

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

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Volume 6 | Issue 4

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2023

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# Protection of Animal Life: The Indian Judiciary and the Enshrinement of Animal Rights

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## ABSTRACT

*This research paper delves into the evolving treatment of animals and the corresponding legal framework for animal protection in India. With Article 51A (g) of the Constitution highlighting the obligation to safeguard the natural environment and wildlife, the Indian judiciary has played a crucial role in protecting animals' rights. In 2014, the Supreme Court declared that animals possess the same right to life and freedom as humans, emphasizing the need for humane treatment and consideration of their well-being.*

*The "Prevention of Cruelty to Animals Act, 1960" stands as a significant piece of legislation protecting animals from abuse, restricting cruel performances and establishing animal welfare boards. Over time, the Indian government has updated this Act to impose harsher punishments for animal abuse, reflecting a growing concern for animal welfare.*

*While India boasts a comprehensive legislative system for animal welfare, some challenges persist. The judiciary has recently adopted a more compassionate approach, but a lack of uniform and effective central laws remains a concern. Animals' best interests are often disregarded, and cruel practices continue in activities like farming and scientific experimentation.*

*Despite acknowledging the need for ecological balance and animal protection, current regulations fall short in comparison to Human-Centric Law in terms of adoption and implementation. Animals are often viewed as mere possessions, lacking legal personhood. As a result, there is a call for further research to understand and address the changes needed in animal protection laws to ensure their comprehensive and equitable safeguarding.*

**Keywords:** *Animal Rights, Right to Life, Article 21, Constitution of India.*

## I. INTRODUCTION

The treatment of animals and the laws that protect them have both developed through time in India. Article 51A (g) of the Constitution of India states that “safeguarding and enhancing the country's natural environment, including its forests, lakes, rivers, and wildlife, is a basic

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obligation of every person.”

The court system in India has been instrumental in protecting animals. Under Article 21 of the Indian Constitution, the Supreme Court of India ruled in 2014 that animals have the same right to life and freedom as humans. The court ruled that animals have a right to be treated humanely and that their well-being must be taken into account whenever possible.

In addition, the “Prevention of Cruelty to Animals Act, 1960” is an important piece of Indian legislation that protects animals from abuse. The purpose of the Act is to restrict the use of animals in performances that are cruel or inhumane, to establish animal welfare boards, and to regulate animal markets.

The Indian government has updated the Prevention of Cruelty to Animals Act from 1960 with harsher punishments for animal abuse.

When it comes to protecting animals and ensuring their well-being, India's legal system has gone a long way in recent years. India has one of the most comprehensive legislative systems for animal welfare, and the Indian judiciary has been particularly active in interpreting and implementing these rules.

The Indian Judiciary has just recently begun taking a more compassionate approach in its rulings, but the lack of central law that uniformly and effectively safeguards animal rights remains a concern.

The primary issue is that animals' best interests are rarely considered, and even when they are, many cruel practices are nevertheless upheld. It's crucial that anti-cruelty rules cover activities like farming and scientific experimentation, which are now free from them. It can never be reasonable to allow the degree of pain that is currently being endured by billions of living things.

Animals have always been viewed by humans as something to be owned. The courts, after ignoring environmental concerns for many years, have only lately begun to discuss animal safeguards, and even then, it is primarily for ecological reasons and not because animals have legal personhood.

Animal protection regulations in its current iteration cannot be viewed as complete in and of themselves. When compared to Human-Centric Law, they fall far short in both the adoption and implementation stages.

Even though we talk about safeguarding animals in the name of Ecological Balance, we nevertheless see their rights as inferior to those of mankind.

Thus, the law concerning the Animals has been in a state of change, necessitating much research

for appropriate comprehension.

## **II. ANIMAL PROTECTION LAWS IN DIFFERENT COUNTRIES**

### **(A) United States**

Laws protecting animals are possible in the ‘United States’ on both the federal and state levels. Most laws enacted to protect animals are made at the state level. Some federal statutes exist to safeguard animals as well. Some local governments also enact legislation to safeguard pets. Therefore, it is very crucial to lobby for stricter animal protection legislation in all branches of government. Each can be useful in its own way.

#### **a. Federal Animal Protection Laws**

Few federal statutes exist to safeguard animals:

- i. **Humane Treatment of Animals Act:** The Animal Welfare Act (AWA) is the major federal statute protecting animals. It was signed into law in 1966. Animals at commercial breeding facilities, such as puppy mills, zoos, and pet stores are all included in the AWA's purview.

The AWA requires the Secretary of the United States Department of Agriculture to establish ‘handling, care, treatment, and transportation’ guidelines for certain animals. The Animal Welfare Act outlaws activities like dog fighting and cockfighting if they cross state boundaries. Many people believe that the AWA and the Department of Agriculture are complicit in permitting cruel practices to go unabated.

- ii. The **‘28 Hour Rule’:** This 1873 regulation mandates a 28-hour rest period for trucks transporting specific animals en route to slaughter. There are various exceptions to this rule, including when transporting animals in vehicles that provide them with food and water. The federal government does not regulate the majority of agricultural animals in the United States since they are birds.
- iii. In 1958, Congress passed the **Humane Slaughter Act**, often known as the Humane Methods of Livestock Slaughter Act. Originally enacted in 1958, this statute was revised in 1978. Animals must be rendered unconscious by stunning before killing under the Humane Methods of killing Act.

Birds like chickens, turkeys, and other poultry are not protected by this rule despite the fact that they experience pain just like any other animal. Officials have detected 'inconsistency' in the

way this regulation is enforced.

Fish, animals, and birds, along with plants, are all protected by the Endangered Species Act, which was passed in the United States and other countries in 1973. Procedures for federal agencies to follow and criminal and civil sanctions for infractions in regards to listed species are all laid forth in the ESA. The United States Fish and Wildlife Service and the United States National Oceanic and Atmospheric Administration Fisheries Service are primarily responsible for enforcing this legislation.

- iv. **Animal Cruelty Prevention Act of 2019 (PACT):** As of January 1, 2019, the PACT Act is a federal offense if it is committed in or affects interstate commerce or within the territorial authority of the United States, including the crushing, burning, drowning, choking, impaling, or sexual exploitation of animals.

To prevent the torture, crushing, and killing of tiny animals like puppies and hamsters for the titillation of viewers, the Animal Crush Video Prohibition Act, 2010 outlawed their production and dissemination. Further, the PACT Act outlaws the underlying animal cruelty that motivates such practices.

The bulk of anti-cruelty to animals statutes are at the state level. Animal cruelty has an equivalent federal law thanks to the PACT Act. Although the PACT Act is a huge win for animals, its shortcomings must not be overlooked. 'Ordinary and necessary' agricultural and veterinary procedures, as well as the slaughter of animals for human consumption, are among the many exceptions.

- v. **Regulation of Interstate Commerce by the Lacey Act of 1900** The Lacey Act was created in 1900 to prevent the illegal trade of endangered species. It was the first law on the books explicitly meant to save wildlife. Specifically, it forbids the buying and selling of unlawfully captured or smuggled animals or plants. It also forbids the use of forged paperwork in the trade of wildlife or its transport. A trader who illegally imports and sells Costa Rican turtle hatchlings is a prime candidate for prosecution under the Lacey Act, as is a roadside zoo that forges paperwork in order to sell a tiger cub over state lines.

## **b. State And Local Animal Protection Laws**

Most legislation implemented to protect animals is done so at the state level.

Since there is a wide variety of state laws on the subject of animal protection, this won't be a

comprehensive reference, but rather a survey of the most common sorts of regulations.

Although there are some state laws aimed at protecting wildlife, most state animal protection laws focus on domesticated animals. State animal protection laws can include exceptions for wildlife and some types of farmed and laboratory animals.

There is currently a criminal animal cruelty statute in effect in all fifty states. What counts as cruelty and the consequences for it vary from state to state.

**i. Animals kept as pets:**

Most states provide the highest level of protection to ‘companion animals,’ a category that often only includes dogs and cats but which can sometimes include birds, horses, and other creatures. However, there have been incidents in which people have been brought to justice for horribly mistreating wild or domesticated animals.

This may also apply to aquatic life. Three Florida adolescents faced animal cruelty charges in 2017 after they were accused of torturing a shark.

Some facets of ‘hands-on’ animal care are also governed by state statutes. For instance, shelters for strays must ‘keep’ unwanted animals for a certain amount of time before they may be adopted out or put to sleep, as mandated by law. Rabies vaccination requirements and intervals are regulated by legislation. Commercial breeding of companion animals is typically subject to additional state rules.

Some states have passed ‘hot car laws’ that make it illegal to leave an animal in a hot automobile, while others exclude rescuers from any legal responsibility in cases when an animal is saved from a hot car. The inclusion of pets in domestic violence protection orders and the passage of ‘anti-tethering laws’ that limit the amount of time animals may be tied up or chained outside, especially during inclement weather, are also on the rise.

When it comes to other types of animal protection legislation, California is a national leader. The state of California passed the nation's first statewide ‘retail pet sale ban’ that same year (2017). Retail enterprises such as pet stores are restricted from selling cats, dogs, and rabbits from commercial breeders under this rule. In 2018, Maryland became the second state to impose a statewide ban on the retail selling of pets.

**ii. Wildlife:**

Each state also has legislation protecting wildlife and dictating when and how it is legal to kill animals through activities like hunting and fishing.

Some countries and regions prohibit the use of wild animals in shows. The first state-wide

restrictions on the usage of elephants in entertainment were established in 2017 in Illinois and New York. It is expected that this is the start of a broader trend.

Animals used for food: despite the fact that farmed animals are generally excluded from state animal protection legislation, a number of states have implemented steps to limit the use of 'intense confinement' farming techniques. When animals are used in this way, they are typically confined in cages or crates so tiny that they are unable to stand up or move freely. In a battery cage, a chicken or hen has no room to move about or spread her wings.

Laws created and implemented at the state and municipal levels also play an important role in protecting companion animals. Like California and Maryland, hundreds of local jurisdictions around the country have banned the retail selling of pets.

Similarly, several local jurisdictions in states lacking statewide anti-tethering legislation have enacted their own. More and more municipalities are outlawing the public display of wild animals.

These local rules are crucial, even if more creatures would be protected by state and federal legislation. They shield the local fauna from harm, and can serve as a precursor to broader regulations. It is fairly uncommon for new animal protection legislation to be introduced at the local or county level before being taken up by the state legislature in response to growing public demand.

## **(B) The European Union**

Animal welfare rules of the European Union (EU) are among the toughest in the world. The European Union has been a leader in animal welfare for almost 40 years, and its standards are considered among the highest in the world. Legislation outside the EU has also benefited from the influence of EU laws. They mostly include farm animals (when they are being farmed, in transit, and at the slaughterhouse), but they also involve wild animals, animals in captivity, and pets.

Since animals are conscious creatures, 'the Union and the Member States shall give full consideration to the needs of animals in terms of their welfare.' Title II, Article 13 of the Treaty of Lisbon.

### **a. Farm animals' welfare**

According to a special '*Eurobarometer*<sup>2</sup> survey on the attitudes of Europeans to animal welfare

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<sup>2</sup> Eurobarometer, *Report on Attitudes of Europeans towards Animal Welfare*, EUROPEAN UNION (Brussels, Belgium, 2016).

in 2016, 82% of respondents said the welfare of farmed animals should be better protected than it is now.'

The European Union (EU) has had animal protection regulations in place since the 1970s. Based on the European Convention for the Protection of Animals kept for Farming Purposes of 1978, the European Union's Directive for the Protection of Farmed Animals (1998) established general standards for the protection of all animals kept for the production of food, wool, skin, fur, or other farming purposes, including fish, reptiles, and amphibians.

EU animal welfare regulations are based on the so-called five freedoms:

Freedom from physical needs like hunger and thirst; freedom from mental needs like pain and illness; freedom to engage in typical behavior without repercussions; freedom from emotional needs like fear and sadness

Other EU regulations address breeding circumstances for specific animal groups including calves, pigs, and laying hens, as well as the treatment of farm animals before, during, and after stunning and slaughter.

Members of the European Parliament passed a new rule on veterinary medical goods in October 2018 to limit the use of drugs to improve animals' living circumstances or speed up their growth.

European Union (EU) legislation pertaining to the welfare of farmed animals is now being evaluated by the European Commission in light of the introduction of the new Farm to Fork plan for more sustainable agriculture.

#### **b. Parliament's call for better protection for transported animals**

Animal transportation regulations in the European Union were enacted in 2004. However, on 14 February 2019, Parliament passed a resolution demanding more enforcement, stricter penalties, and shorter travel times.

In order to investigate any violations of EU animal welfare standards during transit inside and beyond the EU, Members of the European Parliament established an investigative committee on June 19, 2020.

During a discussion on 2 December 2020, MEPs pressed EU Agriculture Commissioner Janusz Wojciechowski to make it a priority for the bloc's farm policy to enhance the well-being of animals in transit. They asked the Commission to ensure that imports met EU animal welfare requirements, to promote the shipment of meat rather than live animals, and to assist efforts to reduce supply chains.

There will be infringement procedures against member states that fail to enforce existing EU



rules after an inquiry committee investigating animal protection during transport reported in April 2021 that the failure to enforce the current rules on animal welfare during transport is unacceptable.

#### **i. MEPs want to ban caged farming**

On June 10th, in response to the 1.4 million individuals throughout the EU who signed the European citizens' initiative End the Cage Age, MEPs demanded that the Commission propose a ban on caged farming in the EU by 2027.

#### **c. Safeguarding of Animals**

The European Union's Birds Directive safeguards the region's 500 native bird species, while the Habitats Directive works to conserve endangered species and their habitats.

In 2018, the European Union created the EU Pollinators Initiative to address the plight of wild pollinating insects. A greater reduction in pesticide use and increased funding for research were also requests made by parliament. Parliament already agreed that regional and local bee types should be properly safeguarded in a report issued in January 2018.

Members of the European Parliament demanded a new EU-wide pollinator monitoring framework with robust measures, clear time-bound objectives and indicators, including impact indicators and capacity building, during a vote on the EU Biodiversity for 2030 in June 2021.

In EU seas, whales and dolphins are safe from capture and slaughter. Furthermore, the EU has consistently argued for the full enforcement of the 1986 commercial whaling moratorium.

The sale of seal goods is prohibited under European Union law.

The use of leghold traps to capture wild animals is prohibited in the EU, and other humane trapping requirements have been established.

To prevent the further endangerment of animal populations, the European Union (EU) has enacted the animal Trade Regulations, which go above and beyond the requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Cites).

Parliament voted on the EU Biodiversity Strategy for 2030 in June 2021. This strategy is part of the EU Green Deal.

The purpose of the European Union's regulations on zoos is to ensure that these institutions play a more significant part in the preservation of biodiversity by establishing minimum requirements for things like animal housing.

#### **d. The scientific use of animals**

Animal research for the purposes of developing new medications, conducting physiological investigations, and testing food additives or chemicals is governed by a regulatory framework established by the European Union (EU). The three R's serve as the foundation for the rules:

The two main strategies for reducing the number of animals used for a given experiment are 'replacement' and 'reduction.'

##### **i. Improvement (by making less harmful changes)**

Cosmetics that have been tested on animals are illegal to sell or distribute in the European Union. In 2018, lawmakers passed a resolution demanding an end to cosmetics testing on animals everywhere.

#### **e. Safety for Pets**

In a resolution passed on 12 February 2020, the European Parliament asked for an EU-wide action plan, stronger punishments, and obligatory registration to crack down on the illegal traffic in dogs and cats.

Since 2008, the European Union has prohibited the sale of products containing cat and dog hair in an effort to appease pet-owning Europeans. Cat and dog fur, as well as any items made with such fur, are prohibited from being sold, imported, or exported under the new law.

Because of the EU's unified regulations on pet travel, residents of any member state can take their pets with them wherever they go. With a few exceptions, dogs, cats, and ferrets only need a pet passport or an animal health certificate to travel between countries in the European Union ("EU").

### **III. ANIMAL PROTECTION LAWS IN INDIA**

#### **(A) Fundamental Duties and Directive Principles of State Policy**

The provisions of the 'PCA' which are concerned with issues of animal welfare and prevention of cruelty must also be in consonance with our collective fundamental duties, that is, to have compassion for living creatures<sup>3</sup> and to develop and inculcate the spirit of humanity as well as a scientific temper,<sup>4</sup> when dealing with animals so as not to harm them. The fundamental duties of the citizens of the country are collective duties of the State.<sup>5</sup> The adequacy and applicability

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<sup>3</sup> INDIA CONST., art. 51A (g) (to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures).

<sup>4</sup> INDIA CONST., art. 51A (h) (to develop the scientific temper, humanism and the spirit of inquiry and reform).

<sup>5</sup> State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat and Ors., (2005) 8 SCC 534, 52.

of statutory provisions are therefore, to be determined with reference to the fundamental duties, as also the Directive Principles of State Policy.

A commitment to animal welfare also finds reflection in constitutional provisions, such as **Article 48**, a Directive Principle of State Policy, which provides that the State shall seek to preserve, improve breeds, and prohibit the slaughter of cows and calves and other milch and draught cattle.<sup>6</sup> **Article 48A**, also directs the State to protect the environment and wild life of the country. The implication of the said Fundamental Duties and the Directive Principle of State Policies is that it is also the moral and ethical duty of the State to make such laws which invoke the performance and furtherance of the duties as contained in the Constitution of India.<sup>7</sup>

The Courts have also enjoined the fundamental duties under **Articles 51A(g) &(h)**, to prevent cock fighting,<sup>8</sup> to ban bull-fighting,<sup>9</sup> to accord birds with the right to fly<sup>10</sup> etc. Courts have placed liberal interpretations on constitutional provisions and have read them into other statutory provisions dealing with both animals and wildlife. Furthermore, in reference to the Fundamental Duties and Directive Principles of State Policy, the Supreme Court, in *Nagaraja*,<sup>11</sup> opined that that the PCA must be read in conjunction with Articles 51A(g)<sup>12</sup> and 51A(h)<sup>13</sup> of the Constitution of India.

### **(B) Fundamental Rights**

Animals have been granted rights majorly through judicial interpretation of the existing statutory as well as constitutional provisions concerning them. It is therefore, apt to discuss these rights by analysing the seminal cases which have accorded rights to non-human animals.

In *N.R. Nair v. Union of India*,<sup>14</sup> the Supreme Court opined that legal rights must be granted to animals and should not be restricted to humans alone. The court have subsequently reiterated the idea that animals must be protected as they have an intrinsic value themselves.<sup>15</sup>

This understanding of the Courts is based on eco-centric principles, which have been discussed and applied in several cases.<sup>16</sup> According to the eco-centric ethic, all animals have an intrinsic

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<sup>6</sup> INDIA CONST., art. 48.

<sup>7</sup> N.R. Nair v. Union of India, 2000 SCC OnLine Ker 82.

<sup>8</sup> S. Kannan v. The Commissioner of Police, 2018 SCC OnLine Mad 8890 (Mad. HC).

<sup>9</sup> Animal Welfare Board of India v. A. Nagaraja, (2014) 7 SCC 547.

<sup>10</sup> People for Animals v. Md. Mohazzim, 2015 SCC OnLine Del 9508 (Del. HC).

<sup>11</sup> Animal Welfare Board of India v. A. Nagaraja, (2014) 7 SCC 547.

<sup>12</sup> INDIA CONST., art. 51(g).

<sup>13</sup> INDIA CONST., art. 51(h).

<sup>14</sup> N.R. Nair v. Union of India, 2000 SCC OnLine Ker 82, ¶9.

<sup>15</sup> Animal Welfare Board of India v. A. Nagaraja, (2014) 7 SCC 547; Compassion Unlimited Plus Action v. Union of India and Ors., (2016) 3 SCC 85; Centre for Environmental Law, WWF-I v. Union Of India &Ors., (2013) 8 SCC 234.

<sup>16</sup> T. N. Godavarman Thirumulpad v Union of India, (2012) 3 SCC 277.

value in themselves, that is, they have some moral worth, and also interests that need to be protected, which thereby implies that humans should be guided by certain moral considerations in their treatment of animals.<sup>17</sup> This ideological approach adopted by Indian courts shows a rejection of the anthropocentric school. Anthropocentrism suggests that humans are morally superior and their interests reign supreme, over and above those of non-humans.<sup>18</sup> Anthropocentrism has been used to justify the cause of animal welfare by adopting the argument that, protecting the interests of nature, is in the interests of the human race too.<sup>19</sup> While courts have made an exception by allowing certain kinds of activities which use animals for human benefit, such as using animals for food, the Indian judiciary has largely rejected this ideological position, in favour the eco-centric philosophy when deciding cases dealing with animal welfare.<sup>20</sup> This implies that even when using animals for absolutely necessary activities, we are required to make sure we are not indifferent to their moral and intrinsic value, as well as their basic interests.<sup>21</sup>

It is also interesting to note that the Delhi High Court has, in *People for Animals v. Md. Mohazzim*,<sup>22</sup> recognised the fundamental right of birds to fly in the sky as against the right of humans to keep them in small cages for the purpose of their trade or business.<sup>23</sup> However, most importantly, in a radical decision, the Supreme Court, in *Nagaraja* recognised the fundamental right of animals to live with dignity and honour, by expanding the definition and scope of Article 21 of the Constitution of India, so to include within its ambit animal life as well.<sup>24</sup> The Court laid down that 'life' meant more than 'mere survival or existence or instrumental value for human beings.'<sup>25</sup> The Court insisted that animals have the right under Article 21 to live a life with some intrinsic worth, honour and dignity.<sup>26</sup> In the said case, the Court said that the right of animals to live in a healthy and clean atmosphere and their right to be protected from unnecessary pain and suffering, were guaranteed under s.3 and s.11 of the PCA and Art. 51A(g).<sup>27</sup> Their right to be fed, nourished and properly housed are also protected by Sections 3

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<sup>17</sup> ROBERT GARNER, THE POLITICAL THEORY OF ANIMAL RIGHTS (2005).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> T. N. Godavarman Thirumulpad v. Union of India, (2012) 3 SCC 277, Centre for Environmental Law, WWF-India v. Union Of India &Ors., (2013) 8 SCC 234, Animal Welfare Board of India v. A. Nagaraja, (2014) 7 SCC 547.

<sup>21</sup> Govansh Raksha Abhiyan-Goa and Ors. v. State of Goa and Ors., 2016 SCC OnLine Bom 7032 (Bom. HC).

<sup>22</sup> People for Animals v. Md. Mohazzim, 2015 SCC OnLine Del 9508 (Del. HC).

<sup>23</sup> *Id.*

<sup>24</sup> Jessamine Therese Mathew & Ira Chadha-Sridhar, *Granting Animal Rights under the Indian Constitution: A Misplaced Approach? An Analysis in light of Union of India v. A Nagaraja*, 7(3-4) NUJS L. REV. 349 (2014).

<sup>25</sup> Animal Welfare Board of India v. A. Nagaraja, (2014) 7 SCC 547, ¶72.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

and 11 of the PCA, and the Rules framed under it.<sup>28</sup> Thus, the right to live with dignity and honour, which includes the right to be protected from beating, kicking, overloading, starvation etc, has been granted and recognised by the PCA. It appears that since the sum and substance of the Right to Life is already reflected in the PCA, the Supreme Court only had to elevate the rights of animals under the PCA, to the status of a fundamental right under Art. 21 of the Constitution of India.

**a. Laws relating to street animals**

- Killing, maiming, poisoning or rendering useless of any animal is punishable by imprisonment for up to two years or with fine or with both, under Section 428 of the Indian Penal Code, 1860. Under Section 429 of the Code, the term is 5 years and is applicable when the cost of the animal is above 50 Rs.
- Section 11 of the Prevention of Cruelty to Animals Act provides that if any person allows, or himself beats, kicks or tortures, in any way, any animal subjecting it to unnecessary pain and suffering will be liable to pay a fine of upto 50 Rs. In case of repetition of the offence, the fine will increase or an imprisonment for 3 months will be granted.
- The Animal Protection (Dogs) Rules, 2001 provide for rules relating to pet and street dogs.

**b. Laws relating to work animals/cattle**

Chapter III of the Prevention of Cruelty to Animals Act deals with ‘Cruelty to animals generally’ According to Section 11, the following acts are punishable by fine upto Rs. 25-100 and a maximum of three months of imprisonment on repetition of the said acts.

- anybody who employs any unfit animal, suffering from wound, infirmity, sores or an animal of an old age, to work.- Section 11 (b)
- anybody who carries any animal subjecting it to pain or suffering.- Section 11 (d)
- keeps an animal in a cage or any other such confinement which is not sufficiently big enough as to let the animal move freely.- Section 11 (e)
- any owner of an animal who allows his animal, affected with a contagious or infectious disease to die in any street.- Section 11 (j)
- any person who offers for sale an animal that is suffering from pain due to mutilation,

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<sup>28</sup> *Id.*

starvation, thirst, overcrowding or ill-treatment.- Section 11 (k)

- In October 2014, non-binding guidelines called National Code of Practices for Management of Dairy Animals in India were released by the government in consultation with an NGO named World Animal Protection.

### **c. Laws relating to wild animals**

The chief laws relating to wildlife in India are found in the Wildlife Protection Act, 1972. The Act prohibits the killing, poaching, trapping, poisoning, or harming in any other way, of any wild animal or bird. It also provides for establishment of Wildlife Advisory Boards in every State.

- According to Section 2 (37) of the act, wildlife includes any animal, aquatic or land vegetation which forms part of any habitat, thus making the definition a wide and inclusive one.
- Section 9 of the Act prohibits the hunting of any wild animal(animals specified in Schedule 1, 2, 3 and 4) and punishes the offense with imprisonment for a term which may extend to 3 years or with fine which may extend to Rs. 25,000/- or with both.
- The Act allows the Central and State Government to declare any area 'restricted' as a wildlife sanctuary, national park etc. Carrying out any industrial activity in these areas is prohibited under the Act.
- Section 48A of the Act prohibits transportation of any wild animal, bird or plants except with the permission of the Chief Wildlife Warden or any other official authorised by the State Government.
- Section 49 prohibits the purchase without license of wild animals from dealers.

### **d. Laws relating to aquatic animals**

The Wildlife Protection Act is applicable to aquatic animals too. Protection of marine species in India is done through creation of Marine Protected Areas (MPA).

- Schedule 1-4 of the Wildlife Protection Act provides a list of all the protected marine species, for e.g seahorse, giant grouper, *hermatypic* corals, organ pipe, fire coral, sea fans, etc.
- Schedule III protects all species of sponges and Schedule IV comprises of a wide variety of mollusks.
- Dolphins have been recognized as the national aquatic animal of India and find

themselves placed in Schedule I. India has banned use of dolphins for commercial entertainment, thereby placing a ban on establishment of any 'dolphinarium' in the country.

#### **e. Laws relating to birds**

Birds, too, are protected under the Wildlife Protection Act, 1972 (WLPA) and in Prevention of Cruelty to Animals Act (PCAA), alongwith land and aquatic animals.

- Section 11 (o) of the PCAA provides for punishment of any person who promotes or himself takes part in any shooting match/competition where animals are released from captivity for shooting.
- Under Section 16 (c) of the WLPA, it is unlawful to injure or destroy wild birds, reptiles, etc. or damaging or disturbing their eggs or nests. The person who is found guilty of any of this can be punished for upto 7 years in jail and be made to pay a fine of upto Rs 25,000.

#### **f. Laws relating to zoo animals**

Laws relating to zoo animals are also found in The Wildlife Protection Act.

- Section 38A of the Act provides for establishment of a Central Zoo Authority by the Central Government, which has the following functions:
  - specifying the minimum standards for keeping of animals inside the zoo.
  - recognize or derecognize zoos.
  - recognize endangered species and assign responsibilities to zoos for their captive breeding, etc.
- According to Section 38 H, no zoo is allowed to function in India without recognition of the Central Zoo Authority.
- The CZA provides the guidelines that are necessary for Establishment & Scientific Management of Zoos in India. These include rules like providing sufficient area, healthcare, freedom of movement, a naturalistic environment to the animals, etc.

#### **g. Laws relating to pets**

A lot of laws relating to pets are found in Section 11 of the Prevention of Cruelty to Animals Act. The punishment, as mentioned above, for any of these offences is upto Rs 100, and three months imprisonment in case of repetition of the offence.

- Any person, who is the owner of an animal, negligently or intentionally chains a dog in

close confinement, habitually

- Any owner who fails to provide his animal with sufficient food, drink or shelter- Section 11 (h)
- Any person who, without any reasonable cause, abandons an animal in such a situation where the animal is bound to suffer pain due to starvation or thirst- Section 11 (i)
- Any owner of an animal who consciously allows an infected, diseased or disabled animal to go into any street without any permit or leave the animal to die in any street- Section 11 (j)
- Any person intimidating another person and preventing him/her, who is the owner of a pet, from keeping or taking care of his/her pet can be held liable under Section 503 of the IPC.

#### **h. Laws relating to animals used for the purpose of entertainment**

- No animal can be used for the purpose of entertainment except without registering under The Performing Animals Rules, 1973.
- Chapter V of the PCAA deals with performing animals.
- Section 26 of the PCAA provides for punishment for any person who uses any animal for the purposes of entertainment/performance with a fine of upto Rs 500 or with an imprisonment of upto three months or with both.

#### **i. Laws relating to testing or experiment on animals**

Millions of animals, especially white mice, guinea pigs, rabbits, monkeys, etc. are used for experimentation all over the world, and suffer and die with great pain in this process. Use of animals for experimentation in the cosmetic industry amounts to grave cruelty.

- Through the Drugs and Cosmetics Rules (Second Amendment) 2014, animal testing for cosmetic products was prohibited all over India.
- Any person who violates the Act is liable for punishment for a term which may extend from 3 to 10 years or shall be liable to a fine which could be Rs.500 to Rs.10,000, or both.
- According to Rule 135B of the Drugs and Cosmetic (Fifth Amendment) Rules 2014, no cosmetic that has been tested on animals shall be imported into the country.
- A committee, established under the provisions of Prevention of Cruelty to Animals Act– The Committee for the Purpose of Control and Supervision of Experiments on Animals



(CPCSEA) released the “Breeding of and Experiments on Animals (Control and Supervision) Rules, 1998” (amended in 2001 and 2006) that regulate the experimentation on animals.

- Dissecting and experimenting on animals in schools and colleges is banned in India, under the PCCA.

#### **IV. CONCLUSION AND SUGGESTIONS**

Since in no country can the role of the judiciary be minimized because it suggests the government to be progressive when framing laws and keep a check on the offenders, this dissertation has primarily focused on the issues of animal rights, the laws for the protection of the same, and how the Judiciary has taken steps to further interpret the same. Judiciary rulings are at the vanguard of freedom when nations' history are recorded and analyzed.

However, it is certain that the vast majority of people see anti-cruelty legislation as serving human interests rather than the welfare of animals. Animal welfare laws in India today are a manifestation of speciesism. This makes sense once you consider how most people in the world think about animals having rights.

Animal rights are still being defined, with human interests protected by the idea of necessity. This further supports our argument that anti-cruelty legislation are narrowly tailored to advance human interests. As a necessary human activity, animal experimentation for medical research is nevertheless permitted with minimal oversight. The reality that animal interests are secondary to human interests and not worth safeguarding at the expense of causing annoyance to people is further attested to by the prescription of woefully insufficient punishments for infractions of anti-cruelty legislation.

Furthermore, because of the lack of sufficient punitive punishments, there is often little social stigma linked to crimes against animals, which leads to a blurring of the lines between what is lawful and what is illegal in terms of the treatment of animals. Only a deep-seated species prejudice or speciesism might explain why people and governments are so reluctant to provide animals the same legal protections as humans. Only those rights are extended to animals that make sense and help advance human interests.

My hypothesis, that since the Law is an anthropocentric establishment, animals are granted only those rights, which seem reasonable and conducive to the furtherance of human interest, holds 'Correct' after examining Indian laws pertaining to 'animal welfare' and the Indian court's responses to those laws.

## (A) Suggestions

1. The first step we can put for the Animal welfare is by changing our approach with regards to the same. There is a need to shift 'Anthropocentric' approach to 'Ecocentric' Approach.

*'Anthropocentrism is always human interest focused thinking that non-human has only instrumental value to humans, in other words, humans take precedence and human responsibilities to nonhuman are based benefits to humans. Eco-centrism is nature-centred, where humans are part of nature and non-humans have intrinsic value. In other words, human interest does not take automatic precedence and humans have obligations to nonhumans independently of human interest.'*

2. The Second relevant step would be of extending the status of 'Legal Entity' to the animals nationwide.

*'The inclusion of animals in the community of legal persons will dignify them by forcing humans to see and value animals for themselves, rather than seeing them simply as the object of property rights, or as something for humans to 'use and abuse'.'*

3. Need for bringing about important amendments in the Prevention of Cruelty to Animals (PCA) Act, 1960.

a) **Insignificant Penalties** – There is a need for strict rules with a higher degree of penalty in order to reduce instances of animal cruelty. The PCA Act's meager fines do not serve as an effective deterrence. The severity of the offenses for which the Act provides penalties should be reflected in those sanctions. When it comes to crimes that might result in the death or serious injury of animals, a fine of fifty rupees is not sufficient punishment. As a result, perpetrators face minimal repercussions for their criminal behavior. There are a number of serious violations detailed in Section 11 that can cause animals great distress and possibly death. The persistent problem of animal mistreatment is a direct result of the low penalties for such heinous crimes.

b) **Inadequate and toothless legislation-** By applying the philosophy of proportionality and the deterrence theory of punishment, we may classify the flaws in the law into the following major categories: insufficient monetary penalty, lack of recognizability of the offenses, insufficient statutory limits, and excessively generous bail. After learning of the PCA's improper use, the next stage is to fortify the imposition of criminal accountability and identify and investigate any civil liability remedies. Several proposed revisions and the discussion that has surrounded them have reaffirmed the need to alter the PCA's criminal provisions, but they have also emphasized the need of include civil responsibility as a means of sanctioning violators. The theories of parens patriae and Public Trust are applied, making the state the protector of

animals, and 'equitable self-ownership title' is granted to the animals. This is done so that the state can avoid legal liability.

c) When the constitutional protections for animals are considered in conjunction with the statutory protections, it becomes clear that the state is willing to uphold animal rights. The PCA's criminal provisions, however, lack the power essential to accomplish the purposes laid out in India's constitution and the PCA.

d) **Insufficient Follow-Through** - India has enacted a number of comprehensive and detailed rules intended to safeguard its animal population, however these regulations aren't always put into practice as intended. The reason for this is because concerned people and NGO's do not always stress the need of following the law to achieve their goals. However, it's crucial to acknowledge that the laws we have in place in India right now aren't robust and sensible enough to effect significant change. Increasing the severity of the penalties and fines would go a long way toward enforcing the PCAA's broad anti-cruelty provisions in Section 11.

The PCA is notable for its emphasis on negative responsibilities owed by humans to non-humans, but it includes very few positive duties that may lead to improved and more dignified living situations for animals.

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