

**ANIMAL RIGHTS IN INDIA**

*“The greatness of a nation and its moral progress can be judged by the way its animals are treated.”* – Mahatama Gandhi

In India, animals played a vital role in development and growth of civilisation. Religions in India, have unequivocally taught respect, protection, preservation and safeguard of animal and proposed doctrine of *“ahimsa paramo dharma”*.

The Constitution of India has embedded the philosophy of animal-life protection and preservation on the government as well its citizen. Under Article 48A the directive principles of state policy established duty on the government to protect and safeguard the wildlife. Similarly, under Article 51A, it is a fundamental duty of every citizen to protect wildlife.

The legislative power is vested with the state government as provided under List – II of seventh schedule at item number 15 (Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice) and item number 21 (Fisheries). However, few legislative subjects have been included in the concurrent list (List – III of seventh schedule) at item number 17A (Forests) and 17B (Protection of wild animals and birds) empowering both union and state legislatures to enact legislation for preservation and protection of animals and there natural habitats.

With the increase of human greed causing slaughtering of animals for food, entertainment at circuses, industrial products like leather and scientific laboratory testing, required enactment of special protective legislations. The gap was filled by enacting Prevention of Cruelty to Animals Act 1960, wherein the legislations made an attempt to define animal cruelty under Section 11 of the aforesaid Act, as provided below:-

- (a) *beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animal to be so treated; or*
- (b) *employs in any work or labour or for any purpose any animal which, by reason of its age or any disease, infirmity, wound, sore or other cause, is unfit to be so employed or, being the owner, permits any such unfit animal to be so employed;*

- (c) *wilfully and unreasonably administers any injurious drug or injurious substance to any animal or wilfully and unreasonably causes or attempts to cause any such drug or substance to be taken by any animal; or*
- (d) *conveys or carries, whether in or upon any vehicle or not, any animal in such a manner or position as to subject it to unnecessary pain or suffering; or*
- (e) *keeps or confines any animal in any cage or other receptacle which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for movement; or*
- (f) *keeps for an unreasonable time any animal chained or tethered upon an unreasonably short or unreasonably heavy chain or cord; or*
- (g) *being the owner, neglects to exercise or cause to be exercised reasonably any dog habitually chained up or kept in close confinement; or*
- (h) *being the owner of any animal fails to provide such animal with sufficient food, drink or shelter; or*
- (i) *without reasonable cause, abandons any animal in circumstances which render it likely that it will suffer pain by reason of starvation or thirst; or*
- (j) *wilfully permits any animal, of which he is the owner, to go at large in any street while the animal is affected with contagious or infectious disease or, without reasonable excuse permits any diseased or disabled animal, of which he is the owner, to die in any street; or*
- (k) *offers for sale or, without reasonable cause, has in his possession any animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment; or*
- (l) *multilates any animal or kills any animal (including stray dogs) by using the method of strychnine injections in the heart or in any other unnecessarily cruel manner; or*
- (m) *solely with a view to providing entertainment—*
  - (i) *confines or causes to be confined any animal (including tying of an animal as a bait in a tiger or other sanctuary) so as to make it an object of prey for any other animal; or*
  - (ii) *incites any animal to fight or bait any other animal; or*
- (n) *organises, keeps, uses or acts in the management of, any place for animal fighting or for the purpose of baiting any animal or permits or offers any place to be so used or receives money for the admission of any other person to any place kept or used for any such purposes; or*
- (o) *promotes or takes part in any shooting match or competition wherein animals are released from captivity for the purpose of such shooting.*

The Act, 1960 prescribe penalty for violation of the provisions therein, however due to trivial penalty, the deterrence cannot be achieved.

The Act, 1960 has constituted a statutory body namely Animal Welfare Board of India, who has major role in recommending the government in enacting legislations

and assisting in policy decision-making. The other vital role of board is to recognise and provide financial assistance to the animal welfare organisations for various roles like cattle rescue, shelter houses, animal birth control (ABC) and for animal ambulances etc.

The statutory framework for transportation of animals has been prescribed under Transport of Animals Rules 1978, in addition the Motor Vehicle Act also has provisions governing the transportation of animals without suffering and pain.

The Breeding of and Experiments on Animals (Control and Supervision) Rules, 1998, which was amended in 2001 and 2006 provides mandatory registration for an establishment performing any experiments on animals from the committee.

The Government of India vide gazette notification<sup>1</sup> amended the Drug and Cosmetics Rules 1945 to ban testing of cosmetics in animals by inclusion of Rule 148C. Further, the Drugs Controller General (India) has established Cosmetics Technical Advisory Committee (CTAC) for monitoring.

The Indian Penal Code under Section 428 and 429 provides punishment for killing or maiming of animal and cattle, respectively.

The Animal Birth Control Rules 2001 framed under the Prevention of Cruelty to Animal Act, 1960 for sterilization, immunisation, treatment and providing guidelines for pet dog owners and commercial breeders. However, due to ineffective implementation of the ABC Rules, the benefits of such legislations have not been provided to the stray dogs, which causes menace on the streets. The question regarding the menace caused by stray dogs was raised at the Parliament on 2.08.2016<sup>2</sup>. The Hon'ble Supreme Court in *Animal Welfare Board of India v. People for Elimination of Stray Troubles*<sup>3</sup>, directed for implementation of the said rules.

The judiciary plays a key role through exercise of jurisdiction in cases like *Animal Welfare Board of India v. A Nagaraj*<sup>4</sup>, wherein the Hon'ble Supreme Court has banned usage of animals during jallikatu festival.

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<sup>1</sup> Gazette Notification GSR 346(E), F. No. X-11014/7/2013-DFQC, issued by Ministry of Health and Family Welfare, dated 21.05.2014

<sup>2</sup> Accessed on [www.mha.gov.in/2FMHA1%2FPar2017%2Fpdfs%2Fpar2016-pdfs%2Fls-020816%2F2572%2520E.pdf&clen=11293&chunk=true](http://www.mha.gov.in/2FMHA1%2FPar2017%2Fpdfs%2Fpar2016-pdfs%2Fls-020816%2F2572%2520E.pdf&clen=11293&chunk=true)

<sup>3</sup> (2017) 1 SCC 394

<sup>4</sup> (2014) 7 SCC 547

Thereby, it is necessary for all the stakeholders to be educated about the importance and sensitization about the issue of animal rights. The execution of policies and laws in letter and spirit which would result in deterrence among the population to harm animals must be followed.

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<sup>1</sup> Majesty legal is law firm, established in 2013 and aim of the present article is to provide insights on law and statutes. The opinions presented in the article are personal in nature and not to be deemed as legal advice.