

PROTECTING THE VOICELESS: AN IN-DEPTH EXAMINATION OF ANIMAL RIGHTS LAWS IN INDIA

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ABSTRACT

Animal protection and welfare is a multifaceted concept that encompasses the quality of life experienced by animals and their harmonious coexistence with their environment. It signifies a collective relationship between humans and the natural world. The dawn of human civilization bears witness to the enduring and symbiotic bond shared by humans and animals. In the Indian context, animals are not merely regarded as livestock but are also revered as divine embodiments. The Constitution of India, along with various legislative measures, places significant emphasis on safeguarding the welfare of animals. This research explores the profound importance of animal protection and welfare within the framework of Indian society, culture, and legal provisions. It delves into the historical roots of India's reverence for animals, examining how they have been integral to religious, cultural, and ecological paradigms for millennia. The study underscores the constitutionally mandated commitment to animal welfare in India and investigates the effectiveness of various laws and policies in ensuring the humane treatment of animals. Ultimately, this research aims to promote a more informed and compassionate approach to the treatment of animals in India and to foster a harmonious coexistence between humans and the animal world, as envisioned by the nation's legal and cultural ethos.

Keywords: Animal Protection, Legal Framework, Rights, Nature, Humane Treatment etc.

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I. INTRODUCTION

India has a long history of accepting animals as part of the world and even elevating them to religion. Temples serve as places where people can show their devotion to gods and the animals that are connected to them,¹ yet the same creatures also endure abuse. India is home to four of the 36 designated biodiversity hotspots worldwide, demonstrating the amazing quantity of biodiversity found there.² The regal Asiatic Lions, majestic Royal Bengal Tigers and the powerful Great Indian Rhinoceros are just three of the amazing animals that call this enormous and diverse country home. Other amazing animals include the elusive Indian Gharials, the endangered Great Indian Bustard, and the famous Gangetic Dolphins, among many other diverse species. With increasing public awareness of these animals' rights and wellbeing, there has been a noticeable upsurge in recent years in the attempts to safeguard and protect their welfare.³

Several international instruments and agreements have been established to protect the rights and welfare of animals on a global scale.⁴ The Universal Declaration on Animal Welfare (UDAW), proposed by World Animal Protection, emphasizes the recognition of animal welfare's importance and promotes the humane treatment of animals worldwide, receiving support from numerous countries and organizations.⁵ The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates and restricts international trade in endangered species to prevent threats to their survival. The World Organisation for Animal Health (OIE) sets international standards for animal health and welfare, providing guidelines for humane treatment and transport. The Bonn Convention (CMS) focuses on the conservation and protection of migratory species' welfare, ensuring the well-being of terrestrial, aquatic, and avian migratory animals and their habitats. The International Whaling Commission (IWC) plays a crucial role in the conservation and protection of whales, particularly with the ban on commercial whaling. Various agreements, such as the Agreement on the International Dolphin Conservation Program and declarations on the protection of seals, address specific animal welfare issues and seek to minimize harm to marine life. These

¹ Paul Waldau, "Religion and Animals" in Peter Singer (ed.) *In Defense of Animals* 75 (2006).

² See List of Biological Hotspots *available at* <https://www.conservation.org/priorities/biodiversity-hotspots>.

³ Joel Feinberg, *The Rights of Animals and Unborn Generation in Philosophy And Environmental CRISIS* 43-68 (William T. Blackstone ed. 1974).

⁴ Thomas G. Kelch, *Globalization and Animal Law: Comparative Law, International Law and International Trade* 290 (Kluwer Law International, 2011).

⁵ M J Bowman, 'The Protection of Animals under International Law' (1988–1989) 4 *Connecticut Journal of International Law* 487, 496.

international instruments and agreements provide a framework for countries to collaborate in addressing animal protection issues that transcend national boundaries, contributing to the conservation and humane treatment of animals worldwide.⁶

The animal rights mean legal and constitutional protection provided to the animals while animal welfare describes the standard of living that animals enjoy as well as their capacity for environmental adaptation. Many times, people mistakenly believe that the terms "animal welfare" and "animal rights" are interchangeable, which results in their frequent usage. This paper is limited in exploring the animal rights in India and critically examine various legislations enacted for the same. The views of higher courts on various animal rights issues have also been discussed.

Through a comprehensive analysis, this paper seeks to elucidate the evolving landscape of animal welfare and rights in India, providing a solid foundation for understanding and addressing the complex interplay between human interests, cultural values, and the well-being of animals.

II. LEGISLATION FOR PROTECTING ANIMAL RIGHTS

Legislation for protecting animal rights is essential to ensure the humane treatment and welfare of animals. Many countries have enacted specific laws and regulations to safeguard the rights and well-being of animals. Protection of animals is indeed emphasized in the Constitution of India, as it is explicitly stated as a "fundamental duty." The Constitution of India recognizes the importance of animal welfare and protection in the Directive Principles of State Policy, specifically under Article 48 and Article 51A(g). The Constitution addresses the protection of animals in :

- Article 48: Article 48 of the Indian Constitution is part of the Directive Principles of State Policy. It states that the state shall endeavor 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 milch and draught cattle.
- Article 51A(g): Article 51A(g) of the Constitution is related to fundamental duties of Indian citizens. It encourages citizens to protect and improve the natural environment,

⁶ See Generally, A. Peters, 'Global Animal Law: What It Is and Why We Need It' (2016) 5(1) Transnational Environmental Law, pp. 9-23, at 17; and A. Peters, 'Liberté, Égalité, Animalité: Human-Animal Comparisons in Law' (2016) 5(1) Transnational Environmental Law, pp. 25-53.

which includes the protection and welfare of animals. It states that it shall be the duty of every citizen of India to protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and to have compassion for living creatures.

- Article 21: Due to the expansive interpretation taken by the courts, the rights of the animals are also protected under Article 21 of the Constitution. Every species has a right to life and security, in accordance with the law of the land, and this right is not merely limited to human beings but is expanded to include within its ambit animals and birds as well.

In addition to these constitutional provisions, India has specific legislation in place to protect animal rights and welfare, including the Prevention of Cruelty to Animals Act, 1960, and the Wildlife Protection Act, 1972, which lay down legal frameworks for the prevention of cruelty to animals and the conservation of wildlife. These laws, along with various other regulations, further support the protection and welfare of animals in India.

The Prevention of Cruelty to Animals Act, 1960

The Prevention of Cruelty to Animals Act, 1960 (PCA Act, 1960) represents a significant milestone in safeguarding animal rights and protecting them from unnecessary pain and suffering inflicted by humans. This pioneering legislation defines animals comprehensively, encompassing all living creatures except humans. To ensure the welfare of animals, the Act prescribes penalties for offenders responsible for causing cruelty or suffering to animals. It addresses various forms of cruelty towards animals, exceptions to such acts, and outlines a humane process for euthanizing suffering animals, aiming to minimize their agony. Additionally, the Act provides guidelines for conducting scientific experiments on animals and regulating the exhibition of performing animals, complete with associated offenses. A noteworthy provision includes the establishment of the Animal Welfare Board of India (AWBI), further emphasizing the nation's commitment to the welfare of animals.

The Wildlife Protection Act, 1972

The Wildlife Protection Act, 1972, on the other hand, focuses on the preservation of both fauna and flora within India and the creation of designated areas for their survival. The Act encompasses key provisions aimed at safeguarding the interests of animals. One of its central features is the prohibition of hunting certain animal species listed under Schedules I, II, III, and IV, thereby contributing to the conservation of endangered wildlife. Moreover, the Act

establishes important statutory bodies, such as the National Board for Wildlife and State Board for Wildlife, charged with advising the government on wildlife conservation, reviewing and endorsing wildlife-related projects, and fostering the conservation and development of wildlife. It also mandates the formation of a State Board for Wildlife in each state, reinforcing the Act's reach. Furthermore, the Central Zoo Authority and the Wildlife Crime Control Bureau, both created under the Act, play pivotal roles in regulating and controlling wildlife-related activities and combating crimes against wildlife in the country.

The Indian Penal Code, 1860

The Indian Penal Code, 1860, is comprehensive criminal code of India which encloses all substantive aspects of criminal law and also has the provisions for animal protection through section 428 and 429. An act committed under both the sections of IPC is a cognizable offence. Cognizable offence means an offence for which, a police officer may, in accordance with the first schedule or under any other law for the time being in force, arrest without warrant.

- Section 428- Mischief that results in the death, poisoning, injury, or rendering of any animal or animals worth ten rupees or more is punishable by up to two years in prison, a fine, or both.
- Section 429- This section talks about mischief by killing, poisoning, maiming or rendering any animal or animals of the value of fifty rupees or higher shall be punished with imprisonment up to five years, or with fine, or with both. The above sections are part of general law and have been enacted to remove unnecessary pain and suffering of animals. These IPC provisions can be implemented along with addition of special laws enactment to protect animals.

III. OVERVIEW OF VIOLATION OF RIGHTS OF ANIMALS

India was one of the first countries to realise the importance of protecting animals and constitutionally address animal rights and welfare. However, the affair of animal welfare in the country is not quite appreciable. Although there are several laws and legislations protecting animals, there shoddy implementation and lengthy court cases make them irrelevant. The legal regime is mostly for the benefit of human beings and only minimally to protect animals. In the past years, many instances of animal rights violations have been taking place in India including indiscriminate killing of animals for their body parts, smuggling, removing them for their

original habitants etc. Few of the major issues concerning the rights of animals and their protection are –

1. Cruelty and Abuse: This involves physical violence, neglect, or intentional harm towards animals, such as beating, maiming, or torturing animals. Acts of cruelty are often reported in cases involving working animals, stray animals, pets, and even wildlife.^{7 8}
2. Illegal Trade and Trafficking: This includes the illegal trade of wildlife, animal parts, and products, such as ivory, skins, and organs. India, being home to diverse wildlife, faces challenges related to the illegal trade of endangered species.⁹
3. Animal Sacrifice, Animal Fighting and Entertainment: Activities like cockfighting, dogfighting, and other forms of animal fighting are illegal but persist in some regions. Similarly, animals are exploited in circuses, where they may face abusive training methods and poor living conditions. Animal sacrifice for religious purposes is also a cause of concern.¹⁰
4. Human animal conflict, Inadequate Housing and Care: Neglect and inadequate living conditions for animals, particularly in zoos, circuses, and pet markets, result in poor animal welfare standards. Also, there are several areas where animals are in directly conflicts with humans due to decreasing habitat.¹¹
5. Slaughter and Illegal Killing: Illegal hunting, poaching, and the illegal slaughter of animals, particularly those protected by law, pose significant threats to wildlife conservation efforts.
6. Animal Experimentation without Adherence to Ethical Guidelines: Despite regulations, there are instances where animal experimentation occurs without proper ethical

⁷ “Bengaluru woman kills 8 puppies to teach their mother a lesson”, Times of India, 22 March, 2016.

⁸ “Hyderabad: Boys burn alive three puppies, another shoots dead a dog”, Hindustan Times, 21 July, 2016.

⁹ UNODC, Wildlife and Forest Crime Analytic Toolkit - Revised Edition, United Nations Office on Drugs and Crime, Vienna, 2012.

¹⁰ Animals sacrifice takes place during 'Bijaya Yatra' of the annual Chhattar festival at Bhawanipatna in Kalahandi district in Orissa ; animal sacrifice was prevalent before September 2014 in various parts of Himachal Pradesh - Chamunda Devi temple in Kangra, Hadimba Devi temple in Manali, Chamunda Nandi Keshwar Dham in Kangra, Malana in Kullu, Shikari Devi temple in Mandi, Bhima Kali Temple in Sarahan and in Ani and Nirmand in Kullu district, Shillai in Sirmaur district and Chopal in Shimla district etc

¹¹ In Karnataka, man, wildlife and cattle are locked in a fight over land and fodder. Over 6,000 elephants roam free in Karnataka, primarily in six southern districts (Mysuru, Kodagu, Hassan, Mandya, Bengaluru Rural and Bengaluru Urban) near the 6,724-sq.-km Mysore Elephant Reserve. The competition is most acute in Bandipur and Nagarhole, which form the core of the elephant-cum-tiger reserve; while Bandipur is surrounded by 180 villages, Nagarhole is surrounded by 100-odd villages.

considerations or adherence to guidelines for humane treatment.¹² Also, animals used in traditional medicines are also mostly unregulated and undocumented.¹³

7. Environmental Degradation and Habitat Loss: Destruction of natural habitats and ecosystems directly impacts the lives of wild animals, leading to displacement, loss of resources, and endangerment.¹⁴
8. Inadequate Enforcement of Laws: Animal welfare legislation is routinely under enforced by the state. This under enforcement has obvious and direct implications for the animal victims of cruelty and neglect.¹⁵
9. Cultural Practices: Certain cultural practices, while deeply rooted, might lead to animal rights violations. For example, certain religious practices involving animal sacrifice might conflict with modern animal rights norms.¹⁶

Efforts to combat these violations include the implementation and enforcement of existing animal protection laws, awareness campaigns, education on animal welfare, and the work of animal rights organizations and activists. The government, NGOs, and citizens play significant roles in addressing and preventing these violations to uphold the rights and well-being of animals in India.

IV. Impact Of Animal Rights Laws

Assessing the impact of existing animal rights laws, evaluating their effectiveness in protecting animals, and measuring public awareness and compliance with these laws are critical aspects of ensuring the well-being of animals in India. Here's an evaluation of these elements:

1. Impact of Existing Animal Rights Laws:

- **Legal Framework:** India has a comprehensive legal framework for animal protection, including the Prevention of Cruelty to Animals Act, 1960, and the Wildlife Protection Act, 1972, among others. These laws provide a basis for addressing animal rights violations and promoting their welfare.

¹² D.P. van Uhm Monkey business: the illegal trade in Barbary macaques J. Traffick. Organ. Crime. Secur., 2 (2016), pp. 36-49

¹³ N. Romero-Daza, Traditional medicine in Africa Ann. Am. Acad. Political Soc. Sci., 583 (2002), pp. 173-176,

¹⁴ Neha Sinha, "Our Eclipsed View of Conservation is Driving Human-Animal Conflicts", 27 February 2016, <http://thewire.in/22909/our-eclipsed-view-of-conservation-is-driving-human-animal-conflicts/> , accessed on 1 October, 2023.

¹⁵ Duffield D. The enforcement of animal welfare offences and the viability of an infringement regime as a strategy for reform. N. Z. Univ. Law Rev. 2013;897:910.

¹⁶ Eg.- Jallikattu in Tamil Nadu, and bullock cart races in Maharashtra, Karnataka, Punjab, Haryana, Kerala, Gujarat, etc are events which permit use of animals as performing animals.

- **Wildlife Conservation:** The Wildlife Protection Act, 1972, has been instrumental in conserving endangered species and their habitats. It has led to the establishment of protected areas and the preservation of several threatened species.
- **Animal Welfare:** The Prevention of Cruelty to Animals Act, 1960, has helped in regulating various forms of cruelty to animals, ensuring their welfare. It addresses issues related to animal transport, use in experiments, and protection of pets and working animals.
- **Impact on Cultural Practices:** While challenging, animal rights laws have been used to raise awareness and curtail certain cultural practices that involve cruelty to animals, such as animal sacrifice in some religious rituals.

2. Effectiveness in Protecting Animals:

- **Mixed Enforcement:** The effectiveness of these laws varies depending on enforcement and regional disparities. In some areas, stringent enforcement has led to improved animal welfare, while in others, lax implementation persists.
- **Challenges in Wildlife Protection:** Despite the Wildlife Protection Act, the illegal trade in wildlife and poaching continue to pose significant threats to many species, highlighting the need for more robust enforcement.
- **Cruelty Prevention:** The Prevention of Cruelty to Animals Act has been instrumental in preventing cruelty towards animals, particularly pets and working animals. However, challenges remain in addressing issues like stray animal populations.
- **Animal Experimentation:** There have been advancements in adhering to ethical guidelines in animal experimentation, but issues of compliance and ethical standards persist in some cases.

3. Measuring Public Awareness and Compliance:

- **Growing Awareness:** There has been a notable increase in public awareness about animal rights and welfare in India. Animal rights organizations, social media campaigns, and educational initiatives have contributed to this awareness.
- **Public Compliance:** Public compliance with animal rights laws varies. While many individuals and organizations are committed to upholding these laws, there are still instances of non-compliance, particularly in cases of animal cruelty or neglect.

- Role of NGOs: Non-governmental organizations (NGOs) play a vital role in promoting awareness and advocating for compliance with animal rights laws. They often collaborate with the government to drive change.

India has made significant strides in animal protection through its existing legal framework, and there is a growing awareness of animal rights. However, the effectiveness of these laws in protecting animals depends on consistent enforcement and overcoming regional challenges. Measuring public awareness and compliance is an ongoing process, with advocacy, education, and collaborative efforts playing a vital role in improving animal welfare and reducing violations of animal rights in the country.

V. CONCLUSION AND RECOMMENDATIONS

In India, the total number of animal species is estimated at 91,307, representing about 7.46 per cent of the world's fauna. India's known animal diversity includes about 8,61,696 insects, 21,723 fish, 240 amphibians, 460 reptiles, 1,232 birds and 397 mammals. It also includes about 86,413 invertebrates.¹⁷ Therefore, the protection of animal rights holds a very important place in India, as evidenced by the existing legal framework and growing public awareness. The Prevention of Cruelty to Animals Act, 1960, and the Wildlife Protection Act, 1972, represent essential cornerstones of legislation aimed at safeguarding animals from unnecessary suffering and exploitation. However, it is crucial to evaluate the effectiveness of these laws and consider future directions for even more robust protection.

The impact of these existing laws is notable in several areas, including the prevention of cruelty, wildlife conservation, and addressing cultural practices that harm animals. Nonetheless, there are challenges, such as uneven enforcement, particularly in different regions and wildlife crime. To maximize their effectiveness, the enforcement of animal rights laws must be more consistent and stringent.

Measuring public awareness and compliance has seen a positive trend, with increased knowledge about animal rights. Non-governmental organizations, advocacy campaigns, and education initiatives have played instrumental roles in raising awareness. Yet, continued efforts to foster a sense of responsibility towards animal welfare are needed, especially in the context of cultural practices and cases of cruelty. Inclusion of chapters on animals' rights and their

¹⁷ MoEF, 2014 . "India's Fifth National Report to the Convention on Biological Diversity".

importance in school syllabus will be an effective step and teach the future generation to respect animals and environment.

Legislative reforms can provide a more comprehensive and robust legal framework. Stricter penalties and punishments, ethical guidelines for animal experimentation, and specific legislation for the protection of stray animals are critical steps. Enactment of a single, comprehensive animal welfare law that consolidates and strengthens existing legislation, providing more clarity, consistency, and a broader scope of protection. Enhancing enforcement requires better training, specialized units, and collaboration between agencies and organizations. Empowering citizens to report violations is also essential for a proactive approach. Public awareness and education are key to changing societal attitudes and behaviours. These initiatives must begin with young citizens through education and extend to public awareness campaigns that stress the significance of animal rights.

In conclusion, addressing the challenges and violations of animal rights in India requires a multi-faceted approach involving legislative reform, enforcement improvements, and robust public awareness and education efforts. The journey towards a more humane and just future for animals in India requires collaboration, persistence, and an unwavering dedication to safeguarding their rights and welfare. By adopting these recommendations and working collaboratively, India can further strengthen its commitment to animal welfare and ensure a more compassionate society that respects and protects the rights of all living creatures.

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