

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 4 | Issue 4

2021

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Analysis of Animal Protection Laws in India: An Intent to Check Cruelty against Animals

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ABSTRACT

In India, abuses against animals are quite common, especially against domestic animals. Stray dogs, cats, cattle, etc. are subjected to inhumane cruelty by human beings. Though there are various legislations like the Prevention of Cruelty to Animals Act, 1960 and Wildlife Protection Act 1972, they are not sufficient to check animal cruelty. Leeway in this legislation and also lenient punishments degrade the purpose of these acts. Necessary changes in the laws protecting animal rights will ensure the safety of animals as well as reduce the abuses against animals. Making the laws stringent is the only way to eradicate the inefficacy of our animal protection laws.

Keywords: *Animal Rights, Animal Cruelty, Wildlife Protection, Punishment of Animal Abuse.*

I. INTRODUCTION

India, with its outstanding biodiversity, is a shelter to numerous plant and animal species. An estimated range of around 45,000 species of plants and 91,000 species of animals are present in India. The wide variety of animal species includes various rare and exotic ones like Lion-Tailed Macaque, Himalayan Tahr, Red Panda, Kashmir Stag, Nilgiri Marten, Chiru Goat, Snow Leopard, Golden Langur Etc. Most of these rare animals are endangered species thus it's quite crucial to protect them. India is also rich in various other wild and domestic animals. Human beings, being the most dominant animal on Earth is supposed to take care of other companion species but we not only don't care for them but also make them the target of our horrifying brutality. There are laws in India like The Prevention of Cruelty to Animals Act, 1960, The Wildlife (Protection) Act, 1972, Animal Birth Control Rules, 2001 Etc. but these laws are not enough to prevent or at least reduce the rate of animal cruelty in India.

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II. CRUELTY AGAINST ANIMALS

Animals are subjected to various types of cruelty by human beings. The most common victims of animal cruelty are dogs, cats, horses, cattle, and other domestic animals. Animal cruelty can be referred to as the infliction of harm or any kind of suffering upon animals, either by the commission or omission by human beings. Though the cases of animal abuse are increasing day by day, the lack of compilation of such cases makes it difficult to understand the depth of this horrifying situation. Animals are abused in various areas such as in laboratory experimentation, dogfighting, hoarding, genetic manipulation, puppy mills, circus, animal smuggling, Sexual harassment of animals, Etc.

(A) Animal experimentation

Non-human animals are used in laboratories to conduct research, tests, and experiments to learn and find solutions to various biological problems. Animals are tried with new medicines, treatment methods, and surgical techniques to ensure that it is safe to be used on human beings. For the benefit of humans, animals are forced to undergo distress, pain and at last, they are even killed. Research or testing may be successful for humans but for animals, their basic right to life itself is infringed. Other than medical testing, animals are used for testing food, drugs, cosmetics, etc.

India has banned the use of animals for cosmetics testing on 23rd May 2014. The Drugs and Cosmetics (Fifth Amendment) Rules, 2014 ban the import of cosmetics that have been tested on animals². India has achieved the milestone of being the first South Asian country to take a stand against animal cruelty and to ban the use of animals for cosmetic testing. India has taken a step towards the eradication of animal testing but using animals for drug testing is still prevalent. Drugs to be used on human beings no matter how successful animal tests are, still need to be tested on human beings to verify the safety as well as the efficiency of the new drugs. So, considering this, new legislation and amendments to the existing legislation are needed to reduce animal drug testing and also to introduce alternatives for this practice.

(B) Dog Fighting / Animal Fighting

In India, though the practice of dogfighting is considered illegal it's quite common. Dogfighting is a type of blood sport in which the dogs are trained to fight for the enjoyment of spectators and financial gains. It's seen both in rural and urban areas. Dogfights usually end by proclaiming one of the dogs as the winner and the other brutally hurt or dead. For the

² The Drugs and Cosmetics Rules, 1945, § 135(B), The Gazette of India, pt.II sec.3(October 13, 2014).

entertainment and monetary benefit of human beings dogs are tortured and made to fight to the extent of losing their life.

Similar to dogfighting, there are other animal fighting and races like cockfighting, bullfighting, etc. Bullfighting or *Jallikattu* is a traditional event of the State of Tamil Nadu, which is associated with a festival called *Mattu Pongal*. This sport is dangerous to both the participants and the bulls. One of the best indigenous draught breeds called the Pulikulam breed is used for *Jallikattu*. This festival of *Jallikattu* affects the life of the Pulikulam breed and considering the depth of the situation Supreme Court has imposed a ban on *Jallikattu*.

AWBI v. A. Nagaraja and Ors³, In this case, the honorable Supreme Court observed that the *Jallikattu* and other forms of bull races induce an enormous amount of pain and stress to bulls. Hence the contention of the Animal Welfare Board of India that the *Jallikattu* violates the provisions of the Prevention of Cruelty to Animals Act, 1960 was approved and the Court banned *Jallikattu* and all other animal fightings.

But later on, considering the protests for *Jallikattu*, the Tamil Nadu government passed an Ordinance, and *Jallikattu* and its other forms are still ongoing in many parts of Tamil Nadu⁴.

By section 11(1) (m) and 11(1) (n) of the Prevention of Cruelty to Animals Act, 1960, organizing, participating, or inciting animal fights is an offence but its punishment for the first time offender is fine which is not less than ten rupees and which may extend to fifty rupees, only a subsequent offender gets a punishment of imprisonment of 3 months or fine of 100 rupees or both, which is also very lenient.

(C) Hoarding

Animal hoarding happens when someone keeps a large number of domestic animals and fails to provide them even the basic standards of food, sanitation, veterinary care, shelter Etc. It is mostly associated with the mental condition of compulsive behaviour. Animal hoarders consider themselves caring for the animals by keeping them but in reality, it is more of an addiction and a psychological condition. These animals without a minimal standard of living are prone to excruciating pain which can even ultimately lead to their death.

One of the major cases that dealt with animal hoarding in India, was that 55 cats were found in poor sanitary conditions in an apartment in Pune. They were forced to live in a filthy place

³ Animal Welfare Board of India v. A. Nagaraja & Ors, (2014)7 SCC 547 (India).

⁴ Michael Safi, *Tamil Nadu passes order to lift bull-taming ban after angry protests*, THE GUARDIAN (Aug. 05, 2021, 10.03 PM), <https://www.theguardian.com/world/2017/jan/23/tamil-nadu-passes-order-lift-jallikattu-bull-taming-ban-india-protests>.

covered with feces and without proper food or clean drinking water. The felines were severely traumatized. They were later rescued and their custody was given to ResQ Charitable Trust, an animal welfare organization. It was after 6 months of the legal war, the court ruled out in favor of animal welfare. Since the accused in the case didn't follow the court's judgement of fulfilling a bond, the cats were forfeited under the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017.⁵

(D) Genetic Manipulation

Animals are genetically engineered just to achieve human needs as if they are nothing but the possession of human beings and have no right to life. Genetically manipulating animals will bring new opportunities and favorable results to mankind only at the risk of their lives. Transgenic animals tend to have higher productivity along with that they are more susceptible to infectious diseases. Cattles like dairy cows which are administered with the rBgh (recumbent Bovine growth hormone) to increase their milk productivity rate are highly prone to Bovine mastitis (Udder Inflammation). Genetic engineering involves the manipulation of the animal genome that is the insertion or deletion of the DNA strands that results in the modification of the genetic homeostasis of the manipulated animal. This genetic manipulation causes the animals to have unpredictable behavioral changes like lameness, decreased fertility, reduced immunity Etc. Genetic engineering does nothing but harm and distress to animals.

In India, there are laws to regulate genetically modified organisms and their products under the Environment (Protection) Act, 1986 but there are no laws to prevent the cruelty animals face due to genetic manipulation.

(E) Puppy Mills

Everyone is fond of exotic pedigreed dog breeds and that too at a cheap price. This greed of man is the base cause of puppy mills. Puppy mills can be called a place where puppies are bred for sale usually in intensive and inhumane conditions. Puppy mills are legal in India as long as the breeders comply with the rules and regulations imposed by the Government of India. In this, the breeders artificially speed up the estrus cycle of female dogs and they are not given sufficient time to recover between their every litter. Puppies are bred in unhygienic filthy conditions and also the breeders don't care enough to inoculate these puppies. These puppies tend to suffer from various infectious diseases like Rabies, Canine distemper, Canine parvovirus Etc and also when the mother dog wears out of breeding they usually abandon or

⁵ HUMANE SOCIETY INTERNATIONAL/ INDIA, <https://www.hsi.org/news-media/pune-cats-032018/> (last visited Aug. 5, 2021).

kills it⁶.

Puppies, as well as the mother dog, suffer from inhumane cruelty for the monetary benefit of illegal breeders. Though there are rules like Prevention of Cruelty to Animals (Dog Breeding and Marketing) Rules, 2017 to control and regulate illegal breeders, there are no laws to protect these animals from illegal breeders and also to ensure mandatory vaccination against various infectious diseases like rabies, canine distemper, parvovirus, etc.

(F) Animal Circus

Circuses are conducted for entertainment but behind the curtain, various animals are ill-treated and distressed. In circuses, animals are forced to be performed in dangerous ways and for that, they are beaten or severely abused. Tigers are naturally scared of fire yet they are forced to jump through fire hoops likewise elephant being the largest land mammal is forced to ride a bicycle and sloth bears are forced to dance, this is a never-ending list. Trainers use harsh methods to train these animals and their entire life gets confined within cages that too without proper food, water, or hygienic environment. Animals being forced to live like this suffer from various diseases some of which may be zoonotic, behavioural, or neurotic disorders.

After 2001, the free run of circuses stopped and started getting regulated under the Performing Animals (Registration) Act 2001, as per the provisions of this Act, animals cannot be displayed, exhibited, or used for performance without mandatory clearances and after 2017, wild animals protected under the Wildlife Protection Act, 1972 was banned from being used in performances.

In the case, *N.R Nair and Ors. v. Union of India*⁷, the Kerala High Court upheld the notification of the Ministry of Environment and Forests stating that wild animals like bears, tigers, panthers, monkeys and lions are prohibited from being trained or exhibited as performing animals.

(G)Animal Smuggling

Illegal trading of animals especially endangered and rare wild animals are one of the major wildlife crimes. India, being the home to a wide variety of rare animal species, the transnational crime of wildlife trafficking has endangered the very existence of numerous animal species. Poaching or the illegal hunting and capturing of wild animals is one of the growing concerns in India. People either captures or kills wild animals that enter their property based on their

⁶ Crystal Pereira, *Puppy Mills: The Sickening Truth behind Illegal Breeders in India and How you can stop them*, DAWGIE BOWL. BLOG (Aug. 06, 2021, 06.45 PM), <https://dawgiebowl.com/blog/puppy-mills-in-india/>

⁷ N.R. Nair v. Union of India, AIR 2000 Ker 340.

land-use rights and some may even hunt it as a matter of pride as if it is their territory and no animal is supposed to enter it.

In India, there is an absolute ban on selling or illegally trading Indian wildlife species, and for this reason, animal smugglers have shifted to the illegal trafficking of exotic species. From various parts of India, there are reports of exotic breeds being trafficked, for instance, In Assam, exotic animals found in the Amazon rainforest of Brazil like Golden-headed Tamarin, Macaws, and Silvery Marmosets were found being illegally transported in a private vehicle⁸. Similarly on 19th February 2021 around 80 exotic animals were seized by the Customs and the Assam Rifles at the Indo- Myanmar border of the Mizoram District. The rescued animals included rare animals like Red-footed Tortoises, Leopard Tortoises, Bearded dragons, yellow, orange, green, and albino iguanas. These were illegally transported from Myanmar to India⁹. In recent years, there has been a hike in wildlife trafficking along with this Covid pandemic, wildlife trafficking also paves way for zoonotic diseases. Illegal wildlife trafficking is an offense punishable under the Wildlife Protection Act, 1972

In the case, *Gauri Maulekhi v. Union of India and Ors*¹⁰, the Hon'ble Supreme Court of India made stringent rules in the banning of illegal trafficking of cattle to Nepal for the Gadhimai festival, one of the largest festivals, where a large number of slaughtered animals are sacrificed to goddesses Gadhimai, the goddesses of power.

(H) Sexual Harassment of Animals

Rape against women and men in India is increasing by degrees likewise animals are also faced with sexual abuses. Sexual offenses against animals were punishable under section 377 of the Indian Penal Code, 1860 but in the case, *Navtej Singh Johar v. Union of India*¹¹, the Hon'ble Supreme Court of India has decriminalized the section 377 of unnatural offenses which included sexual abuses against animals. This provision was decriminalized to protect the rights of LGBTQ+ communities but it adversely affects animal rights, since this section was decriminalized, under section 377 offenders cannot be held liable for sexually assaulting animals.

⁸ Nabarun Guha, *Illegal trade of exotic animals puts India at risk of a zoonotic disease outbreak*, SCROLL.IN (Aug.07, 2021, 10.06 AM), <https://scroll.in/article/992890/illegal-trade-of-exotic-animals-puts-india-at-risk-of-a-zoonotic-disease-outbreak>

⁹ Ratnadip Choudhury, *80 Exotic Animals Seized from India-Myanmar Border, New Route Suspected*, NDTV (Aug.07, 2021, 11.27 AM), <https://www.ndtv.com/india-news/80-exotic-animals-seized-from-india-myanmar-border-new-route-suspected-2374421>.

¹⁰ *Gauri Maulekhi v. Union of India*. W.P. (C) No. 881/2014 with W.P. (C) No. 210/2015 (India).

¹¹ *Navtej Singh Johar v. Union of India*, AIR 2018 SC 4321 (India).

People who can brutally assault animals can do the same with human beings likewise people who sexually abuse animals can do that with a woman. An incident that occurred in Kerala will be sufficient to substantiate this, a law student named Jisha was brutally raped and killed by a person named Ameerul Islam, and in the due course of Jisha's murder investigation, It was found that he was a habitual offender of bestiality and had raped a goat as well as mutilated its private parts¹².

Since section 377 of the Indian Penal Code has been decriminalized it is quite crucial to retain the offence of bestiality or making a new provision for the sexual offences against animals under the Prevention of Cruelty to Animals Act, 1960

(I) Inhumane Acts For Fun

One of the major reasons for the cruelty against animals is nothing but entertainment or fun. Some people tend to find happiness or fun in the pain and suffering of animals.

One such recent incident occurred in Kerala, where a black Labrador pet dog playing at the beach was killed by three minors allegedly for sleeping under the boat of accused after playing, the dog was tied to a boat with fish hooks and had beaten it to death with sticks and later threw it into the sea. Kerala High Court has taken suo motu case and as a tribute to the poor ill-fated dog, the court has renamed the case "In Re: Bruno". In this ongoing case, the Highcourt has made an order that all the pet owners must mandatorily take licenses for their pet animals¹³.

On 29th June 2020, In Telangana, a monkey was hanged to death from a tree in a teak plantation by its owner and others as a "teaching" for monkeys entering his plantation. They had also tried to burn the monkey. Though the case was charged under section 9 of the Wildlife Protection Act, 1972, the accused wasn't arrested making an excuse of the covid pandemic situation¹⁴.

Incidents like these are never-ending, in some cases, there are no sufficient laws to punish the offender and in some cases even though there are provisions to punish the offenders they are not implemented well.

III. ANIMAL PROTECTION LAWS

The two major legislations in India dealing with Animal welfare are the Prevention of Cruelty

¹² DECCAN CHRONICLE, <https://www.deccanchronicle.com/nation/crime/220616/kerala-rape-and-murder-case-case-against-ameerul-for-animal-cruelty.html> (last visited Aug. 07, 2021).

¹³ THE NEW INDIAN EXPRESS, <https://www.newindianexpress.com/states/kerala/2021/jul/02/in-memory-of-bruno-hc-renames-case-filed-after-brutal-killing-of-dog-on-kerala-beach-2324611.html> (Last Visited Aug.07, 2021).

¹⁴ Moulika KV, *Monkey hanged in Telangana's Khammam*, THE TIMES OF INDIA (Aug.07 2021, 11.31PM) <https://timesofindia.indiatimes.com/city/hyderabad/monkey-hanged-in-khammam/articleshow/76680309.cms>.

to Animals Act, 1960, and the Wildlife Protection Act, 1972. Along with these two legislations, there are other rules as well as certain State legislation to ensure the safety and well-being of the animals.

(A) Prevention of cruelty to animals act, 1960

The main purpose of this Act is to avoid or prevent the infliction of any kind of harm or cruelty against animals. The protection of this Act is for animals other than human beings. Under this Act, the Animal Welfare Board of India was established to ensure the safety of the animals and to promote animal welfare. This Act prescribes punishment for various offences against animals. The punishments prescribed under this Act are so lenient that anyone can get away with it.

The punishment for a first time offender of treating animals cruelly is a fine not less than rupees 10 which may extend to rupees 50 and only if the offender gets convicted for the second time that too within three years he gets a fine which is not less than 25 and extend up to Rupees 100 or imprisonment of a term of three months or both fine and imprisonment.

The Prevention of Cruelty to Animals Act, 1960 recognizes animal experimentation as lawful if it is for any physiological discoveries or that which prolongs the life of humans, plants, or animals.¹⁵ This Act also regulates the rights regarding performing animals.

There are several Rules under this Act to regulate every aspect concerning animals:

- **Draught and Pack Animals Rules, 1965:** This Rule under the Prevention of Cruelty to Animals Act, 1960 prescribes the minimum and maximum to be carried by pack animals. This rule also prohibits the use of Animals for drawing vehicles or loads for more than 9 hours a day without adequate rest and also in areas where the temperature exceeds 37 degrees Celsius especially at noon (12 pm to 3 pm).
- **Performing Animals Rules, 1973:** This Rule regulates the rights of performing animals. As rule restricts the use of animals in exhibiting and training for performances unless the person interested in this is registered under the provisions of the Parent Act. This rule also absolutely bans the use of Bears, Tigers, Monkeys, Panthers, and Lions. An exception to this rule is the training of Animals for Police or Military purposes.
- **Transport of Animals Rules, 1978:** This Rule provides the guidelines for the transport of various animals like monkeys, poultry, cattle, etc. using Rail. Road, Air, or by Foot. This rule also provides strict guidelines regarding the size of cages used for transport.

¹⁵ The Prevention of Cruelty to Animals Act, § 14, No.59, Acts of Parliament, 1960 (India).

- **Slaughter House Rules, 2001:** This rule states that animals cannot be slaughtered anywhere other than a recognized or registered slaughterhouse. The slaughtering of a pregnant animal or an animal having offspring less than 3 months of age or animal aged less than 3 months or an animal that is not certified by a veterinary doctor that it is fit to be slaughtered. Animal sacrifice is also prohibited under the Parent Act as well as Wildlife Protection Act, 1972, and various state legislations.
- **Animal Birth Control (Dog) Rules, 2001:** This Rule provides strict guidelines in the controlled breeding, inoculation, and sterilization of dogs. Euthanizing dogs are also mentioned in this rule. Street dogs found incurably ill or wounded can be euthanized under the guidance of the committee-appointed qualified veterinary doctor in a humane manner using the drug sodium pentathol for adult dogs and Thiopental Intraperitoneal for puppies. Rules for taking care of rabid or infected dogs are also prescribed under this rule.

Other than these rules there are, *Licensing of Farriers Rules, 1965, Application of Fines Rules, 1978, Registration of Cattle Premises Rules, 1978, Capture of Animals Rules, 1972, Breeding of and Experiments on Animals (Control & Supervision) Amendment Rules, 2001, Performing Animals (Registration) Rules, 2001, Transport of Animals on Foot Rules, 2001, Transport of Animals (Amendment) Rules, 2001* under the Parent Act to ensure the protection of animals.

(B) The wildlife protection act, 1972

The Wildlife Protection Act, 1972 provides protection for wild animals, birds as well as plants. The term “animal” includes birds, amphibians, reptiles, mammals, and their offspring. Under this Act, hunting or poaching of wildlife animals are prohibited, and also the Government has the right to make any area within reserved forest or territorial waters by notification a ‘sanctuary’, likewise, areas can be classified as National Parks and closed areas also to protect and ensure the safety of wild animals, birds and plants.

Any offences committed against animals, birds, or plants protected under this Act prescribes a punishment of imprisonment of a term of 3 years or a fine of Rupees Twenty Five Thousand or both for a first time offender, and on subsequent conviction, the punishment is increased to imprisonment for a term of 7 years and fine of Rupees Ten Thousand.

Other than these laws, there are provisions in the **Indian Penal Code 1860**, to punish animal cruelty. Section 428 (relates to an animal of the value of Ten rupees) and 429 (relates to an animal of any value or value of fifty rupees) of the IPC, 1860 prescribes punishment for the

offences of killing, maiming, poisoning, or rendering useless animals with imprisonment or fine or with both.

IV. CONCLUSION

Though we have animal protection laws in India, they are either not sufficient to deter the crimes against animals or they are not efficiently implemented. There are many leeways in the existing laws which help the offenders to get away from the punishments. The only way to protect animals is to make necessary amendments in the existing law, i.e Prevention of Cruelty to Animals Act, 1960, and remove the loopholes in it as well as make the punishments more stringent so that no one would dare to abuse animals thinking they have no rights. It is also necessary to educate people regarding animal rights so that at least every pet owner could take a stand against animal cruelty. There are many incidents where the in-charge officers don't charge cases even though there are laws to prevent abuses against animals and to convict the offenders. Officers need to get strict orders not to take animal abuse negligently and to take all measures to prevent it. The laws should be made to provide justice for poor animals, it is our responsibility to raise voices for voiceless beings who are begging to be heard.
