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ANIMAL RIGHTS IN INDIA

Introduction

The great jurisprudence scholar and thinker has rightly said that we can judge the heart of a person by his/her treatment of animals. Animals play a vital role in maintaining a balance in the environment, ecosystem, and our lives. Such important creatures which help in a better functioning of the ecosystem need to be protected specially with the growing environmental concerns in our modern era. Animals are paramount in all walks of life like safety, agricultural sustainability, science, economy etc.; it becomes even more essential for us to make every effort to stop animal-cruelty and save every aspect of environment we can. With this noble thought, this article discusses in detail the various segments of animal cruelty in and around the nation, with special focus on the new draft on Prevention of Cruelty to Animal (Amendment) Bill, 2022. This article is in continuation to our previously celebrated article which discussed various statutory frameworks in respect of animal rights.

TREATMENT OF ANIMALS IN ANCIENT INDIA

“अहिंसा परमोधर्मः, धर्महिंसातथैवच” This Sanskrit verse simply translates as "**Non-violence is the ultimate duty so too is violence in service of duty**". This verse not only talks about non-violence towards humans but all living creatures. Non-violence even towards animals should also be adhered to when required, and not otherwise. Peeping into ancient Indian cultures makes one realise the importance and respect which was given to all humans, plant as well as animal kingdom. Along with the various human forms of God and Goddesses one can also witness the divine forms and worshipping of plants and animals.



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The ancient texts not only include the mention of cows but other various animals and birds like horses, pigs etc. The oldest, “The Rig Veda”, itself attests to the cultic importance of horses to ancient Indian culture. It might surprise us to find that the horse is mentioned in it two hundred and fifteen times, thirty-nine times more than the cow, which has come to be widely revered in India.

The hymn to arms depicts the horse as a vital component of the Vedic martial ethos and brings alive classical scenes of heroic warriors hurtling forth in horse-drawn chariots¹. Apart from this, Jayaram V in his essay “Treatment of Animals in Hinduism” has dealt with this subject from different angles. According to the author “every living being, from the animals down to the insects and tiny organisms, possesses souls”. All these creatures are also subject to the same laws of nature and its cycle of births and deaths, much in the same manner as humans. Although they appear ignorant, these living beings are also evolved and have their own level of intelligence and instinct as well as their individual language.² Non-violence towards all, including plants and animals is the highest virtue. Apart from having the basic right against violence even humans resonate with different animals for both materialistic development and individual well-being, which is important for the overall development of the society.

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¹ <https://theprint.in/pageturner/excerpt/india-native-horses-disappeared-8000-bc-rig-veda-mentions-them-more-than-cow/586756/> last visited on 13.12.2022.

² <https://www.hinduscriptures.in/vedic-lifestyle/customs-and-traditions/nature-worship/significance-of-animals-a-vedic-perspective> last visited on 13.12.2022.



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THE PROPOSED AMENDMENT TO PREVENTION OF CRUELTY TO ANIMALS ACT, 1960

Recently, the Ministry of Fisheries, Animal Husbandry and Dairying, Government of India has introduced the **draft Prevention of Cruelty to Animal (Amendment) Bill-2022** to amend the six-decade-old law **Prevention of Cruelty to Animal Act, 1960**. The amendment has been called for by various animal welfare organizations and political leaders. This amendment was long overdue as in 2014 the Supreme Court, in ‘Animal Welfare Board of India vs A Nagaraja & Others’, had said that “Parliament is expected to make proper amendment of the PCA Act to provide an effective deterrent” and that “for violation of Section 11, adequate penalties and punishments should be imposed”. It was in September 2020, which Kishanganj MP Mohammad Jawed brought a Bill in Parliament saying that the maximum punishment be hiked; thereafter in 2021, Kendrapara MP Anubhav Mohanty also proposed a Bill, expanding the definition of cruelty to include events where “animals are subjected to cruelty either during the sport or activity itself”³.

The Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as the "Act"), was enacted with the object to prevent the infliction of unnecessary pain or suffering on animals.⁴ The Act covers various definitions including definitions like "captive animal" and "domestic animal". Along with this, it also has general provisions with respect to cruelty to animals, experimentation on animals and constitution of Animal Welfare Board in India. The Act defines "animal" under Section 2 (a) as any living creature other than a human being.⁵ Indian Penal Code, 1860 lays down

³<https://indianexpress.com/article/explained/tough-law-prevent-cruelty-animals-needed-8287522/> last visited on 20.12.2022

⁴https://www.indiacode.nic.in/bitstream/123456789/11237/1/the_prevention_of_cruelty_to_animals_act%2C_1960.pdf last visited on 14.12.2022

⁵*Ibid*



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the same definition.⁶The most important of all definitions which are proposed to be added are that of “Bestiality” and “Gruesome cruelty”. These shall be defined as follows:

Section 2(j): “Bestiality” means any kind of sexual activity or intercourse between human being and animal.

Section 2(k): “Gruesome cruelty” means any act involving animals which led to extreme pain and suffering to the animals which is mostly likely to leave the animal in life long disability which includes mutilation or killing of animal by the use of strychnine injection in the heart or any other cruel manner that is known to cause permanent physical damage to the animal or render animal useless or cause any injury which is likely to cause death including bestiality, animal fighting for the purpose of bating or promote or take part in any shooting match or competition wherein animals are released from the captivity for the purpose of such shooting.⁷

Beside the amendment bill, the only law dealing with unnatural offences and bestiality animal cruelty is Section 377 and 428, 429 respectively, of the Indian Penal Code which reads as follows:

377. Unnatural offences.—Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. *Explanation.*—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

⁶Section 47, Indian Penal Code.

⁷ <https://dahd.nic.in/sites/default/files/Public%20notice-Draft%20PCA%20bill-2022.pdf> last visited on 14.12.2022



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428. Mischief by killing or maiming animal of the value of ten rupees.— *Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of the ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*

429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.—*Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.*

The Amendment Bill proposes punishment for gruesome cruelty under Section 11A. If an individual, group or organization has carnal intercourse against the order of nature with any animal, causes permanent damage or mutilation to any part of the body of an animal, causes any injury which is likely to cause death or lifelong physical deformity to the animal, incites any animal to fight or bait any other animal, etc. shall be punished with a minimum fine of fifty thousand rupees which may be extended up to seventy-five thousand rupees or the cost of the animal as may be decided by judicial magistrate in consultation with the jurisdictional veterinarians whichever is more or with the imprisonment of one year which may extend up to three years or with both.⁸ The punishment for killing an animal as always now being added by way of Section 11B of the Act. It was a failure on part of our legislative set-up that this special provision did not have any

⁸ <https://dahd.nic.in/sites/default/files/Public%20notice-Draft%20PCA%20bill-2022.pdf> last visited on 14.12.2022



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punishment of such nature; the said penalization was a part of Indian Penal Code only. Offence by poultry Farm or livestock Industries is also being added by way of Section 11C.

THE FIVE FREEDOMS

The five freedoms that is proposed by the Act can undoubtedly be called the most revolutionary and positive change that could be brought about in the thriving field of animal rights. Under Section 3A of the draft it shall be the duty of every person having charge of an animal to ensure that the animal in his care or under his charge has:

1. Freedom from thirst, hunger and malnutrition
2. Freedom from discomfort due to environment
3. Freedom from pain, injury and diseases
4. Freedom to express normal behaviour for the species
5. Freedom from fear and distress.⁹

These Five Freedoms are globally recognized as the gold standard in animal welfare, encompassing both the mental and physical well-being of animals.¹⁰ These standards were developed by Britain's Farm Animal Welfare Council in 1965 and adapted by the Association of Shelter Veterinarians for companion animals in shelters. Freedom from hunger, thirst and malnutrition may be achieved by ready access to fresh water and diet to maintain health and vigour. This must be specific to the animal. For example, puppies, adult dogs, pregnant cats, and senior cats all need different types of food provided on different schedules. Freedom from discomfort by providing an appropriate environment including shelter and a comfortable resting area. This means one should provide soft bedding and an area with appropriate temperature, noise levels, and access

⁹*Ibid*

¹⁰[https://www.americanhumane.org/blog/five-freedoms-the-gold-standard-of-animal-welfare/#:~:text=These%20Five%20Freedoms%20are%20globally,normal%20and%20natural%20behavior%20\(e.g. last visited on 21.12.2022](https://www.americanhumane.org/blog/five-freedoms-the-gold-standard-of-animal-welfare/#:~:text=These%20Five%20Freedoms%20are%20globally,normal%20and%20natural%20behavior%20(e.g. last visited on 21.12.2022)



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to natural light. If an animal is outside, it must have shelter from the elements as well as appropriate food and water bowls that will not freeze or tip over. Freedom from pain, injury, or disease by prevention or rapid diagnosis and treatment. This includes vaccinating animals, monitoring animals, physical health, treating any injuries and providing appropriate medications. Freedom to express normal behaviour by providing sufficient space, proper facilities, and company of the animal's own kind. Animals need to be able to interact with or avoid others of their own kind as desired. They must be able to stretch, run, jump, and play. This can be particularly challenging when animals are housed in individual kennels. Freedom from fear and distress by ensuring conditions and treatment which avoid mental suffering. The mental health of an animal is just as important as its physical health — as psychological stress can quickly transition into physical illness. These conditions can be achieved by preventing overcrowding and providing sufficient enrichment and safe hiding spaces.¹¹

It is commendable that after seventy five years of independence the directive principles relating to animals under the Constitution of India¹² is paving its way to form a legal document in the country. Along with the Directive Principles of State Policies, Fundamental Duties under Article 51A also lay down animal rights. The relevant clauses of Article 51A read as follows:

Article 51 A. It shall be the duty of every citizen of India:

. . . (g) to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures;

¹¹<https://www.animalhumanesociety.org/health/five-freedoms-animals> last visited on 22.12.2022

¹²48. The State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other mulch and draught cattle.

48A. Protection and improvement of environment and safeguarding of forests and wild life The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country. The citizens of the country have a fundamental right to a wholesome, clean and decent environment.



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(h) to develop the scientific temper, humanism and the spirit of inquiry and reform . . .

Reference may be given to the case of Animal Welfare Board of India v. A. Nagaraja&Ors. (2014), wherein in the Supreme Court held that compassion for all living creatures includes concern for their suffering and well-being. In the case, the Supreme Court regarded 51A (g) alongside the duty to develop scientific temperament under 51A (h) as the magna carta of animal rights jurisprudence in India.

CONCLUSION

The Prevention of Cruelty to Animal (Amendment) Bill, 2022 has been long overdue. The present law is not competent enough to deal with the harsh reality that animals go through on a regular basis; it would not be out of place to say that India has been lagging behind when it comes to animal rights. In the United States, President Trump signed federal animal cruelty bill into law. The bill, called the Preventing Animal Cruelty and Torture Act, makes intentional acts of cruelty to animals, federal crimes carrying penalties of up to **seven years** in prison. Moreover, The Bundestag (German parliament), began to pass laws for the regulation of animal slaughter in April 1933. Japan passed Act on Welfare and Management of Animals in 1973. The Act is reviewed every five years. It emphasizes that animals are sentient beings and should not be harmed unnecessarily or subject to cruelty. It is pertinent to emphasize that those who can speak should speak for those who cannot speak for themselves. Animals, even though having their own rights, are bound by nature to let the specie responsible for their cruelty, also help protect them. The various heinous and sadistic acts of cruelty, are totally unacceptable in a civilized society.



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¹³ Majesty legal is law firm, established in 2013 by Ms. Mahi Yadav 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.