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ROLE OF RESIDENT WELFARE ASSOCIATION (RWA) AS IN LOCO PARENTIS FOR STRAY DOGS

AUTHORED BY - RISHABH ADITYA

INTRODUCTION

Stray dogs have traditionally been regarded as a "menace." But regrettably, individuals only seem to view dislocation or culling as solutions for them.

With this essay, we hope to initiate a discussion about the Resident Welfare Association (RWA) and the displacement of street dogs in Delhi, National Capital Region. Here, the fundamental goal is to comprehend why RWAs must serve as "loco parentis" to their street canines.

WHY DISLOCATION OF STRAY DOGS IN DELHI NCR IS A SERIOUS CONCERN

RWAs are the initial authorities with control over their territories in cities that are separated into smaller localities¹. These bodies are chosen by the society's citizens, who depend on one another as a result.

These authorities are in charge of overseeing the residential society's daily operations, such as supplying necessities like security, cleaning, and upkeep. They are in charge of overseeing everyone's welfare as well.²

But the RWA's obligation to care for stray dogs is the one thing that hasn't been left out. Because they

¹ *All You Need To Know About Resident Welfare Association (RWA)*, ESTARTINDIA, <https://www.estartindia.com/knowledge-hub/blog/all-you-need-to-know-about-resident-welfare-association-rwa>

² *Id.*

are homeless, stray dogs wander in search of places to call home. They contend with other stray dogs for food and territory. They enter the open gates of society and colonies in pursuit of these lands.

When discovered, they frequently avoid the fruitless efforts of the locals and security to drive them out of society. They hide and blend in more with society. And as the years go by, they integrate with society. They obtain food from animal lovers or waste leftovers to meet their daily nutritional needs.

However, locals continue to complain about stray dogs biting and frightening away residents, particularly the young and old. For instance, the 9-year-old son of Mr. Vipin Yadav was bit by a stray dog in their neighbourhood. He stated:

*“These stray dogs scare even adults, leave alone small kids.”*³

RWAs and animal lovers fight severely as a result of this. RWA is in favour of removing stray dogs from communities, but animal lovers are opposed.

In Noida's Sector 93A Emerald Court society in March 2020, six persons were arrested for inflicting injuries on at least five stray dogs. The complaint was made by a former member of the community.

She fed the dogs on a regular basis. She said that the security had taken the dogs away on the RWA's orders.⁴

The dogs were removed on March 2 between 12 AM and 3 AM. Based on this, the Phase 2 police station reported six people for animal cruelty, including the society's "security supervisor," the estate manager, a diesel generator operator, and the society's RWA, as well as the CEO and van driver of the security firm.⁵

According to the Deputy Commissioner of Police for Zone 2, an investigation was in progress.

The RWA chief of Amrapali Village in Indirapuram, Ghaziabad, was allegedly arrested in February 2019 for the murder and dislocation of three dogs.⁶ The People For Animals (PFA) branch in

³ TNN, *9-year-old bitten by stray, residents blame 'dog lovers'*, TIMES OF INDIA,, <https://timesofindia.indiatimes.com/city/gurgaon/9-year-old-bitten-by-stray-residents-blame-dog-lovers/articleshow/59624329.cms>

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

Ghaziabad filed the complaint. The RWA leader allegedly beat up three stray dogs to drive them out of society, according to information sent to the Ghaziabad PFA president. He declared:

*"The security guards and accused residents are seen on my CCTV footage striking the dogs with sticks. The process resulted in the death of one of the dogs, and the other two were swiftly expelled from society"*⁷.

The RWA chairman, however, refuted these allegations and asserted that neither the residents nor the Apartment Owners Association (AOA) ever murdered or relocated dogs. He added that more than three to four dog bite instances are reported on a weekly basis.

In Uppal's Southend in Gurugram in 2019, ten street dogs went missing.⁸ The animal welfare volunteers said that the RWA had ordered to beat the dogs and capture them. They also claimed that after being kidnapped, the dogs were placed in sacks and transported to secret locations⁹. However, the RWA refuted the accusations.

The RWA President claimed that "there was a security lapse" when "some people from outside entered the township and took the dogs in sacks."¹⁰

The volunteers, however, did not accept this. The society's citizens also reasoned that sterilisation and vaccination alone are insufficient to control the nuisance posed by street dogs.¹¹

These are only a few instances where animal rights organisations and animal lovers brought attention

⁷ Avishek Kumar Dubey, RWA head among 2 booked for killing, relocating stray dogs, TIMES OF INDIA, (February 26, 2019, 7:10 IST) <https://timesofindia.indiatimes.com/city/gurgaon/rwa-head-among-2-booked-for-killing-relocating-stray-dogs/articleshow/68160310.cms>

⁸ Ashok Kumar, 10 street dogs go missing: animal welfare staff, RWA at odds over issue, THE HINDU, (April 05, 2019, 01:51 IST) <https://www.thehindu.com/news/cities/Delhi/10-street-dogs-go-missing-animal-welfare-staff-rwa-at-odds-over-issue/article26739205.ece>

⁹ Ashok Kumar, 10 street dogs go missing: animal welfare staff, RWA at odds over issue, THE HINDU, (April 05, 2019, 01:51 IST) <https://www.thehindu.com/news/cities/Delhi/10-street-dogs-go-missing-animal-welfare-staff-rwa-at-odds-over-issue/article26739205.ece>

¹⁰ Id.

¹¹ Id.

to them. How many more of these street canines are being displaced in society is unknown. The RWAs and the inhabitants, on the other hand, manifest a glaring lack of interest in such issues, as is evident from these occurrences.

RWAs are successfully abusing these stray dogs under the pretext that they are a "menace."

WHY IS RWAS' ROLE IMPORTANT?

It is crucial that the RWAs carry out their obligation towards stray animals and their regular actions. They must urgently educate both themselves and the other members of society.

RWAs are accountable for society and everything that falls within their scope because they are the people's representatives. This can be used to mean something about obligations and physical boundaries. It could be argued, for instance, that since street dogs are not a part of their community, RWAs are not accountable for them.

Even though the street dogs weren't born there, it would be wise to remember that it is their area.

It is significant to remember that dogs are territorial creatures who seek out regions to claim as their own. Thus, taking them away would be cruel and against the law.

Strays are frequently mistreated and subjected to cruelty by humans. We fail to see, however, that some stray dogs' aggressive attitude is the result of repeated mistreatment.

When they feel threatened, worried, or scared themselves, dogs are more likely to turn aggressive. However, if they are handled with kindness, they can grow into ferocious neighbourhood guards who keep out undesirables and burglars.

Sensitization is necessary. The RWA needs to educate itself and eventually the locals. It is crucial to remember that every dog is the same. Pet dogs and stray dogs are similar in nature. Dogs are renowned for being kind and sympathetic creatures.

Only because of our lack of compassion have stray dogs evolved defensive behaviours. As a result, they begin to attack and bite people. Therefore, it is reasonable to draw the conclusion that stray dogs attack us because of us, the humans.

Sterilization and vaccination are required by Section 3 of the Animal Birth Control (Dogs) Rules

2001 in order to control stray dog numbers and eradicate the risk of rabies.¹²

The relocation of stray dogs is likewise prohibited by Section 7 of this law. It suggests that stray dogs brought in for sterilisation or vaccination must be brought back to the location where they were first picked up. Therefore, it is unlawful to send them away using the justification of sterilising or vaccination by the RWAs.

On February 26, 2015, the Animal Welfare Board of India (AWBI) released updated rules.¹³ It said:

"Our nation upholds ahimsa and non-violence as virtues. All citizens of this nation are obligated under Article 51A(g) of the Constitution to act compassionately towards all living things. The rights of non-human animals are safeguarded by the law"¹⁴.

The AWBI published these rules for household pets, street dogs, and the people who care for them, RWAs, and AOAs. Additionally, it gives an explanation for Sections 3 and 7. According to the rules, dogs have a tendency to fight against other dogs and prevent them from entering their territory since they are territorial by nature. In each territory, the dog population stabilises in this way.¹⁵ It also asserts:

"Any violence or hostility that the dogs may experience may cause them to become hostile and violent towards humans. In self-defense, they might then turn to snapping and biting. If the same thing occurs, only human aggressors will be held accountable."¹⁶

It is also important to note that the Netherlands is the first nation in the world without stray dogs. With the help of the CNVR project (Collect, Neuter, Vaccinate, and Return), it completely eliminated its homeless dog population. Government funding supports the national sterilising programme known

¹² Animal Birth Control (Dogs) Rules, Section 3, 2001

¹³ ANIMAL WELFARE BOARD OF INDIA, Guidelines- with respect to Pet & Street Dogs, and their Caregivers, and for Residents' Welfare Associations and Apartment Owners Associations, February 26 2015, http://www.awbi.org/awbi-pdf/pet_dog_circular_26_2_2015.pdf

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

as the CNVR.¹⁷

Dogs are "*collected, neutered, vaccinated, marked, and returned to the same spot where they came from*" as part of this plan.¹⁸

This is significant because it first establishes the standards for how stray dogs should be treated. Second, it conveys that it will be useless to relocate stray dogs.

If stray canines are taken out of the community, new strays will replace them, escalating the issues. Strays would, however, grow habituated to the same area if sterilized, immunized, and reintroduced to the places. The same would eventually decrease their population and aggressiveness.

If the RWAs don't act "in loco parentis" towards their stray pets, this will be unsuccessful.

THE DOCTRINE OF 'LOCO PARENTIS' AND THE NEED FOR RWA TO IMPLEMENT IT

"In the place of a parent" is the meaning of the loco parentis doctrine. It speaks of "a person or organisation's legal obligation to assume some of the duties and responsibilities of a parent."¹⁹

This theory is acknowledged in education, where educators and educational institutions serve as the pupils' "loco parentis." But there are other ways to interpret this doctrine besides that.

The Uttarakhand and Punjab & Haryana High Courts both cited the doctrine in 2018 and 2019. The Uttarakhand High Court assigned inhabitants of Uttarakhand the responsibility of ensuring the welfare of animals.

¹⁷ Freya Sawbridge, *How did the Netherlands manage to become the first country to have no stray dogs*, DUTCH REVIEW, (August 18, 2020), <https://dutchreview.com/culture/how-did-the-netherlands-manage-to-become-the-first-country-to-have-no-stray-dogs/>

¹⁸ *Stray Dogs and CNVR (Dog Population Management)*, STRAY ANIMAL FOUNDATION PLATFORM, <http://www.stray-afp.org/cnv>

¹⁹ Garima Sharma, *In loco Parentis- Legal Maxim*, LAW TIMES JOURNAL, (June 10, 2019), http://lawtimesjournal.in/in-loco-parentis/#_ftn1

All citizens of the state are considered to be animal guardians, according to the court²⁰. All of Uttarakhand's residents were also proclaimed by the court to be "persons in loco parentis for the welfare/protection of animals."²¹

The Punjab and Haryana High Court took a similar action when it decided that all animals are "legal entities with corresponding rights, duties, and liabilities of a living person."

As the human face for the welfare of animals, Justice Rajiv Sharma also ruled that all citizens throughout the State of Haryana are persons in loco parentis.

This begs the question: Why can't RWAs act as their street canines' "loco parentis"?

The importance of RWAs assuming this function cannot be overstated. The RWA is a location's immediate supervisor. They must also be the ones to take the initiative in this regard. Making RWAs more responsible is crucial since there are so many street dogs who get injured.

You cannot use a lack of security or the absence of CCTV video as an excuse. RWAs should take charge of making sure that no street dogs in their community are treated improperly.

RWAs are completely mistaken in thinking that stray dogs are outside of their purview.

Dr Maya D. Chablani v. Radha Mittal & Ors:

In *Dr. Maya D. Chablani v. Radha Mittal & Ors*, the Delhi High Court established many rules around feeding stray dogs.²² The significance of treating animals kindly and without cruelty was emphasised by the court. It stressed:

"Only when animals are treated humanely are human beings seen to be respectable. Kindness towards animals is in our best interests as humans".

²⁰ Financial Express Online, *Animal lovers, good news for you! All citizens are 'parents of the animal' in this state*, FINANCIAL EXPRESS, <https://www.financialexpress.com/india-news/animal-lovers-good-news-for-you-all-citizens-are-parents-of-the-animal-in-this-state/1232289/>

²¹ Id.

²² *Dr Maya D. Chablani v. Radha Mittal & Ors*, MANU/DE/1166/2021

This decision reaffirmed that it is unlawful for an individual, RWA, or estate management to remove or relocate dogs in accordance with the Prevention of Cruelty Act of 1890²³.

Additionally, the judgement placed responsibility for protecting the welfare of stray dogs within their jurisdictions on local governments, RWAs, and municipal corporations. It also emphasised the need to establish animal welfare committees in each RWA:

"AWBI shall ensure that every Resident Welfare Association or Municipal Corporation (in the event that RWA is not available) shall have an Animal Welfare Committee, which shall be responsible for ensuring compliance with the PCA Act and ensuring harmony and ease of communication between caregivers, feeders, or animal lovers and other residents," according to the law.

Several principles are discussed in this ruling, including:

- Municipal Corporations are in charge of registering, immunizing, and sterilising stray dogs.
- After being sterilised and given their shots, the dogs must be brought back to the same location.
- The Municipality cannot remove dogs that have been sterilised or immunised.
- Each RWA should establish Guard and Dog Partnerships and train the dogs. The Delhi Police Dog Squad should be consulted on this in order to create canines that are both amiable and effective in protecting the colony.
- It should be the community's duty to work with a dog sterilisation NGO to have their street dog population sterilised.

Last but not least, the ruling emphasised the "need to raise awareness that even animals have a right to live with respect and dignity."

²³ *Prevention to Cruelty Act, 1890*

CONCLUSION

The Delhi High Court's ruling did not deem RWAs to be "loco parentis" to stray canines. It did, however, highlight RWAs' obligations to community canines and the importance of raising awareness. This decision is a noteworthy action. But putting the rules into practise is the only way to alter how stray dogs are treated and how people view the dogs in our neighbourhood.

The situation is still very much the same, though. RWAs are either complicit in the dislocation of so many street dogs or do nothing about it. Therefore, it must be acknowledged that RWAs must choose to sterilise and immunise their street canines rather than tossing them out of place.

To ensure that this is enforced, we need tighter laws. RWAs must inform themselves and the community as to why euthanizing stray dogs is not the answer. RWAs must enact stringent security controls and guarantee that CCTV cameras are operational.

This could be useful in observing how people treat dogs. However, if someone misbehaves, it should be RWA's duty to see that they are dealt with appropriately. This can only be accomplished by enacting tougher legislation and reforming already-existing legislation to be severely penalised.

[2]

[3] [4] *Id.*

[5] *Id.*

[6] *Id.*

[7] Avishek Kumar Dubey, RWA head among 2 booked for killing, relocating stray dogs, TIMES OF INDIA, (February 26, 2019, 7:10 IST) <https://timesofindia.indiatimes.com/city/gurgaon/rwa-head-among-2-booked-for-killing-relocating-stray-dogs/articleshow/68160310.cms>

[8] *Id.*

[9] AOA: Apartment Owner Association

[10] Ashok Kumar, 10 street dogs go missing: animal welfare staff, RWA at odds over issue, THE HINDU, (April 05, 2019, 01:51 IST) <https://www.thehindu.com/news/cities/Delhi/10-street-dogs-go-missing-animal-welfare-staff-rwa-at-odds-over-issue/article26739205.ece>

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] Animal Birth Control (Dogs) Rules, Section 3, 2001

[15] Animal Birth Control (Dogs) Rules, Section 7, 2001

[16] ANIMAL WELFARE BOARD OF INDIA, Guidelines- with respect to Pet & Street Dogs, and their Caregivers, and for Residents' Welfare Associations and Apartment Owners Associations, February 26 2015, http://www.awbi.org/awbi-pdf/pet_dog_circular_26_2_2015.pdf

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] Freya Sawbridge, *How did the Netherlands manage to become the first country to have no stray dogs*, DUTCH REVIEW, (August 18, 2020), <https://dutchreview.com/culture/how-did-the-netherlands-manage-to-become-the-first-country-to-have-no-stray-dogs/>

[21] *Stray Dogs and CNVR (Dog Population Management)*, STRAY ANIMAL FOUNDATION PLATFORM, <http://www.stray-afp.org/cnv>

[22] Garima Sharma, *In loco Parentis- Legal Maxim*, LAW TIMES JOURNAL, (June 10, 2019), http://lawtimesjournal.in/in-loco-parentis/#_ftn1

[23] Financial Express Online, *Animal lovers, good news for you! All citizens are 'parents of the animal' in this state*, FINANCIAL EXPRESS, (July 05,

2018, 3:43PM), <https://www.financialexpress.com/india-news/animal-lovers-good-news-for-you-all-citizens-are-parents-of-the-animal-in-this-state/1232289/>

[24] *Id.*

[25] Rashid M A, *P&H HC Declares Entire Animal Kingdom Including Avian and Aquatic As Legal Entities With All Rights And Duties Of Living Persons [Read judgment]*, LIVE LAW, (June02, 2019, 10:07 PM) <https://www.livelaw.in/top-stories/ph-hc-declares-entire-animal-kingdom-including-avian-and-aquatic-as-legal-entities-with-all-rights-and-duties-of-living-persons-read-judgment-145417>

[26] Dr Maya D. Chablani v. Radha Mittal & Ors, MANU/DE/1166/2021

[27] *Id.*

[28] *Prevention to Cruelty Act, 1890*

[29] *Supra* note 27.

[30] *Id*

