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ANIMAL WELFARE LAWS AND CRUELTY PREVENTION

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Abstract

Some see animals as victims who must be saved and given medical attention on the spot; others defend animals in Parliament or courts so they can be granted certain rights; still others are more interested in the question of species survival, where the collective interest takes precedence over the welfare of individual animals. I also look at the possible role that religion may play for some of the participants in these debates, given their largely secularist background. This could be as a means of creating a Hindu or Buddhist cultural or political identity, or it could be used as a tactic in a legal dispute to garner media attention. Finally, I bring up the query of the role that animals themselves play in these various contexts as real people to interact with and whose presence may elicit a range of sometimes contradictory emotions, or as intellectual ideals to be fought for (or proclaimed) in their absence.

Keywords: animal welfare; animal rights; conservationism; hunters; Hinduism; India; court cases;

Introduction

Over the past few years, there has been intense debate in India over how to treat animals and what moral and legal standing should be assigned to them. This debate has taken many different forms and involved individuals with a wide range of backgrounds and goals. The animal cause has gained so much traction that it is now considered a trendy topic. Peta (People for the Ethical Treatment of Animals) has asked Bollywood superstars to participate in a striking and vibrant ad campaign in which they were asked to embody the slogan Be an Angel for Birds. The actor John Abraham stands with his mighty wings outstretched,

pleading with them not to be caged.¹ The former Miss Universe and actress Lara Dutta advises us to "let vegetarianism grow on you" while wearing a form-fitting gown made of vegetable leaves. Actress Dia Mirza protests against the exotic skin trade by posing in a blood-stained leopard skin. The subject of animal-human conflict has even reached the doorstep of movie companies.²

Animal care and rights organizations in India have become increasingly popular, with many having their own websites and Facebook pages. Some are branches of multinational groups like PETA or WWF, while others are established at the national or local level. Members of these organizations work to rescue, treat, and feed animals. Some also file lawsuits to end animal abuse and recognize animals' rights. The current courts of law in India were established during the colonial period and represent.³ The animal debate in India is influenced by several historical circumstances, resulting in diverse roles and opinions. (1) Religious and philosophical movements advocating for animal rights, (2) colonial history interpreting religious concepts from an orientalist perspective, and (3) global exchange of ideas on rights, conservatism, and scientific discoveries. Finding a universally represented opinion is impossible.

Existing State Laws for Animal Welfare in India

Roughly 7-8% of all species known to exist today are found in India, a nation renowned for its extreme biodiversity. With more than 91,000 species of animals alone, it is home to four of the world's thirty-six biodiversity hotspots (India, 2020). Any nation would soon realize how important it is to preserve its diverse fauna, and India is no exception, particularly in light of recent events. In addition to a few laws that forbid endangering animals and penalize their exploitation, animal protection and welfare are established as essential duties in the Indian Constitution.

Welfare laws, like the Wildlife Protection Act of 1972 and the Prevention of Cruelty to Animals Act of 1960, are enshrined in the national constitution and are enforced nationwide. State governments have also developed and implemented certain prohibitions for their own states. The official criminal code of India, the Indian Penal Code (IPC) 1860, addresses every

¹Available at <http://in.rediff.com/movies/2008/jun/25look.htm> last seen on 16/8/2024

²Available at <https://www.petaindia.com/blog/dia-mirza-urges-fans-shed-skins/> last seen on 16/8/2024.

³Sharma, R. (2018). Animal welfare activism in India: A critical analysis. *Society & Animals*, 26(2), 123-145.

significant facet of criminal law. The IPC's Sections 428 and 429 punish all cruelty-related offenses, including the murder, poisoning, maiming, or rendering of animals useless. (Kavuri, 2020)⁴

Right to Life of Animals (under Article 21) as a Fundamental Right

The Fundamental Rights of India, enshrined in Part III of the Constitution, lay down universal, constitutionally-guaranteed rights essential for the existence and development of all individuals including the non-humans or animals. Relevant to animal welfare is the fundamental Right to Life under Article 21⁵ that was ruled by the Supreme Court in India under the Animal Welfare Board of India v. A. Nagaraja & Or's. Case. The Supreme Body held that:

“Every species has a right to life and security, subject to the law of the land, which includes depriving its life, out of human necessity. Article 21 of the Constitution, while safeguarding the rights of humans, protects life and the word “life” has been given an expanded definition and any disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, fall within the meaning of Article 21 of the Constitution. So far as animals are concerned, in our view, “life” means something more than mere survival or existence or instrumental value for human beings, but to lead a life with some intrinsic worth, honour and dignity.” (Kavuri, 2020b) The Article 51A (g) was characterized as the “procedural Magna Carta protective of life and liberty,” hence, safeguarding the life of animals under it.⁶

Prevention of Cruelty to Animals Act, 1960

As the official law states, Prevention of Cruelty to Animals Act is an act to prevent the infliction of unnecessary pain or suffering on animals and for that purpose to amend the law relating to the prevention of cruelty to animals that extends to the whole nation except the state of Jammu and Kashmir. (The Prevention of Cruelty to Animals Act, 1960, n.d.) The Act consists of six chapters and forty-one sections, addressing crucial points, such as cruelty to animals, their training and experimentation.

1. To avoid any ambiguities, **section 1** of the act defines terms such as ‘animal’, ‘domestic animal’ and ‘captive animal’ that are mentioned throughout.⁷

⁴ Kavuri, A. (2020). India's Legal Framework for Animal Protection: A Comprehensive Analysis. Oxford University Press.

⁵ Art. 21, the Constitution of India.

⁶ Animal Welfare Board of India vs A. Nagaraja & Or's on 7 May, 2014

⁷ S. 1, Prevention of Cruelty to Animals Act, 1960.

2. For the promotion of animal welfare generally and for the purpose of protecting animals from being subjected to unnecessary pain or suffering, a separate committee called the Animal Welfare Board of India was set in place by the act, under **section 2**.⁸
3. Under **section 3**, owing to the principle of “Ahimsa” enshrined in the legal document that requests people to show compassion towards all beings, the act vests every person with the duty to take all reasonable care in order to ensure the welfare of such animals.⁹
4. **Section 11** of the act deliberates on various acts of cruelty towards animals. This includes prohibiting beating, kicking, overriding, over-driving, overloading, torturing, wrongfully capturing and confining, mutilating or otherwise treating any animal, in ways that subject it to unnecessary pain or suffering. It also forbids to abandon or sell an animal ‘without reasonable cause’, knowing that the animal ‘will suffer pain by reason of starvation or thirst’ or involve them in purposes of entertainment like animal fights or shooting dangerous for them. The section provides for a maximum fine of One Hundred Rupees and imprisonment, which may extend to a term of three months in case of the violation of the set rules.¹⁰
5. However, through **Section 14**, animals used in scientific experiments are exempt from all of the cruelty provisions mentioned in the act for the purpose of treating diseases and alleviating sufferings of human beings. The experiments carried out on animals by various institutions are regulated by the Committee for the Purpose of Control and Supervision of Experiments on Animals (CPCSEA) under the Breeding of and Experiments on Animals (Control and Supervision) Rules 1998.¹¹
6. **Section 28** of the act further protects the religious slaughter of animals from being considered an offence. (The Prevention of Cruelty to Animals Act, 1960, n.d.) This act establishes many necessary rules, which have been amended several times, like:
 1. the Performing Animals (Registration) Rules, whereby no animals could be displayed, exhibited or used for performance (especially in circuses or travelling zoos) without mandatory clearances.
 2. Prevention of Cruelty to Animals (Slaughter House) Rules that define the conditions under which an animal can or cannot be slaughtered.
 3. Transport of Animals Rules, for transportation of animals by rail, road, inland, waterway, sea or air and Transport of Animals on Foot Rules.

⁸ S. 2, Prevention of Cruelty to Animals Act, 1960.

⁹ S. 3, Prevention of Cruelty to Animals Act, 1960.

¹⁰S.11, Prevention of Cruelty to Animals Act, 1960.

¹¹S.14, Prevention of Cruelty to Animals Act, 1960.

4. Animal Birth Control Rules that provide for sterilization and vaccination as a means of reducing stray dog populations and eliminating the risk of rabies, and the guidelines for the carrying out of local Animal Birth Control programs. The law also states that no sterilised dogs can be relocated from their area. If the dog is not sterilised, the society can ask an animal welfare organization to sterilise and vaccinate it, but they cannot relocate them.
5. and Pet Shop Rules which ensure humane handling of animals and regulation of commercialised establishments that trade animals in any way or form, only after obtaining a license as prescribed, among the many other rules.¹²

Wildlife Protection Act, 1972

Passed by the Parliament of India on August 21, 1972, and implemented on 9 September 1972, the Wildlife Protection Act is an umbrella Act to protect the wild species, animals, birds and plants, and establish ecologically important protected areas. Amended 6 times till date (the latest one being 2006), it currently consists of 7 chapters, 66 sections and six schedules.

1. Under **Section 2** of the act, the hunting of wild animals and animals is strictly prohibited. However, it does permit the hunting of animals but only in special circumstances where it becomes dangerous to human life and property, or when it is diseased or disabled beyond recovery. The latter is also allowed only after rightful written permissions have been obtained. Lastly, it lays the rules for using any wild animal for the purposes of education, scientific research without killing and harming the wild animals.¹³
2. **Section 5** restricts the trading of wild animals, animal articles and trophies. According to it, wild animals are marked to be state government property and therefore, bans possession, trading, of these animals or their derivative parts with a special emphasis on ivory.¹⁴
3. Through **Section 6**, the prevention and detection of offences to Wildlife are regulated. The powers of entering, searching, arresting and detaining the offenders to the Chief Wildlife Warden or wildlife authorities are granted in case of any suspicion. Further defining the penalty for such offenders, the act states that

¹² S. 28, Prevention of Cruelty to Animals Act, 1960.

¹³ S. 2, Wildlife Protection Act, 1972.

¹⁴ S. 5, Wildlife Protection Act, 1972.

imprisonment for a term which may be extended to 3 three years, or with fine up to twenty-five thousand rupees, or both can be imposed.¹⁵

4. The 6 Schedules give a list of the wildlife species considered under the said act.
5. Through the 1982 amendment of the act, people were inhibited from applying for licenses for animal article trading.
6. The second amendment of the act (1991) banned hunting of wild animals and birds, proposed immunization of animals in sanctuaries and national parks.

The Bharatiya Nyaya Sanhita, 2023

Some sections of the The Bharatiya Nyaya Sanhita, 2023 make it.

1. Under **section 291**. Negligent conduct with respect to animal. —Whoever knowingly or negligently omits to take such measures with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.¹⁶
2. Under **section 325**. Mischief by killing or maiming animal. —Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.¹⁷

Conclusion

Cruelty is barbarism, regardless of the species, it is inflicted upon. Basis this, in a moral, utopian world, no considerable ethical contrast exists between the abuse of human and non-human animals. For a country like India that has been built on the principles of Ahimsa, it becomes even more essential to assess its foundation and put it in practice for all beings alike. With India bagging the second rank in Global Animal Protection Index 2020, a concern surfaces. The problem for India does not lie with imprecise analysis or policy formulation concerning animal welfare, but with the ineffective implementation of these almost well thought out policies and regulations. However, this cannot be solely blamed on the government and its legal framework. The citizens of the country and their ignorant behaviour are equally

¹⁵ S. 6, Wildlife Protection Act, 1972.

¹⁶ S. 291, The Bharatiya Nyaya Sanhita, 2023.

¹⁷ S. 325, The Bharatiya Nyaya Sanhita, 2023.

deserving for the criticism. Hence, for a viable utilisation of these laws, government offices along with the individuals should approach and bear the liability. Failing to do so, human species could face several grave consequences further threatening their existence.

Humans were late to understand the consequences of their actions and ironically, what they considered as ‘progress’ was harming them the most. Therefore, nations collectively, under the United Nations Sustainable Development Goals have been taking crucial steps to curb the problem. As the 2030 Agenda envisages a development model in which humanity lives in harmony with nature and protection of other living species, two SDGs specifically become relevant to animal welfare. As a part of SDG 14, Life below Water, and SDG 15, Life on Land, marine and territorial and wildlife animals respectively are being targeted. Just the fact that animal welfare is being recognised as important for achieving SDGs holds the potential to make progress in achieving conservation of non-human species and ultimately, biodiversity.

However, despite the recognition, a very long path lies ahead of all the nations, including India, to pay the pending dues to the other species and potentially revert the harm that has already been caused to their communities and habitats. A nation in today’s world cannot be entitled to the term “developed” without achieving absolute protection for its animals. As Mahatma Gandhi once said, “The greatness of a nation and its progress can be judged by the way its animals are treated”

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