 of Criminal Procedure Code, 1973, allows any private individual to arrest an offender who has committed a cognizable and non-bailable offence or if he is a habitual offender and can hand him over to the police.

Urge Authorities to Take Actions

Indeed, it's a great possibility that persons may be keen to report unlawful cruel incidents against animals, but it is generally seen that authorities do not cooperate with them. This makes people demotivated towards taking such steps. Now, to get the job done by the authorities, make sure people to do following things:

1. Try to get in contact with journalists and lawyers, both of them can help you getting your job done easily through their means.
2. If the concerned authorities are not taking any cognizance of the complaint, try contacting or writing to the higher authorities such as National forums, Tribunals or social workers.
3. File complain on the website of Animal Welfare Board of India and other government authorities for welfare of animals.
4. Try getting in contact with some established NGOs in field of Animal Welfare. NGOs always have greater impacts fighting for a cause.
5. Try to gather people and organize peaceful protests for the welfare of the animals.

CONCLUSION

There exists very specific and elaborated animal welfare laws in India but their implementation at ground level is still needed to be achieved by the authorities. Concerned citizen and NGOs do not emphasize on taking legal routes to solve problems related to animal welfare in our country. Our legislators need to understand that existing laws of animal welfare is not sufficient to tackle problems at a grass root level and hence need to make strong and reasonable amendments to make those laws a defensive one.

Judiciary has a very vital role to play in case of punishment, so that people don't dare to kill innocent animals ruthlessly. However, in cases such as *Bharat Amratlal Kothari v Dosukhan Sindhi*, [11] where there was major cruelty on the part of defendant but was made to pay fine of Rs. 50 at all but, in cases like *Naveen Raheja v. Union of India* [12] and *State of U.P. v. Mustakeen and Ors.*, [13] courts took bold steps towards protection and rights of animals as mandatory and of utmost necessity for their welfare.

On the concluding note, we as a responsible citizen of India need to be more vigilant and approachable towards the welfare of the nonhuman innocent animals. Many little steps towards betterment of animals by various groups and stakeholders can altogether change the whole scenario of animal welfare in India and any sort of cruelty will be vanished from our society making our country a better place to live for animals.

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Conflicts of Interest

"The author declares no conflict of interest."

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