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# A Critical Analysis of Article 51A (g) with special reference to Animal Cruelty in India

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SRISTI ROY<sup>1</sup>

## ABSTRACT

*According to Mahatma Gandhi, "The greatness of a nation is judged by the way it treats its animals." Animals have been playing a vital role in determining the way people have lived since history can record man and animals cohabiting and changing over time. They have made substantial contributions to the formation of our culture and are known to be kind and generous creatures. They have participated in numerous religious activities since early ages, in addition to providing food and clothing.*

*As man civilized, his demands, desires, and necessities grew. Man discovered new methods to devour and exploit nature and its treasures for the fulfilment of own desires. Animals began to be abused because they are vulnerable and unable to speak out against the atrocities they are subjected to. Many species have become extinct, and many more are on the edge of extinction. Although, natural causes of extinction might exist for certain species, human actions provide the greatest threat to wild animals. In today's competitive society, people are more prone to abuse and kill nonhumans to achieve their demands. These animals are frequently brutally killed, wounded, poached, and traded, or kept in chains and tortured.*

*People are neglectful in their recognition of animals' basic rights. While we may have a duty not to cause unnecessary suffering to animals, when presented with a choice between the wellbeing of people and the welfare of animals, our moral commitment lays with humans. Humans are not considerate. Every animal is considered a living being who follows the same natural laws as humans and breathes, bleeds, reproduces, preys, and eats. Animals, too, have the right to be considered in terms of what is best for them. In an age when the global chains of trade and consumption derive a large proportion of their revenue from animals and the reliance on animals appears to be ever-growing with a population boom, much needs to be done for animal protection and welfare, as well as understanding and implementation of animal right.*

**Keywords:** Cruelty, atrocities, recognition, animal rights, legal personhood.

## I. INTRODUCTION

The place of animals in our society today is complex and multifaceted. While some people view

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animals as objects to be used for human benefit, others see animals as sentient being deserving respect and protection. Nature and nonhuman animals were revered by ancient societies all throughout the world. Dharma is intended for the well-being of all living creatures. As a result, dharma is that which ensures the well-being of all living species. India has always been a country where animals have been worshipped for generations and where animals are seen to be avatars of God. However, India has recently come across as a nation whose citizens are self-centered.<sup>2</sup> According to Hartz's observations on Native American culture – Many tribes' mythological histories describe a time when there was no distinction between animals and humans. They all spoke the same language and were endowed with exceptional abilities by the creator who created them. Humans are frequently represented as the weakest and least capable of all beings in existence. Animals like bears and badgers, as well as deer and mice, are thought to have individual spirits and to be beings of a different order. Humanity is a component of nature. Nature's value has eroded over time. An anthropocentric viewpoint, bolstered by human uniqueness, resulted in a man-nature dualism. As a result of this way of thinking, five species went extinct. Species are dying at a rate that is 100 times quicker than in the past, heralding the sixth mass extinction. Climate change, biodiversity loss, natural and man-made calamities are all manifestations of humanity's broken relationship with nature. Unless and until nonhuman animal respect is restored, the term "sacred animals" will be sacred only in name. The Anthropocene was triggered by humanity's role in the destruction of nature. Humankind is at a point where there is still time to avert another catastrophic mass extinction.

As societies developed and became more urbanized, animal cruelty became more widespread as people began to use animals for industrial and commercial purposes. This led to the rise of factory farming, animal experimentation, and other forms of exploitation that often involved cruel and inhuman treatments towards animals.

In the recent years, there is a growing awareness and concern about animal cruelty, and many countries have enacted laws to provide protection to animals from abuse and neglect. Animal welfare organizations have also been made to promote the humane treatment of animals and to advocate for their rights.

Animals are also required to maintain the earth's ecological equilibrium. In recent years, animal welfare and protection have gained popularity in the country. Humans exploit billions of animals every year for their own gain, putting them in danger and suffering. The sacredness of an animal's life is also acknowledged in the Indian constitution, which makes the preserving

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<sup>2</sup> Vidushi Nishak, "A travesty of justice – Animal 'rights', not wrongs", *The Times Of India*, June 21, 2020

and caring of animals with dignity as a fundamental duty of citizens of India. It is vital to acknowledge that animal rights are part of bigger societal movement that challenges the traditional belief of the society that animals exist primarily for humane use.<sup>3</sup>

With the passage of time, the Prevention of Cruelty to Animals Act, 1960, India took its preliminary steps towards promoting “animal welfare and ensuring animal safety”. Since then, there has been a steady trend throughout the country towards animal welfare. The establishment of the Animal Welfare Board (AWBI) in 1962, as well as the growing importance towards animal welfare NGOs, attest to this. As a result of these events, tremendous progress has been made, as seen by the adoption different laws and rules, such as those governing over welfare of performing animals, and the prohibition of animal experimentation for the purpose of cosmetics.

While many people believe that animals must have certain rights and protections, others argue that animals are not capable of possessing rights and are therefore not entitled to them. The High Court of Kerala addressed the issue of granting fundamental rights to animals in *N.R. Nair v. Union of India*<sup>4</sup>, emphasizing over legal rights which shall not be "the exclusive preserve of humans, which must be extended beyond people, thereby dismantling the thick legal wall with humans all on one side and all non-human animals on the other."

According to Item 14 on the State List, states have authority to "[p]reserve, protect, and improve stock, as well as prevent animal diseases and enforce veterinary training and practice."

It is provided under the Concurrent List, both the Centre and the States have the authority to legislate on:

1. Item 17i – Prevention of cruelty to animals.
2. Item 17Bi – Protection of wild animals and birds.<sup>5</sup>

The Living Planet Report 2020, a World Wildlife Foundation programme, highlights the scale of the problems confronting the globe today. Because of the changes caused to natural environments, many species are unable to adapt to new conditions.<sup>6</sup>

However, despite these efforts, animal cruelty still persists in many forms around the world. This includes illegal hunting and poaching, testing on animals, and the animal mistreatment in the entertainment industry.

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<sup>3</sup> An overview of animal protection laws in India, *available at*: <https://blog.ipleaders.in/overview-animal-protection-laws-india/#Introduction> (last visited on March, 2023)

<sup>4</sup> 2001 (3) SC 353

<sup>5</sup> Overview of Animal Laws in India, *available at*: <https://www.animallaw.info/article/overview-animal-laws-india> (last visited on March, 2023)

<sup>6</sup> WWF, “Living Planet Report 2022: Bending the Curve of Biodiversity Loss” (April 15, 2020)

Overall, evolution of the animal cruelty is very complex and an ongoing issue which requires ongoing attention and action from individuals, organizations, and Government. to make sure that animals are treated with great respect and compassion. Regardless of one's perspective on animal rights, it is clear that the treatment of animals is an important ethical issue that requires thoughtful consideration and action. Many countries have enacted laws for protection of animals from neglect and abuse, but much work is still left to be done to ensure that animals are treated with the respect, love and dignity they deserve.

### **(A) Objectives**

In the contemporary times, even after the fundamental duty imposed via virtue of Art. 51A (g) of the Constitution of India, sufferings and abuses towards non-human animals are not decreasing in the society. The objectives of this research are as follows:

- a. To make aware about the plight of non-humans and identify the lacunae in providing them safeguard
- b. To analyze and throw light upon how the Constitution of India aims to be the custodian for the rights of animal lives.
- c. To focus upon rights available to animals and for better implementation of laws in case of misuse by mankind.

### **(B) Hypothesis**

A primary research upon the behaviour of humans towards animals show the selfish nature of mankind. For the purpose of fulfillment of human desires and needs, they often exploit animals, for example in the industrial sectors where animals are being used for various experimentations and product testing, killing them for commercial purposes or performing religious sacrifices, brings to the observation that the essence of article 51A (g) is diminishing in contemporary India. There is negligence among men regarding safeguarding and protecting animal life. The lack of ability to recognize basic rights of animal that is “right to life and right against exploitation”, brings to the need for more awareness and stricter application of laws.

### **(C) Research Methodology**

The whole approach would be based upon doctrinal research with reference to relevant case laws. The research would be based on any information or statistics that researchers have already collected through their primary resources. The resources collected would further be verified, analyzed and incorporate, along with an analysis of case laws primarily focused on Indian perspective to help in confirm the research goals.

**(D) Literature Review**

The researcher on the preliminary review of literature has come up with the following relevant literature to be reviewed further for the completion of the dissertation:

1. Editorial, “Preventing animal cruelty is a duty of the state”, *The Hindu*, January 04, 2023 – One way to look at the Jallikattu controversy is through the lens of our own freedom to exist in a world that values animals equally.
2. Article, Taruni Kavuri , “The Constitutional scheme of Animal Rights in India”
3. Article, Sovna Parida and Parismita Nanda, “Animal Abuse: An Analysis of Cruelty and Animal Right's Violation”
4. Article, Ishita Mitra and Anjni Alagh, “Animal Rights: A Domestic and Global Perspective”
5. Article, Navya Jain and Muskan Jain , “Animal Cruelty and Rights: Review and Recommendations”
6. Article, Sakshi Sharma and Shubham Agnihotri, “Let’s Give Voice to the Voiceless”
7. Article, Upasana Borah, “An Analysis to the Constitutional Supreme schemes of Animal Rights in India”
8. Singh, Haribansh, “Protection of Wild Animal In India problems and Prospects”
9. Rajlakshmi Kanjilal, “Animal Rights Messages conveyed in animated feature films”
10. Article, Kushal Choudhary and Ayushi Sinha, “Animal Rights in India: A Mirage of Law?” – offers an observation concerning how legislation on protection of the interests of animals in the country is contrary to its own aims and principles. The legislations are nothing more than a relic of Victorian beliefs that have been openly translated to appear beneficial on the surface while being malignant on the inside.
11. Article, Pranjal Pranshu, “A Study of Animals as Legal Persons” – it aimed to lay emphasis on the need for recognition of legal persons of animals in order to preserve their rights in the court of law. It also examines instances of animals being recognised as a special entity dating back to ancient times before moving on to the modern-day act of the Punjab and Haryana High Courts and the Uttarakhand High Courts granting animals the status of legal persons.
12. Article, Jessamine Therese Mathew & Ira Chadha-Sridhar, “Granting Animals Rights Under the Constitution: A Misplaced Approach? An Analysis in Light of Animal Welfare Board of India v. A. Nagaraja” – It addresses the judgment's broader consequences. It observes

that including animals in the scope of rights is not only incongruous with traditional rights law, but may also be unhelpful in solving the greater issue of animal protection. It recommends a transition to a duty-based approach to animal welfare in order to ensure humans' safe and humane treatment of animals.

13. Case Comment, Pankhuri Bhatnagar, “Karnail Singh and Others v. State of Haryana Animals are Legal Persons with Parents”
14. The Constitution of India by PM Bakshi, 18<sup>th</sup> edn.
15. Constitutional Law of India by Dr. J. N. Pandey, 59<sup>th</sup> edn.
16. Animal laws of India by Maneka Gandhi, Ozair Hussain & Raj Panjwani, 4<sup>th</sup> edn.
17. Sacred Animals of India by Nanditha Krishna.

## **II. CRUELTY ON ANIMALS**

### **(A) What is cruelty on animals?**

Cruelty, it is commonly described as an act or action with the intention of causing pain or suffering. The harshness and barbarity by any person displaying cruel behavior is the saddest thing in society. People resort to cruel treatment of animals to suit their desires. On a daily basis, many animals experience physical aggression, emotional abuse, and life-threatening neglect. They are abused both commercially and domestically. Animal cruelty is also characterized as subjecting animals to conditions that make them feel afraid, defenseless, and terrorized.

In 2016, the Indian media highlighted several human-animal conflicts and instances of brutality against nonhuman creatures. Some of the stories discussed include the infamous mass culling of street dogs in Kerala, the attack and subsequent death of Shaktiman, a police horse on duty, and the murder of Lakshmi, a juvenile monkey, by a gang of college students. The India Unites for Animals (IU4A) movement was born in response to such heinous acts of violence. Protests took place in 58 towns across the country and 24 locations around the world. The primary goal of IU4A was to press for the passage of the Animal Welfare Act, 2011. The present Prevention of Cruelty to Animals Act, 1960, is out dated and ineffectual. IU4A was successful in raising awareness among public regarding rights of the animal cause and garnering popular support. The Act has not yet been passed. The devastation caused by the August 2018 floods in Kerala serves as an example of the implications of climate change and ecological fragility. Human casualties were reduced to a minimum because to timely involvement and coordinated rescue attempts. However, the floods killed 80% of the nonhuman creatures in the Malappuram area alone. According to official and media sources, agricultural animals had the most casualties.

The animal husbandry department recorded a loss of Rs. 110 crores due to the mortality of nonhuman animals in the state, especially birds. As a result, disasters amplify existing tensions between consumption and animal welfare. Farmed animals are regarded as commodities rather than sentient creatures. This tendency to consider nonhuman animals as statistics is reflected in the reporting. Their lives, stories, and suffering go unnoticed.

### **(B) Animal abuse around the world**

Cats, dogs, hens, horses and livestock are the most regularly reported animals abused worldwide. Animal Protection Index gives us a good grasp of the situation of animal care in more than 50 countries throughout the world. It assigns ratings to countries based on their legislative and policy commitment to animal protection. The index's primary purpose is to assist countries in implementing animal care practices such as keeping them clean and providing appropriate space for them to exhibit their natural activity. Austria, Switzerland, the United Kingdom, New Zealand, and India had the best economic performances. In certain countries, strong rules are in place to protect animals.

The ranking stressed the activities that must be done in India in order to conserve dairy animals. Furthermore, the Prevention of Animal Cruelty Act, 1960 was urged to be enhanced in terms of cruelty considerations. Animals used in scientific study are excluded from the law. Instead, the Government should establish rules governing the utility of animals in scientific experiments and research. Using animals are among the most prevalent forms of entertainment available around the world, including circuses, zoos where visitors can pet wild animals, performing dolphin shows, elephant and camel rides, interactions with tiger cubs, primate photography, and more. The world's population is becoming increasingly unaware about its natural surroundings.

Animal cruelty has a cascade impact in our community. In addition to injuring an innocent animal, the criminal is frequently caught in a vicious cycle that might develop to violence towards other humans. Animal abuse, like many other sorts, is motivated by a desire to exert authority and control over a defenseless victim. A vicious loop has evolved throughout time. The world offers animals as one of the most popular types of entertainment in the form of circuses, zoos where wild animals can be stroked, performing dolphins, elephant and camel rides, interacting with tiger cubs, photographing primates, and so on. The world becomes oblivious of its natural environment.<sup>7</sup>

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<sup>7</sup> Animal Protection Index, *available at*: <https://api.worldanimalprotection.org/> (Last visited March 17, 2023)



### **(C) Forms of cruelty**

*Re Bruno vs. Union of India*<sup>8</sup>, is a landmark case involving animal maltreatment. In response to report of a violent killing of a Labrador dog in Thiruvananthapuram. The Kerala High Court acted suo moto, citing a lack of executive and legislative measures to safeguard animals. Bruno, a Labrador dog, was cruelly slaughtered on Adimalathura beach in Trivandrum's outskirts by three guys who struck the animal with a heavy stick and hung the dog's body from a boat. They whacked it over and over again until it appeared to be dead. In this case, the High Court of Kerala issued a number of directives. The case was renamed as "In re Bruno" by Judiciary. The bench consisted of two judges – Justice Nambiar and Justice Gopinath P., who considered it a fitting tribute to the hapless dog that died because of cruelty of humans.

The Director of Public Prosecution was ordered by the High Court of Kerala to write a report and personally attend the Bruno case. According to the Prevention of Cruelty to Animals Act, the advisory board was given one month to prepare a report outlining a realistic action plan to educate the public on its obligations and rights towards animals. Judiciary will be updated by the Additional Advocate General on the actions taken to reform and reactivate the Animal Welfare Board of State. The High Court directed the state Government to renovate these facilities after expressing concern about the poor conditions of vet hospitals and related infrastructure. The High Court recommended that the state should host and, publicize and encourage pet adoption events at least three times a year. The State Government was requested to delegate power to district administration of the power to deal with such complaints.

Humans perpetrate several sorts of cruelty against animals. Animals are exploited in a variety of ways, including hoarding, experimentation, dog fighting, manipulation of genetics, animal circuses, puppy mills, animal smuggling and sexual harassment. Some examples are as follows:

#### **1. Experiment on Animals**

Non-human animals are utilized in laboratories by researchers to perform tests, experiments, and studies on a wide range of biological topics. New medications, therapies, and surgical procedures are initially evaluated on animals to ensure their safety before being used in humans. Humans inflict pain, agony, and sometimes death on animals for their own selfish advantage. Even if tests or research on people are effective, the right to life of animals is violated. Animals are also used in cosmetics, food, medication, and other testing, in addition to medical tests. On May 23, 2014 animal testing in cosmetics was made illegal in India. The Drugs and Cosmetics (Fifth Amendment) Rules, 2014 made it illegal to import cosmetics that have undergone animal

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<sup>8</sup> WP(C) No.13204/2021

testing. The first country in South Asia to prohibit the use of animals in cosmetic tests and to condemn animal cruelty is India. Despite efforts to stop the behavior, animals are still used in drug testing in India. Regardless of the outstanding results of animal testing, human testing is required to evaluate whether a novel drug is safe and effective. To reduce use of animals in drug testing and to promote alternatives, new legislation and adjustments to existing regulations are required.

## **2. Animal Fights**

Despite being illegal, dog fighting is very popular in India. Dogs are specially trained to fight in dogfights for entertainment of spectators and for winning at stakes in the form of betting. Sports are actively practiced both in cities and in the countryside. Usually the winner of a dog fight is decided and the losing dog is either killed or seriously injured. Apart from dog fighting, other animal fights and competitions also take place like cock fighting, bull fighting and many others. The Supreme Court in *Animal Welfare Board of India (AWBI) v. Nagaraja*<sup>9</sup> found that bulls participate in bull races like Jallikattu when they experience excruciating pain and stress. As a result, Judiciary agreed with the opinion of the Animal Welfare Board of India that Jallikattu violates the Prevention of Cruelty to Animals Act, 1960, and declared Jallikattu, along with other animal fights, illegal. As a result of many protests, the Government of Tamil Nadu finally proceeded with an ordinance allowing Jallikattu and various other versions to be practiced in other parts of the state. Arranging, participating or inciting any form of animal fights is an offense under Sec. 11(1) (m) and 11(1) (n) of the 1960 Act.

## **3. Manipulation of genetics**

Manipulation of genetics in animals refers to the deliberate alteration of an animal's DNA in order to achieve a desired trait or characteristic. This can be done through various methods, including gene editing techniques and genetic engineering. However, the manipulation of genetics in animals is a controversial topic, as it raises ethical and safety concerns. Some people argue that it is unethical to manipulate the genetics of animals for human benefit, as it can lead to unintended consequences and potential harm to the animals themselves.

Animals are made exclusively to meet human needs and are handled in genetic engineering in a way that shows they were nothing more than possessions of human. As if they have no right to live. Genetic manipulation of animals would only aid humans at the expense of their lives. Transgenic animals, being more prolific, are very much likely to contract infectious illnesses. The unintended consequences of genetic modifications could lead to long-term health problems,

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<sup>9</sup> (2014) 7 SCC 547

reduced lifespan, or other negative impacts on the animal's well-being.

In India, currently there is no law in effect from protecting animals from harm caused by genetic alteration. The Environment (Protection) Act, 1986 regulates genetically modified organisms and their products. It is governed in India by the Rules for the Manufacturing, Use, Import, and Storage of Hazardous Microorganisms, Genetically Modified Organisms, or Cells, 1989 as approved by the Environment (Protection) Act, 1986.

#### **4. Circus**

The use of animals in circuses has been a controversial topic for many years, with concerns about animal welfare being at the forefront of the debate. Many animal welfare organizations and experts argue that the use of animals in circuses is a form of cruelty, as it can cause physical and psychological harm to the animals involved.

Animals in circuses are often subjected to long periods of confinement in small spaces, which can lead to stress, boredom, and physical health problems. They may also be forced to perform unnatural and often painful tricks, such as standing on their hind legs or jumping through hoops, which can cause injury or distress.

In addition, the training and handling methods used by circuses can be abusive and harmful to the animals. Animals may be subjected to physical punishment or deprived of food and water in order to force them to perform. The use of bull hooks, whips, and other devices to control the animals can also cause physical injury and pain.

Furthermore, traveling with circuses can be stressful and harmful for animals, as they are often transported in cramped conditions and subjected to long journeys without access to food, water, or veterinary care.

Overall, the use of animals in circuses raises serious concerns about animal welfare and ethical treatment. While some circuses have taken steps to improve the living conditions and treatment of their animals, many animal welfare experts argue that the inherent nature of circuses makes it impossible to provide adequate care and treatment for wild animals. As such, many countries have banned or restricted the use of animals in circuses in order to protect animal welfare.

Tigers naturally hate fire, but they are forced to jump over fire rings. Elephants being the largest land animals, are coerced to ride bicycles. In addition, sloth bears are made to dance. Since 2001, the circus has ceased to operate free of charge and is now governed by the Performing Animals (Registration) Regulations, 2001 promulgated under the Cruelty to Animals Act, 1960. Displaying, exhibiting, or demonstrating animals without permission is prohibited in

accordance with the prescribed regulations. Additionally, the Wildlife Conservation Act, 1972 prohibited the use of animals in performances. In a landmark decision by *N.R. Nair and Ors. v. UOI*<sup>10</sup>, the High Court of Kerala held that wild animals such as lion, tigers, leopards, monkeys and bears must not be trained or made to perform as show animals. The Supreme Court has held that non-living people also have the right to freedom of movement and their freedom of movement must not be restricted to meet the basic rights of the appellants. This is because during the training and performances held by the circus authorities, the animals were injured, tortured and kept in a very insidious ways. Judiciary supported the Kerala High Court's notice and judgment that animals should not suffer pain or suffering of any kind.

### 5. Illegal Trading or Smuggling of animals

The Supreme Court of India ruled in *Gauri Maulekhi v. Union of India and Ors.*<sup>11</sup> that unlawful cow trafficking to Nepal for the Gadhimai festival was forbidden. The Gadhimai festival, one of the largest in India, is a massive event in which a large number of animals are sacrificed to the goddess Gadhimai (Goddess of Power).

In the matter of *Ivory Traders and Manufacturers Association v. Union of India*<sup>12</sup>, the petitioners claimed that they dealt in legally sent-to-India ivory and were simply traders, inflicting no harm to African elephants. They challenged the constitutionality of the Wildlife Protection Act of 1972 and the Wildlife Protection Amendment Act of 1991, claiming that it violated their right to practice any profession or carry on any occupation, trade, or business, as guaranteed by Article 19(1) (g) of the Indian Constitution. Judiciary ruled that such a law cannot be said to be in violation of the provisions protected by Art 19(1) (g) of the Indian Constitution.

### 6. Sexual harassment

Bestiality, one of the most terrible crimes against animals, is on the rise at an alarming rate. Previously, under Sec. 377 of the Indian Penal Code, anyone who voluntarily engages in carnal intercourse against the order of nature with any man, woman, or animal shall be punished with life imprisonment or imprisonment of either description for a term not exceeding ten years, as well as a fine.<sup>13</sup>

Previously, 1860 sexual acts against animals were punishable under Sec. 377 of the Indian Penal Code. However, in the case of *Navtej Singh Johar v. Union of India*<sup>14</sup>, the Supreme Court of

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<sup>10</sup> UOI 2001 (3) SUPREME COURTR 353

<sup>11</sup> Writ petition (PIL) No.77 of 2010

<sup>12</sup> AIR 1997 Del 267

<sup>13</sup> Animal Cruelty and Laws for Protection of Animal Rights, available at: <https://www.legalserviceindia.com/legal/article-3565-animal-cruelty-and-laws-for-protection-of-animal-rights.html> (Last visited March, 2023)

<sup>14</sup> AIR 2018 SC 4321

India declared that unnatural acts under Sec. 377 were decriminalized. Sec. 377 also addressed sexual abuse of animals. Though the decriminalization of this clause was meant to defend the rights of LGBTQ+ populations, it had a negative impact on animal rights.

Bestiality has occurred on numerous occasions over the years. In August 2017, a man was charged with raping and killing a female dog. Not only did the culprit, Naresh Kumar, brag to an animal lover about the incident, but he also brought him to the cadaver. A pregnant goat was allegedly gang-raped by eight men on July 26, 2018 in Haryana. It was allegedly stolen, thrashed, and raped by the accused.

However, under The Prevention of Cruelty to Animals Act, 1960, the penalty is a fine of Rs. 50 or imprisonment for up to three months, or both.<sup>15</sup>

## 7. Cultural Rituals

“As opined by none other than Dr. B.R. Ambedkar, true religious practice should be guided by reason, equality and humanistic values, rather than blind adherence to traditions. All unhealthy, unscientific and deleterious practices are to be prevented, even if it is done in the name of religion”.

In India, the most widespread sort of animal cruelty behavior is cultural animal abuse. Many Indian ceremonies call for animals to be tortured or sacrificed. In some places of India, for example, elephants are caught so that people might use terrible techniques to break their spirit, such as malnutrition, sleep deprivation, or driving nails into their ears and feet. Similarly, they butcher the goat's head as part of a festival. Cultural animal abuse is one of the most prevalent cruelty actions in India.

The case of *Varaaki v. Union of India and Ors.*<sup>16</sup> decided on September 28, 2016, dealt with a religious practice of sacrificing animals to placate the gods and goddesses. Judiciary held that sacrificing animals in the guise of a religious practice is not supported by the law on any grounds because it is a clear case of cruelty to the animals under the various provisions of The Prevention of Cruelty to Animals Act, 1960.

In *Hashmattullah v. State of Madhya Pradesh*<sup>17</sup>, a comprehensive ban on the slaughter of bulls and bullocks in the State of Madhya Pradesh was challenged in the M.P. Krishik Pashu Parirakshan (Sanshodhan) Adhiniyam, 1991. The aforementioned amending Act was declared

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<sup>15</sup>Animal Cruelty and Laws for Protection of Animal Rights, *available at*: <https://www.legalserviceindia.com/legal/article-3565-animal-cruelty-and-laws-for-protection-of-animal-rights.html> (Last visited March, 2023)

<sup>16</sup> Writ Petition (C) No. 689 of 2015

<sup>17</sup> AIR 1996 SC 2076

unconstitutional by a three-judge Supreme Court bench, lifting ban upon slaughter of animals.

In the case of *State of West Bengal v. Ashutosh Lahiri*<sup>18</sup>, it was argued that the State of West Bengal had incorrectly invoked Sec. 12 of the West Bengal Animal Slaughter Control Act, 1950, when it exempted the slaughter of healthy cows on the occasion of Bakri Eid from the operation of the Act on the grounds that such exemption was required to be given for the religious purpose of the Muslim community. The ability to offer such an exemption was challenged in court, and the Calcutta High Court upheld the State Government's power to grant such an exemption.

### **8. Farm animal abuse:**

Another sort of animal mistreatment that is frequent in India. It is impossible to move a large number of animals in the proper manner. Farm animals are subjected to a variety of unpleasant and intrusive operations, including cutting, branding, tongue resection, dehorning, ear tagging, dubbing, beak-trimming, tail docking, and so on. Chickens, for example, are given steroids to help them develop quicker. In other circumstances, their bodily parts are unable to withstand the effects of steroids. Their heart, lungs, or bones frequently cannot keep up. One out of every hundred hens in India dies as a result of steroid usage.<sup>19</sup> Some of the common forms of animal abuse include:

- i. **Overcrowding:** Many farmers keep a large number of animals in cramped spaces, without adequate ventilation or living space. This can lead to health problems for the animals and can be considered a form of abuse.
- ii. **Lack of proper nutrition:** In some cases, farmers may not provide animals with sufficient food or water, leading to malnourishment and dehydration.
- iii. **Physical abuse:** Some farmers use physical force to control or discipline animals, which can be harmful and painful.
- iv. **Use of harmful chemicals:** Farmers may use harmful chemicals to clean or treat animals, which can cause skin irritation or other health issues.
- v. **Improper transportation:** During transportation, animals may be subjected to overcrowding, extreme temperatures, or rough handling, leading to injuries or stress.

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<sup>18</sup> 1995 SCC (1) 189

<sup>19</sup> Animal Cruelty in India – Definition, Facts, Types, and NGOs, *available at*: <https://helplocal.in/blog/animal-cruelty-india-definition-types-solutions-organizations/> (Last Visited on March, 2023)

## 9. Illegal animal breeding

Agriculture is widely practiced in India, and it not only provides work but also meets the economic and nutritional needs of many people. Breeding is important in agriculture, particularly animal husbandry, because there is a high need for animals that can provide dairy products, eggs, meat, poultry, and so on. Breeders experiment with new feeding practices, cross-breeding, and other environmental alterations in order to improve animal feed efficiency. Cross breeding dogs to create a breed to fulfil the demands of the fastest expanding pet market has raised the risks to the lives of puppies. The canines are subjected to inhumane treatment and compelled to procreate. The extensive inbreeding practices result in a range of birth abnormalities or genetic illnesses.<sup>20</sup> Puppy mills are facilities that breed large numbers of dogs for profit, often in inhumane conditions. These operations can lead to health problems and neglect for the animals. Some breeders may engage in the illegal trade of exotic and endangered animals, which can contribute to wildlife trafficking and threaten the survival of these species. It is important for individuals and organizations to raise awareness about illegal animal breeding and advocate for better regulation and oversight of these operations. Additionally, consumers can help by choosing to adopt animals from reputable shelters and avoiding purchasing animals from illegal breeders.

## 10. Illegal meat trade practices

Illegal meat trade practices in India are a major concern, as they often involve the inhumane treatment of animals and pose health risks to consumers. The illegal meat trade in India includes the slaughter, transportation, and sale of animals that are prohibited by law. In addition to the ethical concerns, the illegal meat trade poses significant health risks to consumers. The meat from illegally slaughtered animals may not have undergone proper inspection or testing, and may contain harmful bacteria, viruses, or other pathogens that can cause illness or disease.

The village and town wet markets of India's North Eastern areas are notoriously flooded with exotic wildlife meat such as deer, dog, bat, mouse, wild boar, exotic birds, and so on. Illegally hunted animals are routinely sold in open markets.

PETA had written to the Wildlife Control Board and the Ministry of Environment, demanding that prompt action be taken.<sup>21</sup> Various instances were surveyed upon and reported by the PETA in India. Instances like:

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<sup>20</sup> "Puppy Mills: The Sickening Truth Behind Illegal Breeding In India and How You Can Stop Them", *available at: <https://dawgiebowl.com/blog/puppy-mills-in-india/>* (last visited at March, 2023)

<sup>21</sup> TNN, "PETA India finds wildlife meat markets in Northeast" *The Times of India*, Nov 19, 2021

- Struggling crabs and eels in enclosed bags were for sale at a fish market in Malancha, West Bengal.
- Captured canines were slaughtered and were on sale for the flesh at Keera Bazaar in Dimapur, Nagaland, and at the Mao Market in Kohima, Nagaland.
- Manipur's Nute Bazaar took care of the charred remains of wild creatures such as monkeys, deer, wild boars, and porcupines, while meat of numerous feral animals was sold at Churachandpur market.
- Meat from illegally shot deer was being sold at Senapati Bazaar for Rs. 700 upto Rs. 800/kg.<sup>22</sup>

When an animal is abused, it sets off a chain reaction in our community. Not only is an innocent animal injured, but the perpetrator frequently enters into a cycle that may eventually lead to aggression against other people. Animal abuse, like any many other types of abuse, is motivated by a desire for power and control over a vulnerable victim. It has become a vicious cycle over the years. Every year, over 250,000 animals become victims of animal hoarding.<sup>23</sup> Every year, about 115 million animals, including mouse, stray dogs, cats, rabbits and hares, primates, and birds, are killed in laboratory tests for chemical, pharmacological, food, and cosmetics testing.

### **III. PROTECTION MECHANISM OF ANIMAL RIGHTS IN INDIA**

#### **(A) History and Background**

Creatures have continuously been a critical component of Indian culture, with different species of both tamed and wild creatures being loved and worshiped. Creatures are thought to be The Almighty's creation. There is a worldwide concept of concordance between people, creatures, and the environment that gets to be a portion of its people's other worldly life. Individuals have revered creatures in various places since they think that creatures serve as God's flag-bearers.

People show different states of mind towards creatures all through history. The Vedas, Hinduism's to begin with sacred texts, advance ahimsa and peacefulness towards all living life forms. Additionally, vegetarianism and the shirking of creature butcher have gotten to be far reaching in Jainism and Buddhism. In early times, eating meat was nevertheless popular among men. Traditional Indian religions place a high significance on animals. Animal sacrifices were prohibited in the Vedic faith. Vegetarianism is considered crucial for moksha (soul freedom) in

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<sup>22</sup> "Breaking Investigation: Illegal Wildlife and Dog-Meat Markets Rife in Country", available at: <https://www.petaindia.com/features/breaking-investigation-illegal-wildlife-and-dog-meat-markets-rife-in-country/> (last visited on March, 2023)

<sup>23</sup> "Animal Hoarding Facts", available at: <https://aldf.org/article/animal-hoarding-facts/> (last visited on April, 2023)



a few Hindu writings, and Brahmins, the consecrated lesson, are customarily vegan. Numerous creatures are considered sacrosanct by Hindus since they are considered companions or vehicles of the divine beings. Both Jainism and Buddhism emphasized compassion and nonviolence. Cows are especially revered by Hindus, Jains, and Buddhists. Cow slaughter is prevented in the majority of Indian states. Cows that can no longer provide milk are cared for at retirement homes known as 'pinjrapoles' by Jains and Hindus. Under Emperor Ashoka's reign the world's first animal protection laws were passed.<sup>24</sup>

In 1760, the British raised the primary slaughterhouse in India, and by 1910, there were 350 slaughterhouses. The British did not regard conventional Hindu dairy animals' convictions. They constrained Hindus and Muslims to lick cartridges spread with pig and dairy animal's oil in 1857. They too encouraged Muslims to eat hamburger and to chase predators by fulfilling people for each creature murdered. The British loathed Indian pooches since they competed with British mutts, and they butchered them in expansive numbers. When Britain started presenting modern pharmaceuticals to the colony within the 1860s, creature testing started in India.

In later years, the British also demonstrated concern for animal rights. Later, the British expressed concern for animal rights. Colesworthey Grant made the primary Indian Society for the Prevention of Cruelty to Creatures (SPCA), Calcutta in 1861, moved by the enduring of Indian strays and draft creatures. Within the i1860s, the SPCAs effectively pushed for anti-cruelty laws, which was afterward expanded to the complete nation in i1890-91. Taking after this, other anti-cattle butcher developments shaped in northern India within the late 1800s.

Rukmini Devi Arundale, spurred by the discussion on animal suffering in Europe, inspired the post-independence animal protection movement in India, highlighting in Parliament the need to alleviate nonhuman animal suffering in 1954, following which the Prevention of Cruelty Act (PCA), 1960 was passed.

The first welfare law enacted after independence for animals, the Prevention of Cruelty to Animals Act, 1960, criminalizes cruelty to animals. There are other provisions in the Act for scientific experiments<sup>25</sup>. This was a noteworthy authoritative step forward in India for the security of stray creatures.

On November 7, 1966, Swami Rameshwaranand of the Bhartiya Janata Sangh drove a walk of

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<sup>24</sup> Nanditha Krishna, *Sacred Animals of India*, (Penguin Books India, Kindle edn., 2010)

<sup>25</sup> "An overview of animal protection laws in India", *available at*: <https://blog.ipleaders.in/overview-animal-protection-laws-india/> (last visited on April, 2023)

sadhus to Parliament in bolster of a cover, statewide boycott on dairy animals butcher. For the first time since Partition, the siege on Parliament resulted in mayhem, with at least seven people killed by police fire. As a result, Prime Minister Smt. Indira Gandhi formed a committee to investigate the proposal for a national law prohibiting cow slaughter. It was presided over by Justice A K Sarkar, who had recently retired as Chief Justice of India. The committee never delivered its findings and was disbanded in 1979, while Morarji Desai was Prime Minister.

Many rules protecting animals were enacted by the Board and Parliament over the next fifty years. Laws in India govern slaughterhouses, animal performances, animal transportation, and animal experiments. Since of the require for tiger skins and tiger bones for medication, the Wildlife Protection Act of 1972 ensured tigers, who are an imperiled species due to the request for tiger skins and tiger bones. After forty years of disturbance, India exchanged to embracing catch-and-neuter programs and rabies antibody rather than butcher to decrease stray puppy populaces in 2001<sup>26</sup>.

According to the Times of India on February 6, 2021 – “the Government. has arranged a draft to correct the 60 year ancient Prevention of Cruelty to Animals Act, proposing a punishment of up to Rs. 75,000 or three times the cost of the animal, as well as a jail term of up to five years, or both, if an individual or an organization's act results in the death of an animal.”<sup>27</sup>

### **(B) Legislations Protecting Animal Rights in India**

Waldau defines “animal rights” as an umbrella phrase for the animal rights movement. The term “rights” does not always imply support for a rights-based worldview. This is due to the fact that scholars have presented a wide range of philosophical and legal perspectives to solve this issue. At the moment, the Indian animal rights movement is for the most part welfare-focused, with an accentuation on road, companion, and other tamed nonhuman creatures, in response to the tremendous sum of nonhuman creature enduring. Other critical topics, such as farm animal advocacy, are gaining traction as a result of legal advocacy.

Berti says that, the increasing existence and visibility of India's animal rights movements may be seen in the number of animal welfare and rights organizations that focus on different elements of the issue and use diverse intervention tactics. A multi-pronged approach combining judicial activism with grassroots activism centered in moral and ethical questions about humankind's treatment of nonhuman creatures has started a conversation that has led to

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<sup>26</sup> “The History Of Animal Rights In India”, *available at*: <https://faunalytics.org/the-history-of-animal-rights-in-india/> (last visited on April, 2023)

<sup>27</sup> <https://timesofindia.indiatimes.com/india/cruelty-to-animals-may-soon-attract-rs-75000-fine-5-year-jail/article-show/80716285.cms>

introspection. The IU4A movement was successful in raising awareness of critical concerns. Several key pieces of legislation have been enacted as a result of close collaboration between animal welfare and rights organizations and the Government.

- **The Constitution of India, 1960**

India is one of a few nations having animal welfare laws that give the desired necessities for the security and defending of the rights of creatures. The Indian Constitution, being the preeminent law of the land, incorporates animal rights assurance beneath the scope of essential obligations and the Directive Principle of State Policy. Article 21 of the Constitution broadens the definition of “life” to grasp all shapes of life, including creature life, which is necessary for human survival. Moreover, the “right to respect and reasonable treatment” is imperative in creature rights.

Art. 48 A of the Constitution of India states that *“the state shall endeavor to protect and improve the environment and safeguard the country’s forests and wildlife.”*

Art. 51A (g) of the Constitution of India states that *“every citizen has a fundamental duty to safeguard and improve the natural environment including forests, lakes, rivers, and animals as well as to have compassion for living creatures.”*

The foregoing Constitutional arrangements were included by the 42nd Amendment in 1976. These standards are not specifically enforceable by courts, but they serve as an establishment for enactment, arrangements, and laws aimed at improving creature assurance at the Government and state levels.<sup>28</sup>

The Concurrent List (Seventh Schedule) of the Constitution of India empowers the Central and State Government to make laws in the following matters:

- Prevention of animal cruelty
- Protection of wild animals and birds

- **The Prevention of Cruelty Act, 1960**

Parliament passed the Prevention of Cruelty to Animals Act in 1960. The objective of the Act is to avoid the infliction of torment or suffering on creatures and to change enactment relating to creature brutality prevention. The definition of a creature is “any living creature other than a human being.” The foremost vital component of the Act is found in Chapter II, which calls for the foundation of the Animal Welfare Board of India to ensure creatures from pointless anguish.

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<sup>28</sup> Dr. J.N. Pandey, *Constitutional Law Of India*, (Central Law Agency, 59<sup>th</sup> edn., 2022)

The AWBI is in charge of the taking after tasks:

- To advise the central government on modifications and rules to minimize unnecessary pain while storing animals for experiments, transporting animals, and so on.
- To promote financial aid, animal shelters, and rescue homes for ageing animals.
- To advise the Government on medical treatment and aid for animal hospitals.
- Spreading animal welfare education and awareness through books, lectures, posters, and commercials.
- To provide broad advice to the Central Government on animal welfare issues.

Sec. 11 of the Prevention of Cruelty to Animals Act defines the following types of animal cruelty:

- i. Beating, overloading, torturing, and causing undue hurt or harm to any animal
- ii. Using any animal that is ill or unable to work;
- iii. Intentionally or unreasonably administered any injurious medicine or substance to any animal;
- iv. Transporting or carrying anything in or on a vehicle in such a way that it suffers;
- v. Confining any animal in any cage or container that does not measure the property in height, length, and breadth to allow the animal a sufficient opportunity to move;
- vi. Keeping an animal for an unacceptable amount of time in any heavy chained or chorded enclosure;
- vii. The owner fails to provide the animal with enough food, water, and shelter.
- viii. Abandonment of an animal without reasonable care;
- ix. Willfully permitting an owned animal to roam the streets or abandoning it to die of sickness or infirmity on the streets;
- x. Selling an animal in pain as a result of mutilation, malnutrition, dehydration, or other ill-treatment for no apparent cause;
- xi. Using strychnine injections to mutilate or murder any animal;
- xii. Using an animal as bait for another animal for the sole purpose of entertainment;
- xiii. Organizing, maintaining, or managing any animal fighting venue;

- xiv. Promoting or participating in any competition in which animals are liberated from captivity;

However, the Act does not consider cruelty on animals' if-

- 1) Dehorning of cattle, castration, or branding of any animal done in a prescribed manner
- 2) Destruction of stray dogs in lethal chambers done in a prescribed manner
- 3) Extermination or destruction of any animal under the authority of any law

If any person commits an act listed in Sec. 11 of the Prevention of Cruelty to Animals Act, 1960, he or she will be punished:

- in the case of a first offence, with a fine of not less than ten rupees but which may extend to fifty rupees; and
- in the case of a subsequent offence committed within three years of the previous offence, with a fine of not less than twenty-five rupees but which may extend to one hundred rupee with imprisonment for a term which may extend to three months or both.

Sec i428 reads as:

*“Whoever commits mischief by killing, poisoning, maiming, or rendering useless any animal of the value of ten rupees or upwards shall be punishable with imprisonment of a maximum of two years with fine, or with both.”*

Sec i429 reads as:

*“Whoever commits mischief by killing, poisoning, maiming, or rendering useless any animal of the value of fifty rupees or upwards shall be punishable with imprisonment of a term which may extend up to five years, or with fine, or both.”*

It should be taken into account that the previously mentioned limitations characterized beneath Chapter XVII of the IPC apply as it were to creatures having financial worth, if it is more than Rs. 10 or Rs. 50 as characterized within the above section. Since strays don't have a place to be home and have no monetary worth, these arrangements seldom result in the commission of a wrongdoing. Thus, in case stray creatures are subjected to abuse, it is greatly troublesome to apply these directions because stray creatures were not obtained from pet stores and thus don't have financial worth, nor can they be considered someone's property. Be that as it may, there are different non-profit associations that offer online access to record complaints about creature abuse. Anybody who needs to enroll a complaint is encouraged to visit the online sites of animal

welfare organizations.<sup>29</sup>

- **Draft Animal Welfare Act, 2011**

The Ministry of Environment and Forests declared in the Lok Sabha in 2010 that it would introduce a Bill titled “Animal Welfare Act”, which would offer harsher punishments for animal cruelty in India. As a result, the Animal Welfare Board of India created the Animal Welfare Act, 2011, which would repeal the Prevention of Cruelty to Animals Act, 1960. The purpose was to impose harsher penalties for animal cruelty and to extend the concept of animal abuse.

According to the proposed Act, first-time offenders face up to 2 years in prison and a fine of up to 25,000 rupees. A subsequent offence can result in a maximum of three years in prison and a fine of up to one lakh rupees. This Bill, however, must still be approved by Parliament.

As a result, in 2016, the AWBI drafted a new draught, known as Prevention of Cruelty to Animals (Amendment) Bill, 2016. This policy was enacted in response to the recent increase in animal mistreatment occurrences and the lack of consequences offered under the 1960 Act. The Animal Welfare Board and various non-Government.al organizations (NGOs) petitioned the Ministry of Environment, Forests, and Climate Change to consider this bill in Parliament. Regrettably, the measure has not yet been passed.

A number of rules have been enacted to regulate every aspect of animals under this Act:

- **The Prevention of Cruelty to Draught and Pack Animals Rules, 1965:**

The Prevention of Cruelty to Draught and Pack Animals Rules, 1965 is a set of rules established by the Government of India under the Prevention of Cruelty to Animals Act, 1960. The Rules include measures for - the prevention and protection of animals from undue pain, cruelty, and torture when employed to draw carriages and burdened with packs and humans. Small buffaloes or bullocks, ponies, horses or mules, and camels are utilized to transport automobiles in accordance with the general conditions outlined in Sec. 6 of the Act. The rules aim to prevent the cruelty and mistreatment of animals used for draught and pack purposes, such as horses, donkeys, and mules. Some of the key provisions of the rules include:

1. **Restrictions on loads:** The rules specify the maximum weight that can be carried by a draught or pack animal, based on their size and strength. Overloading animals beyond the specified limits is considered a violation of the rules
2. **Rest periods:** The rules require that animals used for draught or pack purposes be given

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<sup>29</sup> Punishment For Animal Cruelty In India, *available at:* [https://lawcorner.in/punishment-for-animal-cruelty-in-india/#Ban\\_On\\_Animal\\_Testing\\_Of\\_Cosmetics](https://lawcorner.in/punishment-for-animal-cruelty-in-india/#Ban_On_Animal_Testing_Of_Cosmetics) (Last visited April, 2023)

adequate rest periods between periods of work, to prevent exhaustion and injury. . It also specifies animals “shall not be employed to pull cars or loads for more than nine hours per day without proper rest and in locations where the temperature surpasses 37 degrees Celsius, particularly at noon, 12 p.m. - 3 p.m.”

3. Health checks: The rules mandate that animals be given periodic health checks, and that sick or injured animals be treated promptly.
4. Prohibition of certain practices: The rules prohibit certain practices that are considered cruel, such as the use of sharp or pointed equipment on animals, the use of animals to transport certain types of loads, and the use of animals in extreme weather conditions.
5. Penalties for violations: The rules provide for penalties, including fines and imprisonment, for those who violate the provisions of the rules.

Overall, the Prevention of Cruelty to Draught and Pack Animals Rules, 1965 is an important step towards protecting animals used for draught and pack purposes in India. However, enforcement of the rules can be challenging, and there is still work to be done to ensure that these animals are treated with the respect and dignity they deserve.

- **The Performing Animals Rules, 1973:**

The Performing Animals Rules, 1973 is a set of rules established by the Government of India under the Prevention of Cruelty to Animals Act, 1960. The rules aim to prevent the mistreatment and cruelty of animals used in performances, such as circuses, films, and television shows. A “performing animal” is one that is utilized for entertainment and is admitted to the public through ticket sales. No animal may be utilized for entertainment purposes until it has been registered in accordance with the Act. The objective of this rule is to oversee the “rights of performing” creatures. The rules forbid utilization of creatures in showing and preparing for open exhibitions unless the occasion is composed by an individual licensed beneath the Parent Act. A wide forbiddance too applies to bears, tigers, monkeys, pumas, and lions. It is pivotal to note, in any case, that creatures used for police or military purposes maybe a special case to this law. Some of the key provisions of the rules include:

1. Registration of performing animals: The rules require that all performing animals be registered with “the Animal Welfare Board of India”, and that their owners maintain detailed records of their health and treatment.
2. Restrictions on performances: The rules prohibit certain types of performances that are considered cruel or inhumane, such as using animals in stunts or tricks that could cause

injury or distress.

3. **Safety and welfare requirements:** The rules specify certain safety and welfare requirements for animals used in performances, such as providing them with adequate food, water, and shelter, and ensuring that they are not subjected to extreme temperatures or other harsh conditions.
4. **Prohibition of certain equipment:** The rules prohibit the use of certain types of equipment, such as electric prods or whips that could cause pain or harm to animals.
5. **Inspections and penalties:** The rules provide for inspections of performing animals and their facilities, and for penalties, including fines and imprisonment, for those who violate the provisions of the rules.

However, enforcement of the rules can be challenging, and there is still work to be done to ensure that these animals are not subjected to cruelty or neglect in the course of their performances.

- **The Transport Of Animals Rules, 1978:**

The Transport of Animals Rules, 1978 is a set of rules established by the Government of India under the Prevention of Cruelty to Animals Act, 1960. The rules aim to ensure that animals are transported in a safe and humane manner, and to prevent the mistreatment and cruelty of animals during transportation. The rules indicate the common measures for the transport of creatures, specifically that they be in great condition and fit for transportation. Pregnant, sick, or youthful creatures must be isolated from other creatures amid travel. Over-burdening creatures is considered cruel treatment of a creature beneath the Prevention of Cruelty to Animals Act, 1960. This rule incorporates rules for moving different creatures such as monkeys, chickens, cattle, and so on. It moreover sets up tight necessities for the measure of transport cages. Some of the key provisions of the rules include:

1. **Vehicle requirements:** The rules specify certain requirements for vehicles used to transport animals, such as ensuring that they are clean, well-ventilated, and have adequate space and light for the animals.
2. **Loading and unloading procedures:** The rules provide guidelines for loading and unloading of animals, to ensure that they are not subjected to excessive force or injury during the process.
3. **Restrictions on overcrowding:** The rules specify the max number of animals that can be transported in a single vehicle, based on their size and weight, to prevent overcrowding and



ensure that the animals have adequate space to move around.

4. Rest and feed requirements: The rules require that animals be given adequate rest and food during transportation, to prevent exhaustion and dehydration.
5. Inspections and penalties: The rules provide for inspections of animal transport vehicles, and for penalties, including fines and imprisonment, for those who violate the provisions of the rules.

Overall, the Transport of Animals Rules, 1978 is an important step towards protecting the welfare of animals during transportation in India. However, enforcement of the rules can be challenging.

- **The Prevention to Animals (Slaughter House) Rules, 2001:**

The Prevention of Cruelty to Animals Act, 1960, has regulations known as the Slaughter House Rules, 2001. The rules aim to ensure that animals are slaughtered in a humane manner, and to prevent the mistreatment and cruelty of animals in slaughterhouses. The Act explains slaughter as the murdering of any creature for food, and “slaughter house” as an area where 10 or more creatures are butchered each day and is legally licensed beneath a Central, State, or Provincial Act, or any rules and controls forced thereunder. Sec. 3 (2) of the Act makes it unlawful to butcher any creature that's pregnant, has less than 3 month worth of offspring, is beneath the age of 3 months, or has not been certified by a vet. It is unlawful to butcher creatures in ghettos, roadside meat shops, dhabas, or private homes. The run the show indicates that creatures may not be butchered anyplace other than in a perceived or controlled abattoir. Apart from the Act, animal sacrifice is additionally banned by the Wildlife Protection Act, 1972. Some of the key provisions of the rules include:

1. Slaughterhouse requirements: The rules specify certain requirements for slaughterhouses, such as ensuring that they are clean, well-ventilated, and have adequate lighting, water supply, and drainage facilities.
2. Humane slaughter methods: The rules require that animals be slaughtered using humane methods that minimize their pain and distress, such as stunning or instant killing, before the actual slaughter.
3. Inspection and certification: The rules provide for inspection of slaughterhouses by veterinary officers, who certify that the animals are fit for slaughter, and that the slaughter is being carried in a humane manner.
4. Handling and transportation: These rules provide guidelines for the handling and

transportation of animals to slaughterhouses, to prevent overcrowding and ensure that they are not subjected to excessive force or injury during the process.

5. Penalties for violations: The rules provide for penalties, including fines and imprisonment, for those who violate the provisions of the rules.

- **Animal Birth Control (Dog) Rules, 2001:**

This Rule contains stringent standards for regulated breeding, inoculation, and sterilization of dogs. The rules aim to control the population of stray dogs in a humane manner, by promoting animal birth control and vaccination programs. Dog euthanasia is also mentioned in this guideline. Beneath the advice of the committee, a certified veterinary specialist designated by the committee will be able to euthanize road dogs who are seriously sick or harmed in a compassionate way utilizing the drugs “sodium pentathol” for grown-ups or “Thiopental Intraperitoneal” for puppies. This rule moreover incorporates instructions for managing with rabid or infected pets. Some of the key provisions of the rules include:

1. Sterilization and vaccination programs: The rules provide for the establishment of animal birth control and vaccination programs for stray dogs, to control their population and prevent the spread of diseases such as rabies.
2. Appointment of animal welfare organizations: The rules provide for the appointment of animal welfare organizations to implement animal birth control and vaccination programs, and to provide medical treatment and care for stray dogs.
3. Identification and registration of dogs: The rules require that all stray dogs be identified and registered, to prevent them from being indiscriminately killed or captured.
4. Prohibition of killing or relocation of dogs: The rules prohibit the killing or relocation of stray dogs, except in cases where they pose a threat to public safety or health.
5. Penalties for violations: The rules provide for penalties, including fines and imprisonment, for those who violate the provisions of the rules.

- **The Wildlife Protection Act, 1972**

The Wildlife Protection Act, 1972 is the essential law administering natural life in India. The Parliament passed this Act in order to supply legitimate security for wild creatures. This Act makes it unlawful to slaughter, trap, poach, harm, or injure any wild creature or bird. This Act is the primary to offer a comprehensive list of imperiled natural life species. This Act's arrangements apply to numerous states and zones. This Act too gives the State and Central Governments the specialist to set up natural life sanctuaries and national parks. To address the

emergency, it moreover calls for the arrangement of natural life advisory bodies in each state to moderate creatures. The Act incorporates arrangements for the assurance of sea-going life (marine creatures), winged creatures, and zoo animals. The Act explains natural life as any creature, marine or land vegetation that's portion of any environment.

- Sec. 6 of the Act sets up welfare advisory boards, and Sec. 8 traces the boards' changed responsibilities.
- Hunting includes harming, killing, catching, or endeavoring to trap any wild creatures. Carrying or driving any creature for transportation purposes that causes harm to any creatures or on their body parts, slaughtering the egg of reptiles and fowls, or aggravating their settle or eggs of birds and reptiles, are illustrations of chasing exercises. The Act makes it unlawful to chase any wild species listed in Schedules I, II, or III (Sec. 9). Moreover, as stipulated in Sec. 11, the Act permits for the chasing of wild creatures in particular circumstances.
- The Act empowers the Government and State Governments to assign any region as 'restricted' for a natural life sanctuary, national park, or other reason.
- Also, the Act restricts the exchange of any wild animals, birds, or plants unless authorization is taken from the chief wildlife superintendent or any other individual approved by the state Government under Sec. 48 A.
- Sec. 49 of the Act makes it unlawful to purchase wild creatures from merchants who don't have a license.

The 1986 Amendment to this Act denied all internal traffic in wild creatures and animal items other than articles composed of peacock quills. In reaction to different requests from different partners, the Ministry of Environment and Forests as of late proposed to alter Sec. 43(3) (a) and 44 of the Wildlife (Protection) Act, 1972, which administer the exchange and deal of peacock tail plumes. The proposed revision is pointed to boycott the illegal catching and butcher of national fowls for their tail feathers.

The 1991 Amendment brought approximately exceptional changes by banning chasing for delight or game.

In 2006, the Parliament made another amendment with the double objective of “tiger preservation and harmonization of the rights of tribal individuals living in and around the tiger” save in intellect. Chapter IV-B of the Act was corrected to make the National Tiger Preservation Specialist and give it the authority's powers to carry out the Act's arrangements. The Act was amended in i2006 to incorporate Chapter IV-C for “the Foundation of the Tiger and Other

Imperiled Species Crime Control Bureau”.

Under the program of advancement of national parks and asylums, venture tiger, and venture elephant, the Government has adopted an assortment of measures to defend wild creatures and to actualize the terms of the Wildlife (Protection) Act, 1972.

The Ministry of Environment and Forests as of late assigned the Elephant and the Ganges Waterway Dolphin as National Legacy Creatures and National Aquatic Creatures, separately. Certainly, typically a noteworthy step done by the Ministry of Environment and Forests towards the preservation of wild creatures.

In 2009-10, the Ministry of Environment and Forest overhauled the informational for the Special Tiger conservation Drive to incorporate a part for neighborhood communities in the conservation and preservation of tiger reserves.

- **The Indian Penal Code 1860**

The IPC 1860 includes provisions for animal cruelty under Sec. 428 and Sec. 429. These sections provide for penalties for cruelty to animals, including both domestic and wild animals. Sec. 428 of the IPC provides for – punishment for mischief by killing or maiming an animal, and states that anyone who commits such an offense shall be punished with imprisonment of either description for a term which may extend to two years, or with a fine, or with both.

Sec. 429 of the IPC provides for punishment for mischief by killing or maiming any animal of the value of Rs. 10 or more, and states that anyone who commits such an offense shall be punished with imprisonment of either description for a term which may extend to five years, or with a fine, or with both.

In addition to these sections, there are other provisions of the IPC that can be used to prosecute individuals for animal cruelty, such as Sec. 319 for hurt, Sec. 320 for grievous hurt, and Sec. 377 for unnatural offenses.<sup>30</sup>

### **(C) Role of Government in Providing Protection to Animals**

According to PETA (People for the Ethical Treatment of Animals), over 100 million animals die each year suffering a great deal due to their use in chemical, pharmaceutical, food, cosmetics, and medical research.

Recently, the issue of animal mistreatment has caught the attention of people worldwide and is

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<sup>30</sup> The Story of ‘Cruelty to Animals’ cases in India – Lack of Data & Minimal Penalties, *available at*: <https://factly.in/the-story-of-cruelty-to-animals-cases-in-india-lack-of-data-minimal-penalties/> (Last visited on April, 2023)

being handled with utmost seriousness by the Indian Government. The administration has taken several bold initiatives towards making the United States free from cruelty. The following actions has been taken by the Government:

- **Captive Dolphin Shows Are Prohibited In India**

According to the Indian Government Ministry of Environment and Forest, which issued an order on May, 2013 forbidding the acquisition and exploitation of dolphins for entertainment purposes. Captive dolphin shows are prohibited in India under the Wildlife Protection Act, 1972. Dolphins are listed as a protected species under Schedule I of the Act, which means, they are to be afforded the highest level of protection. The act prohibits the hunting, killing, or capturing of dolphins, and also prohibits the keeping of captive dolphins for commercial entertainment purposes, such as in dolphin shows.

In addition to the Wildlife Protection Act, the Central Zoo Authority of India also issued a circular in 2013 directing all zoos and dolphinariums to phase out the keeping of dolphins and other cetaceans in captivity. The circular cited concerns about animal welfare and the negative impact of captivity on the physical and psychological well-being of dolphins.

The ban on captive dolphin shows in India is part of a growing movement around the world to end the exploitation of dolphins and other marine mammals for entertainment purposes. Many countries have enacted similar bans, and there is increasing awareness about the ethical and environmental concerns associated with keeping dolphins in captivity.

- **Prohibition on Import of Animal-Tested Cosmetics**

Imports of cosmetics which are not cruelty free are prohibited in India. The ban on animal testing for cosmetics was introduced in India in 2014 under the Drugs and Cosmetics (Fifth Amendment) Rules, 2014. The amendment to the rules prohibits the import of cosmetic products that have been tested on animals anywhere in the world. The ban applies to all cosmetic products, including personal care and household products. Here are some cosmetic brands that reportedly still perform animal testing:

1. L'Oreal: L'Oreal is one of the largest cosmetic companies in the world and has been criticized for its continued use of animal testing. The company has stated that it is committed to developing alternative testing methods, but animal testing is still conducted by its suppliers in some cases.
2. Estee Lauder: Estee Lauder is another major cosmetic company that has been criticized for its animal testing practices. The company has stated that it is committed to eliminating

animal testing and is working on developing alternative testing methods.

3. Procter and Gamble: Procter and Gamble is a multinational consumer goods company that owns several popular cosmetic brands, including Olay and Pantene. The company has stated that it is committed to eliminating animal testing and has developed alternative testing methods.
4. Johnson and Johnson: Johnson and Johnson is another multinational company that owns several cosmetic brands, including Neutrogena and Aveeno. The company has stated that it is committed to eliminating animal testing and is working on developing alternative testing methods.

The move to ban animal testing for cosmetics in India was a significant step towards animal welfare and was widely welcomed by animal rights organizations around the world. The ban brought India in line with the European Union, which has also banned the sale of animal tested cosmetics.

In addition to the ban on animal testing for cosmetics, the Indian Government has also taken steps to promote the use of non-animal alternatives for testing the safety of chemicals and other substances. The Central Drugs Standard Control Organization, which regulates the safety and efficacy of drugs and cosmetics in India, has established guidelines for the use of testing methods without animals, such as – vitro testing and computer modeling.

Overall, the ban on imports of animal-tested cosmetics in India is a positive step towards promoting animal welfare and encouraging the use of alternative testing methods for the safety assessment of cosmetic products. On November 2014, the first country in South Asia to restrict the import of animal-tested cosmetics was India. As a result of this bold initiative, India has become the first cruelty free zone in South Asia.

#### • **Jet Airways Contribution To Safeguarding Sharks and Marine Ecosystem**

Jet Airways, a major Indian airline, announced in 2018 that it was committed to protecting the shark population and marine ecosystem. The airline signed the United Nations' "Save Our Sharks" pledge, which is a global initiative to protect sharks and their habitats.

As part of its commitment, Jet Airways pledged to stop serving shark fin soup on its flights and to stop shipping shark fins on its cargo flights. "Shark fin soup" is considered a delicacy in some parts of Asia and has contributed to the decline in shark populations worldwide. By not serving shark fin soup and not shipping shark fins, Jet Airways is helping to reduce demand for shark products and to protect the species.

In addition to its pledge to protect sharks, Jet Airways has also taken other measures to promote environmental sustainability. The airline has implemented a range of eco-friendly initiatives, such as using lighter materials for its aircraft interiors to reduce fuel consumption, recycling waste materials, and using eco-friendly cleaning products.

Jet Airways' commitment to protecting sharks and the marine ecosystem is an important step towards promoting sustainability and protecting the planet's natural resources. The airline's actions can inspire other companies to take similar steps towards environmental protection and sustainability. Jet Airways, an Indian airline, sets a standard for the rest of the world to follow.<sup>31</sup>

- **Prohibition of Illicit Animal Movement to Nepal by Government.**

There have been several instances where the Indian Government has issued orders to stop illicit animal movement to Nepal. These orders are issued to prevent the illegal trade of animals, including endangered species, which are often smuggled across the border from India to Nepal.

The Ministry of Home Affairs of India on 4<sup>th</sup> of November, 2014, issued an order to the paramilitary - Sashatra Seema Bal to restrict unlawful animal transportation to Nepal and to outlaw cattle transport without a license.

In 2017, the Indian Ministry of Environment, Forest and Climate Change issued an order to the state Government of Uttar Pradesh, Bihar, and West Bengal to take immediate action to stop the illegal movement of animals across the border. The order was issued after several cases of animal smuggling were reported in the region.

The Indian Government has also increased surveillance and enforcement along the border to prevent the illegal movement of animals. The Border Security Force (BSF) and other law enforcement agencies have been instructed to keep a close watch on the border and to take action against those involved in the illegal trade.

In addition to these measures, the Indian Government has also taken steps to improve the legal trade of animals between India and Nepal. In 2016, the two countries signed a memorandum of understanding (MoU) on the control of illicit trade in wildlife and their products. The Memorandum of Understanding aims to strengthen cooperation between the two countries in the prevention of illegal trade of animals and to promote the conservation of wildlife.

These measures were in response to the Gadhimai Festival in Nepal, where thousands of animals are killed, with 70% of those animals being illegally trafficked from India. Overall, the

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<sup>31</sup> Jet Airways Recognized For Ending Shark Fin Transport, *available at*: <https://thecsrjournal.in/jet-airways-recognized-for-ending-shark-fin-transport/> (Last visited on April, 2023)

Indian Government's efforts to stop the illicit movement of animals to Nepal are important for protecting endangered species and promoting wildlife conservation. These efforts can also help to prevent the spread of diseases and other health risks associated with illegal animal trade.

- **Notice By Punjab and Haryana High Court**

On March 2014, the Punjab and Haryana High Court issued a notice against the confinement of egg laying hens in battery cages. In response to a petition presented by the Federation of Indian Animal Protection Organizations where it was reported that the cages were hardly any bigger than an A4 sheet of paper. According to Sec. 11(1) (e) of the Prevention of Cruelty to Animals Act, 1960 this form of cruelty is both illegal and barbaric. Through these efforts, the Indian Government has sought to provide cruelty free environment for animals in India.<sup>32</sup> Judiciary has taken a strong stance on animal welfare and has issued orders and directives to prevent brutality towards animals and to promote their protection.

In 2019, the court issued a notice to the State Government of Punjab, Haryana, and Himachal Pradesh on the issue of illegal animal transportation. The notice was issued in response to a petition that alleged that animals were being transported in cruel and inhumane conditions, and that the authorities were not taking appropriate action to prevent such transportation.

Judiciary has also issued directives on other issues related to animal cruelty, such as the use of animals in circuses, the use of animals in religious processions, and the sale of sick and injured animals. In 2018, Judiciary banned the use of elephants in religious processions in Punjab, Haryana, and Chandigarh, citing the cruelty and mistreatment that the animals often face during such processions.

In addition to these orders and directives, the Punjab and Haryana High Court has also taken steps to promote animal welfare and protection. The court has established animal welfare committees in various districts of the two states, which are responsible for monitoring animal welfare issues and for promoting the protection of animals.

The notices and directives issued by the Punjab and Haryana High Court on animal cruelty are important steps towards promoting animal welfare and protection. These measures can help to prevent cruelty towards animals and to promote their well-being, and can serve as a model for other courts and authorities to follow.

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<sup>32</sup> Instances of animal cruelty in India, *available at*: <https://blog.ipleaders.in/instances-animal-cruelty-india/> (Last visited on April, 2023)



### **(D) Initiatives of Wildlife Conservation by Indian Government**

In India, natural life is ensured by the Wildlife Protection Act of 1972. Natural life preservation ventures were propelled in arrange to secure and protect the declining status of various extinct creatures.

The Indian Government has contributed much in preservation programs to ensure and preserve natural life, biodiversity, environmental steadiness, and environment upkeep. Here are a few examples:

#### **Project Tiger:**

The Indian Government started “Project Tiger”, a natural life preservation activity, in 1972. It has not only profited tiger preservation but the ecology as an entirety. This exertion is financed by the Ministry of Environment, Forestry, and Climate Change. Currently there are over 48 tiger reserves scattered all through more than 17 districts, all of which are included in deciding the number of tigers and their environment, as well as other activities. The National Board of Wildlife proposed sorting out an assignment constrain known as the “Tiger Task Force” to supervise the project's execution over the country. Concurring to the foremost national tiger census, India presently has at least 3,167 tigers, up from 268 tigers in nine reservations in 1972. Some of the key activities undertaken by Project Tiger include:

1. **Habitat management and restoration:** This involves identifying and restoring degraded tiger habitats, improving the quality of existing habitats, and providing effective protection to the tiger habitats.
2. **Tiger population monitoring:** This involves conducting regular surveys to estimate the number of tigers in the country and monitoring their distribution and movement.
3. **Mitigating human-tiger conflicts:** This involves creating awareness among the public about tiger behavior and implementing measures to reduce conflicts between tigers and humans.
4. **Anti-poaching and law enforcement:** This involves increasing the capacity of forest departments to tackle poaching and illegal wildlife trade.
5. **Research and capacity building:** This involves promoting scientific research on tiger conservation and management and building the capacity of stakeholders involved in tiger conservation.<sup>33</sup>

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<sup>33</sup> A future for wild tigers in India, *available at*: <http://www.environmentportal.in/files/24.pdf> (Last visited at April, 2023)

**Project Elephant:**

Project Elephant is an initiative launched by the Government of India in 1992 to protect and conserve the country's elephant population and their habitats. The project focuses on addressing the issues related to elephant conservation, management, and monitoring, as well as reducing human-elephant conflicts. Some of the key activities undertaken by Project Elephant include:

1. Habitat management and restoration: This involves identifying and restoring degraded elephant habitats, and improving the quality of existing habitats.
2. Elephant population monitoring: This involves conducting regular surveys to estimate the number of elephants in the country and monitoring their distribution and movement.
3. Mitigating human-elephant conflicts: This involves creating awareness among the public about elephant behavior and implementing measures to reduce conflicts between elephants and humans.
4. Captive elephant management: This involves ensuring the welfare of captive elephants in the country and regulating their ownership and use.
5. Research and capacity building: This involves promoting scientific research on elephant conservation and management and building the capacity of stakeholders involved in elephant conservation.<sup>34</sup>

**Crocodile Conservation Project:**

The "Crocodile Preservation Project" is a fruitful try by the Indian Government to protect Indian crocodiles. Crocodiles are on the edge of termination as a species. The project's reason is to extend the number of wild crocodiles by breeding them, making sanctuaries, and making strides for better administration.

Due to the crocodile preservation venture, we were successfully able to restock 4000 alligators, 1800 crocodiles, and 1500 saltwater crocodiles.

**UNDP Sea Turtle Project:**

“The UNDP Sea Turtle Project” is an initiative launched by “the United Nations Development Programme (UNDP)” in partnership with the Government of India, with the aim of conserving and protecting the sea turtle population in the country. The project was launched in 1999 and has since then made significant contributions to the conservation of sea turtles in India. The

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<sup>34</sup> Project Elephant of India, *available at*: <https://www.pashudhanpraharee.com/project-elephant-of-india/> (Last visited on April, 2023)

main objectives of the UNDP Sea Turtle Project are:

1. To conserve and protect the population of sea turtles in India.
2. To create awareness among the public about the importance of sea turtle conservation and their role in maintaining the ecosystem.
3. To address the issues of human-sea turtle conflicts and mitigate them.
4. To promote sustainable livelihoods for local communities dependent on marine resources.

Some of the key activities undertaken by the UNDP Sea Turtle Project include:

1. Nesting beach management: This involves identifying and protecting important nesting beaches for sea turtles, implementing measures to reduce disturbances and threats to nesting turtles and eggs, and monitoring the nesting activities.
2. Turtle stranding response: This involves responding to cases of stranded and injured sea turtles, providing veterinary care and rehabilitation, and releasing them back into the wild.
3. Research and monitoring: This involves promoting scientific research on sea turtle conservation and management, and monitoring the population and distribution of sea turtles in the country.<sup>35</sup>

Apart from that, the Indian Government has launched programs like as the Indian Rhino Vision 2020, Project Hangul 1970, Project Snow Leopard 2019, and others.<sup>36</sup>

#### **Save Our Species (SOS) Programme:**

Launched in 2010, the SOS programme aims to conserve and protect critically endangered species in India. The programme focuses on conserving species such as the snow leopard, the Asiatic lion, and the Indian rhinoceros.<sup>37</sup>

#### **IV. ROLE PLAYED BY JUDICIARY IN GRANTING OF RIGHTS TO ANIMALS IN INDIA**

Austin at first proposed the concept of absolute duty as a commitment that exists inside the human race without giving a commensurate right in his positivist examination of rights and obligations. The foundation of a correlative right was respected as a prerequisite for the judgment of a lawful person. In a few circumstances, individuals owe outright obligations to unquantifiable legitimate specialists or substances that don't have rights. Animal welfare and

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<sup>35</sup> Background and Scope of the GOI-UNDP, *available at*: <https://www.seaturtlesofindia.org/wp-content/uploads/2019/07/ch03.pdf> (Last visited on April, 2023)

<sup>36</sup> Instances of animal cruelty in India, *available at*: <https://blog.ipleaders.in/instances-animal-cruelty-india/> (Last visited on April, 2023)

<sup>37</sup> Saving The Endangered Animals Of India-A Race Against Time, *available at*: <https://wildlifesos.org/animals/saving-the-endangered-animals-of-india-a-race-against-time/> (Last visited on April, 2023)

creature security have been prioritized by the Legal and the Governing body since creatures are living animals that cannot express what they are going through in words, and it is basic to promote animal rights within the same way that human rights are upheld. Welfare for animals however has not accomplished its apex, but the judicial system is ceaselessly looking for to protect the rights of these animals who may be vulnerable to purposefulness viciousness by people. In the event that creatures are dismissed by individuals or intentioned uncovered to viciousness, such treatment can be considered animal remorselessness. Animal rights are campaigned for and supported by the judiciary and assembly in the same way that human rights are, since it is basic to protect and ensure creatures from persecution, detainment, and injurious treatment at the hands of people. There are consistent clashes emerging between people and creatures, and they are certainly expanding in number with each passing day, which is why it is the work of the judiciary to put emphasis on creature rights, as rights of animals can be regarded as the voice given to creatures in order for them to associated and coexist with people in an friendly way.

Initially, Austin proposed the concept of absolute responsibility as an obligation which exists within humans without providing commensurate rights in his positivist examination of rights and duties. The establishment of a correlative right was regarded as a prerequisite for the judgment of a legal individual. In some circumstances, people are debted absolute duties to unquantifiable judicial authorities or entities who do not have rights.<sup>38</sup> One should remember that every living being who is a citizen of India has absolute fundamental rights provided by Part III of the Constitution of India. As a result, animals who are living beings must be preserved, and the humans must recognize and appreciate their well-being, as well as protect them from oppression. Each living animal contains a right to life and security, according to the rules of the state, which incorporates denying it of its life out of human need. When it comes to creature rights enactment, India is still in its earliest stages. With the increasing frequency of clashes between creatures and individuals, there's a critical require for the usage of a modern set of directions. In any case, these directions are right now inadequate to protect the rights of creatures. Notwithstanding, the Indian judicial system has done an extraordinary work of tending to the escape clauses in these animal welfare statutes and has reliably defended the rights of creatures.

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<sup>38</sup> Jens David Ohlin, "Is the Concept of a Person Necessary for Human Rights?", 105 (1) *Columbia Law Rev.* 209, 222 (2005)

## 1. Right To Life:

According to Article 21, everybody has the right to life and individual liberty and cannot be denied of either unless otherwise provided for by law. In the case of *Animal Welfare Board of India v. Nagaraja and Ors*<sup>39</sup>, the preeminent court unequivocally announced in support of animals beneath Art. 21.

According to the Supreme Court, under the law of the land, each species contains a right to existence and safety. Article 21 of the Constitution ensures life in addition to human rights, and the definition of 'life' has been extended, so that any disturbance of the essential environment, which incorporates all shapes of life, including creature life, and is vital for human survival, falls inside the meaning of this article. Judiciary characterized 'life' as more than as it were survival or presence or any other instrumental esteem, but rather living a life with inalienable esteem, respect, and honorable behavior.

In another case, *Gauri Maulekhi v. Union of India*<sup>40</sup>, the illegal sending out of animals and buffaloes from India to Nepal for a devout occasion was addressed. In Nepal, the Gandhimi Celebration is held at an interval of five years, and it is standard to sacrifice creatures such as rat, bat, pig, goats, buffaloes, and so on in order to allow their wishes. This celebration is perceived as one of the biggest penances in human history. Ordinarily, a huge number of creatures were sent out from India amid this Gandhimi Festival.

In another situation, the Preeminent Court chosen in 2014 that the Central Government of India must guarantee that no cattle or buffalo be wrongfully trafficked to Nepal. The Preeminent Court of India issued this arrange in agreement with the terms of the Foreign Trade (Development and Regulation) Act, 1992, which gave the Central Government of India the authority to look at and alter India's send out and moment approaches as required. This authority is allowed to the Central Government beneath Sec. 5 of the Foreign Trade (Development and Regulation) Act, 1992. Judiciary encourage alluded to Schedule 2 at serial number 10 of Table-B of the Act, which said that live cattle and buffalo are within the scope and ambit of creatures that cannot be sent out unless the exporter encompasses a permit to do so. The Supreme Court moreover underlined Sec. 11(3) (e) of the Prevention of Cruelty to Animals Act, 1960. According to Judiciary, by reason of Sec. 11(3) (e) of the Act, the commission or omission of any act in course of destruction of any animal in question cruelly, unless, of course, such destruction or preparation was accompanied by the infliction of unnecessary pain or suffering."

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<sup>39</sup> (2014) 7 SCC 547

<sup>40</sup> (PIL) No.77 of 2010

Judiciary held that pointless torment or enduring should not be incurred on any non-human living creatures fair to satisfy human interface. Judiciary moreover ruled that relinquishing a creature cannot be considered a means of conciliating the Divine beings. Earlier to the choice, Sahastra Seema Bal worked with the solicitor to create a set of standards and directions that must be thoroughly taken after when managing with concerns within the creature and cattle markets. The petitioner's set of rules and directions, shaped in collaboration with Sahastra Seema Bal, were certified by the Court, and Judiciary's choice put accentuation on the significance of entirely following and adhering to the proposals given in these regulations.

In another case, *Ivory Traders and Manufacturers Association v. Union of India*<sup>41</sup>, the applicants were challenging the authorities' denial on them having mammoth ivory and merchandise inferred from mammoth. The solicitors in this case challenged certain adjustments to the Wildlife Protection Act, 1972 that disallowed the commerce of imported ivory articles. The Petitioners' major position in this case was that they did not fit inside the scope of the Wildlife Protection Act, 1972, and were not indeed secured by Amendment Act No. 44 of 1991. The Solicitors were fundamentally disappointed with the Wildlife Protection Amendment Act, 1991, which denied them from managing and putting away ivory gotten from African elephants.

A complete bench of the High Court at Delhi managed over this matter and ruled that the ban forced on the deal and exchanging of ivory items might not be considered outlandish or unlawful. Judiciary held that the confinements forced by the arrangements of the Wildlife Protection Act, 1972, and the Amendment to the Act were in understanding with the arrangements of the Constitution and were not in infringement of the provisions of the Constitution. The boycott ion the deal and capacity of ivory was a reasonable confinement on the elemental right to conduct trade. The Court ruled that a statute sanctioned to defend animals on the verge of termination cannot be considered ultra vires to the necessities of the Constitution, which the correction was made with the security of imperiled species in intellect. The Court ruled that such a statute might not be considered to be in negation of the arrangements ensured by Article 19(1) (g) of the Indian Constitution.

## **2. Right Of Preservation:**

According to Article 48 of the Directive Principles of State Policy, the State is required to organize agriculture and animal husbandry on modern and scientific lines, specifically to preserve and improve the breeds of cows, calves, and other milk and draught beef cattle and to prohibit their slaughter. Cow slaughter is a sensitive subject in India since cows are venerated

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<sup>41</sup> AIR 1997 Del 267

as sacred animals among several religious groups, namely Hindus, Jains, Zoroastrians, and Buddhists.<sup>42</sup>

The Supreme Court considered the validity of Bihar's cow slaughter ban statutes in *Abdul Hakim Qureshi v. State of Bihar*<sup>43</sup>. The Petitioner claimed that the legislation violated Muslims' fundamental "right to religious freedom under Article 25 of the Constitution" by interfering with the practice of religious traditions. The petitioner used the sacrifice of cows on "Bakr-Id Day" as an example. The Supreme Court of India held in its decision that no Islamic text, including the Hidayah and the Quran, sanctioned cow slaughter. Instead, goats or camels might be sacrificed. As an outcome, the Court assessed that outlawing cow slaughter in its entirety did not violate Muslims' right to religious freedom. According to Judiciary, the directive only applies to cows, calves, and other animals capable of producing milk or working in drought conditions.

The Supreme Court concluded in *Mohd. Hanif Qureshi v. State of Bihar*<sup>44</sup> that a total ban on cattle slaughter was not legal if, under monetary conditions, maintaining unproductive livestock would be a burden on society. In the case of *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*<sup>45</sup>, was determined by a 7 judge Supreme Court Constitution bench. The Supreme Court by a majority decision of 6:1, upheld the constitutional validity of the Bombay Animal Preservation (Gujarat Amendment) Act, 1994, which introduced certain amendments to Sec. 5 of the Bombay Animal Preservation Act, 1954 as applicable to the State of Gujarat, under which the slaughter of bulls and bullocks of any age was completely prohibited, in addition to the complete prohibition of the slaughter of cows. It declared that Article 48 prohibits the slaughter of cows and their offspring. It states that cattle that have served the human race for many generations should be treated with kindness in their old age, even if they are no longer useful. Furthermore, Judiciary concluded that citizens must have sympathy for animals based on a combination of Article 48 and Article 51-A (g) of the Constitution of India. In addition, Judiciary declared that animals had fundamental rights of their own. Article 48 specifically states that the state must make every effort to prohibit the slaughter of cows, calves, and other dairy and draught livestock.

### 3. Right Of Compassion:

Article 51A (g) of the Indian Constitution states that we have a fundamental duty to safeguard

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<sup>42</sup> An overview of animal protection laws in India, available at: <https://blog.iplayers.in/overview-animal-protection-laws-india/> (last visited on April, 2023)

<sup>43</sup> 1961 AIR 448

<sup>44</sup> AIR 1958 SC 731

<sup>45</sup> (2005) 8 SCC 534

wildlife and to have compassion for all living creatures. Animals have the right to be treated with compassion as a result. According to the Supreme Court, Articles 51A (g) and 51A (h) are the foundations of Indian animal rights jurisprudence. The Supreme Court of India ruled in *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat and Ors*<sup>46</sup>, that the Parliament enacted Article 51A to be read in conjunction with Articles 48 and 48A, ensuring that all provisions are read in accordance with the spirit of the law.

The question of skinning a tiger in Andhra Pradesh zoo arose in the case of *Naveen Raheja v. UOI*<sup>47</sup>. When Judiciary heard the facts of the case, they were completely taken aback. The tiger received no protection from those tasked with protecting and safeguarding them. The Apex Court deemed it very important to summon the Chairperson of the Central Zoo Authority to testify before Judiciary and explain the steps being taken to maintain and preserve tiger species in zoos and protected forests. Judiciary then issued the tiger protection orders. The Supreme Court then issued appropriate measures in the case, including directives regarding tiger conservation. The Supreme Court clarified that it is vital for the Central Zoo Authority to take notice of this issue and take the required actions to preserve the condition of these voiceless creatures, as their current position is distressing and far from suitable.

#### **4. No Animal Shall Be Slaughtered:**

Animal sacrifice is viewed as sensitive in Indian culture. Even though it is illegal to sacrifice animals for religious purposes in public, this does not always correspond to reality. Despite numerous cautions and recommendations, flagrant legal violations continue to occur across the nation. Animals may not be butchered in public as per the Prevention of Cruelty Act of 1960. Accordingly, the Act mandates that a slaughterhouse be set aside in every state of India for any slaughters that take place inside municipal corporation boundaries. Each slaughterhouse and the quantity of animals sacrificed nearby ought to be proportional to the local population.<sup>48</sup>

According to Rule 3 of the Prevention of Cruelty to Animals (Slaughterhouse) Rules, 2001, it is illegal to slaughter any animal, including chickens, anywhere other than a slaughterhouse. Animals that are sick or pregnant must not be slaughtered. In Bihar, the Bihar Preservation and Improvement of Animals Act of 1956 was passed, which prohibited the killing of all bovine cow species. The Uttar Pradesh Prevention of Cow Slaughter Act, 1955, was adopted in Uttar Pradesh, and it also prohibited the slaughter of cows and their offspring, which included bulls,

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<sup>46</sup> (2005) 8 SCC 534

<sup>47</sup> (2001) 9 SCC 762

<sup>48</sup> An overview of animal protection laws in India, available at: <https://blog.ipleaders.in/overview-animal-protection-laws-india/> (last visited on April, 2023)



bullocks, heifers, and cows. The CP and Berar Animal Preservation Act, 1949, was updated and implemented in the state of Madhya Pradesh, and it imposed a total ban on the slaughter of cows and female calf of a cow, while the male calf of a cow, bull, bullock, buffalo (male or female, adult or calf) could be slaughtered after acquiring a certificate.

The constitutionality of these three statutes was challenged in the case of *Mohd. Hanif Qureshi v. State of Bihar*<sup>49</sup> on three grounds. The Supreme Court decided as follows:

- a. A total ban on the slaughter of cows of all ages and calves of cows and calves of she-buffaloes, male or female, was quite reasonable and valid and is in accordance with the directive principles laid out in Article 48;
- b. A complete prohibition on the slaughter of she-buffaloes or breeding bulls or working bullocks (cattle as well as buffaloes) as long as they are suited for being used as milch or draught is valid;
- c. A total prohibition on the slaughter of she-buffaloes, bulls, and bullocks (cattle or buffalo) after they ceased to be capable of producing milk, reproducing, or functioning as draught animals could not be justified as reasonable in the interests of the general public, and was therefore invalid.

The Supreme Court further said that it is part of India's recorded history that the Mughal Emperor Babar saw the sense in barring the killing of cows as a religious sacrifice and urged his son Humayun to do the same.

Cow slaughter is also reported to have been outlawed by Emperors namely - Akbar, Jehangir, and Ahmad Shah. Nawab Hyder Ali of Mysore declared cow slaughter a penal offence, punishable by the severing of the offenders' hands. There is no evidence on the record that allows us to conclude, in light of the preceding circumstances, that the sacrifice of a cow on that day is an obligatory overt act for a Muslim to demonstrate his religious conviction and idea.

The Supreme Court also rejected a challenge to the constitutional legitimacy of the aforementioned statutes based on Article 14's right to equality. Judiciary remarked that beyond a certain age, cow progeny ceased to be valuable as draught cattle and, while useful otherwise, became a burden on the limited fodder available, which would have been accessible for consumption by milch and draught animals but for the so-called useless animals.

The court additionally observed that the states' response to the establishment of "Gosadans" i.e. protection houses for cows and their offspring was inadequate. Finally, the Court concluded

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<sup>49</sup> AIR 1958 SC 731

that, despite an inference in favour of the validity of the legislation and respect for the legislatures' opinions as expressed by the three impugned laws, a total ban of the nature imposed could not be justified as reasonable in the interests of the general public.

Nobody else than the Government has the authority to capture or relocate strays who have been surgically sterilised for birth control.

According to the Animal Birth Control (Dogs) Rules, 2001, which are notified under the Prevention of Cruelty Act, 1960, the control of stray populations and the spread of rabies is possible through the practice of sterilisation and immunisation, rather than the dislocation and killing of animals. In the event of a disagreement between these Rules and any local legislation, the Rules will take precedence, unless the local law is less stringent. Furthermore, it will be the responsibility of local authorities to ensure that sterilised stray dogs can be identified and returned to their region.

#### **5. Right To Sufficient Food, Drink and Shelter:**

Sec. 11(1) (h) of the Prevention of Cruelty to Animals Act, 1960 states - any person who is the owner of an animal, who fails to provide the animal with enough food, water, or shelter commits cruelty to the animal. If a person who neglects an animal by refusing it - food, water, shelter and exercise, or by keeping it chained or imprisoned for an extended period of time, they could face a fine, up to 3 months in jail, or both.

#### **6. Right Of Monkeys As A Special Species:**

The protected species of langur is listed in Schedule II of the Wildlife Protection Act of 1972. Trading, owning, buying, selling, or putting langurs on rent is violative of the act. In case of breach, the penalty is 3 years in prison or a fine, or both.

It was later found out that many Government organisations were breaking the law by hiring poachers and supplying ID cards to the langur owners. The langurs were kidnapped by the poachers from the forests. On October 15, 2012, the Wildlife Crime Control Bureau advised Government agencies that langurs cannot be hired and presently employed langurs must be removed.<sup>50</sup>

#### **7. No Cosmetics, Drugs or food product shall be tested on Animals:**

Recommendations were made to the Ministry of Health and Family Welfare by PETA (India), which culminated in publication of the revised Cosmetics Rules, 2020. The Rules established a

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<sup>50</sup> An overview of animal protection laws in India, available at: <https://blog.iplayers.in/overview-animal-protection-laws-india/> (last visited on April, 2023)

revised separate regulatory framework for the examination, production, sale, exhibition, and importing of cosmetics. These rules included safeguards and measures for proper implementation of them to ensure restrictions on the import of animal tested cosmetics. The first Asian country to outlaw animal testing of cosmetics and their ingredients, as well as the importation of tested products was declared to be India. A crucial component of required guidelines is - no act can be justified by the prospective benefits of any novel cosmetics that can cause any harm to animals.

In the case *Ozair Hussain vs. Union of India*<sup>51</sup>, a write petition was filed in order to provide protection of various rights of persons who are out-rightly opposed to use of animals in any products. They wanted to make it compulsory for the manufactures to produce of list of ingredients on the packaging which would allow consumers to make a decision before using of the product. The petitioner further demanded that state should make it a compulsion to reveal the list of contents on any - cosmetics, pharmaceuticals, or food products that it sells.

In case the manufacturers use any kind of animal fat or meat or there is any animal utility in making of the products, such use shall be prominently stated. Further the petitioner stated that any product having any animal content should have a sign on the packaging to segregate it and make it easily recognizable by any lay man to understand and be able to make a choice.

Petitioner in this case was an animal welfare activist and a member of many animal care organisations. He was an outright objector of conceiving or using animals in any form for the purposes of - food, medicinal, or cosmetics. The main contention made by him was of full disclosure and transparency of the contents or composition of nay manufactured products by various companies and that they should be marked for the purpose of easy segregation by consumers in their choices. The mark upon any manufactured products would convey the originality of it and any person who are literate or illiterate can make an informed decision before purchase. The Petitioner claimed that Articles 19(1) (a), 21, and 25 of the Indian Constitution, as well as the Preamble to the Indian Constitution, require complete disclosure of facts. The Petitioner's major point was if the provisions of the Constitution require the revelation of information. The Delhi High Court, taking into account the provisions of Article 19(1)(a) of the International Covenant on Civil and Political Rights, as well as the provisions of Article 10(2) of the International Covenant on Civil and Political Rights, has declared that the packaging of various food items, drugs i.e. except those which fall under the scope of life saving drugs, and cosmetics should contain a full disclosure, providing the complete list of ingredients

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<sup>51</sup> Civil Writ Petition No. 837 of 2001

that go into the manufacturing of the product. Indication of the item if vegetarian or non-vegetarian should be made. Any food product that contains whole or any part of animal (milk excluded), should be labelled by “a brown circle within a square boundary” indicating that it is a non-vegan food item. In the same way, finished goods that do not contain any animal products, shall be marked by a “green circle with a square outline”, indicating it to be a vegan food item.<sup>52</sup>

#### **8. Right to Protection against Hunting:**

Sec. 9 of the Wildlife Protection Act of 1972 forbids hunting of some wild creatures, including Indian Elephants and Lions, Leopards, Royal Bengal Tigers, Great Indian Bustard, and others. In *Mahaveer Nath v. UOI*<sup>53</sup>, petitioner challenged Sec. 9 of the Act on the grounds of the restrictions mentioned in this sec. He claimed that restrictions violated his - right to a living. He contended that because Sec. 9 of this Act prevented him from keeping snakes, it was a breach of his rights to do trade and his right of life under Articles 19(1) (g) and 21 of the Constitution, respectively. Judiciary therefore emphasized that “Article 19(1) (g)” was a qualified right, and that reasonable restrictions can be put in it for the general welfare of the community.

Judiciary addressed elephant hunting in *State of Bihar v. Murad Ali Baig*<sup>54</sup>. Judiciary was asked if hunting elephants is justified under the rules of the Indian Penal Code and the Wildlife Protection Act. The word, “hunting” has been defined under Sec. 2(16) of the Wildlife Protection Act, 1972 as: “*Hunting means- i) the killing or poisoning of any wild animal or captive animal as well as an attempt to do so; ii) capturing, coursing, snaring, trapping, driving or baiting any animal as well as any attempt to do so; iii) injuring or destroying or taking any part of the body of any such animal; iv) in the case of wild birds or reptiles, damaging the eggs of such birds or reptiles or disturbing the eggs or nests of such birds or reptiles.*” The case further dealt with the provisions of Sec. 9 of the Act, which lay down that, “*No person shall hunt any wild animals specified in Schedules I, II, III and IV except as provided under Sec. 11 and 12 of the Act.*”

Judiciary then addressed Sec. 10 and 11 of the Wildlife Protection Act of 1972, which contain Schedules of the legislation including a list of creatures. The Hon'ble Supreme Court ruled that since elephants are inside the scope and list of animals listed in ‘Schedule I’, hunting them is not permissible.

Furthermore, Judiciary stated that the offence of hunting as described in the Wildlife Protection

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<sup>52</sup> 15 Landmark Judgement of Indian Judiciary on Animal Rights, *available at*: <https://legaldesire.com/15-landmark-judgement-of-indian-judiciary-on-animal-rights/> (Last visited on April, 2023)

<sup>53</sup> Writ Petition No. 5179 OF 2016

<sup>54</sup> AIR 1989 SC 1

Act of 1972 is not the same as the offence established in Sec. 429 of the Indian Penal Code of 1860. Components of the offence under the Wildlife Protection Act and Indian Penal Code are divergent. As a result of which the offences are not interchangeable.<sup>55</sup>

### **9. Right against harm and mischief:**

It is unlawful to kill, poach, de-skin, poison, or disable any creature, according to Sec. 428 and 429 of the Indian Penal Code. By law, it is not allowed to throw acid or other poisons on cows. Furthermore, the Act makes it illegal for cars to purposefully cause injury or kill cows, cats, or dogs on the road. The crime is punishable by a Rs. 2000 fine or up to 5 years in prison, and it can be reported to any police station or an animal protection group.

In the case of *State of Uttar Pradesh v. Muskateem and Ors.*<sup>56</sup> State of Uttar Pradesh was found having transported goats for slaughter in a cruel manner. The goats were securely tethered to one other. This violated the Prevention of Cruelty to Animals Act, 1960. The owner was charged with a felony. However, while the case was being litigated, the UP High Court returned custody of the goats to the owner. On appeal, the Supreme Court ruled that animals should be taken from their owner and put in a “gaushala” under the care of the State Government., which was given custody of them for the duration of the case. With this decision, Judiciary made it quite apparent that, once an animal was removed from a person's care due to cruelty, the animal would not be restored back to the owner again till the issue was concluded.

### **10. Animals shall not be fed poisonous edibles or drugs:**

It is not barred by law to feed homeless animals on the streets. Every citizen has a moral obligation to provide with food to the strays who rely on humans for their existence. However, it is not regarded a moral obligation to offer harmful edibles to strays or to administer any detrimental chemical or drugs to them. Such behaviour is prohibited under Sec. 11(1) (c) of The Prevention of Cruelty to Animals Act, 1960.

### **11. Animal shall not be kept in a cage:**

Sec. 11(1) (e) of the Prevention of Cruelty to Animals Act, 1960 states it is not legal to imprison or retain any stray animals or pet animal in cages or containers that causes unreasonable hurt, distress and anguish. In case, animals have to be contained inside a cage, it should be big and wide enough, and tall enough to allow the creature to walk around comfortably.<sup>57</sup>

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<sup>55</sup> The Conceptual Study Of Animal Rights Under Indian Law, *available at*: <https://www.legalserviceindia.com/legal/article-5260-the-conceptual-study-of-animal-rights-under-indian-law.html> (Last visited at April, 2023)

<sup>56</sup> (2008) 1 GCD 268

<sup>57</sup> Soibam Rocky Singh, “Delhi HC issues directions on feeding, managing stray dogs” *The Hindu*, July 01, 2021

## 12. Right against display for entertainment:

It is illegal to exhibit or train animals, according to Sec. 22 of The Prevention of Cruelty to Animals Act, 1960. If this is the case, the person must have legal paperwork obtained from the Government. Furthermore, Union Government has ability to rule that a specific creatures cannot be displayed for entertainment purpose by notifying it in the official Gazette.

In *People for Ethical Treatment of Animals v. Union of India*<sup>58</sup>, the High Court of Bombay decided that every movie wanting to make animals perform must get a “No Objection Certificate” from The Animal Welfare Board of India. This judgment provides improved protection for animals during the filming process. The judgment consequently bars creatures being made a part of the additional abusive practices such as being subjected to loud, unusual sounds, being beaten up, or deprived of water and food.

## 13. Right to a safe environment:

According to Sec. 38 (j) of the Act, it is illegal to “tease, molest, injure, feed, or otherwise disturb any animal through noise or other means.” It is covered by Wildlife Protection Act of 1972. Any person found guilty of the crime faces prison time.

In the case of *Shri Sachidanand Pandey and Anr. v. the State of West Bengal and Ors.*<sup>59</sup>, also known as the town planning case. In this case the Government of West Bengal grants lease to the Taj Group for 4 acres land belonging to Calcutta Zoo logical Garden for the establishment of 5 star hotels. This giving away of this 4 acre land to the Taj group challenged by the PIL petition by the Secretary of the union of workmen of zoological garden and the live member of zoo.

The Apex Court ruled that, anyone who disturbs the peaceful living of animals in the zoo's premise shall be accountable and penalized with jail time up to 7 years or a fine of Rs. 25,000, or both.

## 14. Right as legal persons:

On 2<sup>nd</sup> of June, 2019, the High Court of Punjab and Haryana created history by issuing a landmark decision proclaiming that all animals are legal people with their personal set of rights, much like humans. Judiciary then recognised that every animals have respect, dignity, and some other inherent rights that must be safeguarded by law in the case of *Karnail Singh and Others v. State of Haryana*<sup>60</sup>. The complete kingdom of animals, including aquatic and avian specie,

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<sup>58</sup> Writ Petition (PIL) (Lodging) No. 2490 of 2004

<sup>59</sup> 1987 AIR 1109

<sup>60</sup> CNLU LJ (9) [2020] 300

is deemed to be legal creatures with separate personas and the rights, obligations, and indebtedness of living people. The Bench issued 29 mandatory orders concerning the wellbeing of the animal kingdom, including orders concerning vet care, shelter, and animal food. This spectacular decision ensures that animals will not be considered as mere property. They are no longer an item for humans to 'use and abuse,' but rather humans have been entrusted with the task of being a parent or guardian to animals, i.e. *loco parentis*.

The issue is not one of legal or legislative problems, but rather one of enforcement and implementation. As a result, raising awareness may aid authorities in enforcing laws by increasing public pressure.<sup>61</sup>

## V. CONCLUSION & SUGGESTIONS

### Conclusion

Animals, too, have certain interests or prerequisites for their well-being. Animal rights proponents have argued that having a welfare or interests is sufficient grounds for being entitled to rights. Humans too assert rights based on their own interests and well-being. As a result, the rationale for granting rights to animals is warranted. If animals do not have rights, they are not living beings, leaving them to be things. Animals are living beings with lives and interests of their own. It is therefore critical to provide them with protection in the form of rights through the use of human laws.

There is an increasing awareness of the impact that human actions have on animal populations and habitats, and efforts are being made to protect endangered species and preserve natural habitats. At the same time, there are still many instances of animal cruelty and exploitation that continue to occur in our society, and many animal rights advocates argue that more is required to be done in order to protect animals and promote their welfare.

Despite numerous existing laws pertaining to animal welfare, their effectiveness is still far from what they were intended to accomplish. In general, animal protection legislation have been careless and even considered to have failed animals.

No animal can talk for itself. In light of this, we must have compassion for all living things. Even though animals cannot speak for themselves, it is our duty to do so. They should not endure any torment or anguish. The ecological equilibrium must be preserved. Any species being extinct might cause the ecosystem's balance to be thrown off. A 2019 United Nations

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<sup>61</sup> Pankhuri Bhatnagar, "Karnail Singh and Others v. State of Haryana Animals are Legal Persons with Parents" SCC Online Web Edition 301-309 (2023)

research states that owing to human interference with the natural environment, over one million species will go extinct in the near future.

It is also basic for courts of law to maintain values which adjust to the underpinnings of what comprises jurisprudential hypothesis whereas translating provisions of administrative acts and laws. Receiving a right based approach to ensuring creature well-being will not as it were be conflicting with essential concepts of who the holders of rights are, but it will moreover be an unworkable way of understanding the issue at hand, specifically, the lawful security of creatures. Giving animals rights is improbable to have the required impact due to issues of standing as well as problems with current human rights. As a result, the right approach is one that as of now exists in Indian law and Constitutional Law, one that forces a coordinate and positive obligation on people. By taking the stance, judiciary can interpret laws, rules and policies pertaining to the welfare and safeguard of animals in a way that is compassionate and deserving of respect, and they can also avoid resolving conflicts between the rights of animals and people. Lawmakers frequently use the phrases "rights" and "duties" interchangeably when applying jurisprudential theory, which frequently causes uncertainty. Actually, only a single one of the two ideas is specifically mentioned. Given that it has been determined that animals do not have "rights" in the legal sense of the word, it is clear that the focus of laws should be their responsibility to non-human animals. The conceptual clarity of each problem that is brought before the courts of law is improved, and enforceability issues are reduced.<sup>62</sup>

Addressing animal pain does not always imply ignoring human suffering, which frequently arises from comparable forms of oppression, discrimination, and exploitation. Several factors, including culture and social norms, must be examined in order to comprehend and manage these complicated difficulties. Animal rights advocates argue that the existing treatment and attitude towards nonhuman animals does not reflect Indian culture's pro-animal stance.

Overall, the place of animals in our society today is still evolving, and there is ongoing debate and discussion about how best to balance the needs and interests of humans with those of animals. However, it is clarified that animals perform an important role in our world, and that is why welfare and protection are important ethical and social issues that require our attention and action.

### **Suggestions**

In this research, the researcher submits the following suggestions:

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<sup>62</sup> 'Landmark Judgment of Indian Judiciary on Animal Rights', *available at*: <https://www.pashudhanpraharee.com/landmark-judgement-of-indian-judiciary-on-animal-rights/> (Last visited on April, 2023)



- (i) In addition to the legislations, policy creation is crucial in all areas of life. The management of fauna is impacted both immediately and broadly by policy. It is essential to have improved wild animal protection policies. As a result, the Ministry of the Environment needs to develop a strategy for conservation and protection that is all-encompassing, fair, and unbiased.
- (ii) It is obvious that issues with creature security are not as it were technical, but moreover social, lawful, political, and financial in nature. There are a many individuals included. Field specialists, non-Governmental associations (NGOs), policymakers, and preservation researchers are among them. Each of them has particular information in the preservation and assurance of wild creatures and may make significant commitments to policymaking. The existing policymaking structure does not consolidate a partner approach, which may result in a missed potential for systemic pick up from partner support in overseeing preservation and security of wild creatures. As a result, their interest ought to be guaranteed in order to extend the foundational information and construct prepare of shared learning and self-correction.
- (iii) Policy development research is essential because policy creation is an ever-changing and dynamic process. The Government. can strengthen animal protection laws to ensure that those who commit acts of cruelty are punished severely. The laws should also be enforced more strictly.
- (iv) The Government of Indian territory has established a Department of Wildlife within the Ministry of Environment and Forests. It is proposed that, Central Government charge such a department with promoting multidisciplinary research by offering scholarships for study in the fields of law, science and technology, and social science, for the protection and conservation of wild creatures. Some endeavors should be done to establish a multi-disciplinary center at the university level in order to stimulate research in this sector. This would be an important step to widespread inculcation of the awareness of animal rights and protection.
- (v) Compassion for animals should be promoted in schools, colleges, and universities. Children and young adults should be taught to treat animals with kindness and respect.
- (vi) The business actions have given policymakers reason for concern. In protected regions, it is still occurring in some capacity. Accordingly, it was opined that the Government should take action to firmly prohibit every forms of commercial activities around protected regions and make sure that ban is followed in letter and spirit.

- (vii) It is a universal fact that humans learn from their past experiences. Previous experience reveals that a syndicate of NGOs had provided the executive and legislative officials a tool to safeguard the animals of the wild, moving in the way outlined at the International forum. Wildlife (Protection) Act, 1972, was composed in such a way as to coordinate the views of an endless number of NGOs that creatures ought to be seen and treated as conscious creatures instead of commodities or products. As a result, there's a critical requirement to shape a committee with adequate NGO representation to prompt activities to the National and State authorities for the preservation of wild creatures on a normal premise. The part of the NGO ought to be perceived and acknowledged by granting them for their benefit in this field. At the same time, it is basic to distinguish and punish imposter Non Governmental Associations (NGOs) that are mindful for poaching and unlawful exchanging beneath the pretense of wild animal protection. Without understanding of the public and obligation in the process, the law cannot bring about the desired transformation in society on its own. Wild animal poaching will decrease as a result of the increased public awareness caused by the increased media attention given to wildlife violations.
- (viii) In order to ensure a low level of corruption, the media acts as watchdogs for court procedures. Through a number of TV and radio programs, an attempt should be made to spread the word about the media coverage to a larger audience.
- (ix) Circuses are as it is exceedingly brutal to creatures, moreover they serve a commercial center for buying and deal of wild-creatures, animal parts, and products of creature. They must be either precluded or exceedingly regulated.
- (x) Forests and the preservation of wild creatures and fowls are on the constitution's concurrent list. The State has the authority to revise their approaches or law with respect to wild-creatures and ensure regions which are protected. States can alter the boundaries by favoring a determination within the state legislature with a simple sitting majority.
- (xi) Increase spread of awareness among consumers before buying any finished products in the market to avoid using animal cruelty products.
- (xii) There must be regulation and check on bush meat trade in the market. Efforts to combat the illegal meat trade in India must involve a multi-pronged approach, including education and awareness campaigns, law enforcement and penalties for offenders, and support for legal and regulated meat production practices. The welfare of animal and protecting the health of consumers requires a commitment to ethical and sustainable

practices throughout the meat production chain.

- (xiii) Controlling the population of animals through spaying and neutering is an effective way to lessen the population of strays on the streets. This will also reduce the incidence of animal cruelty.
- (xiv) People need to be encouraged to report instances of animal cruelty. There should be a system in place to receive and act on such reports.

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