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JUDICIAL RECOGNITION FOR THE INTERESTS OF ANIMALS**Introduction**

Humans are the most advanced animal species on the planet. They founded the institution of the 'State,' which gave rise to the idea of 'Rights.' Certain interests were deemed to be so vital that they were given the status of Rights. A privilege is null unless it is accompanied by a corresponding obligation. There should be someone who is forbidden from interfering with a person's enjoyment of a right against whom a person enjoys the right. A person who has rights has a responsibility to those who also have rights.

We are all aware that animals experience discomfort and enjoyment. They show their happiness and respond to their surroundings. Cows, sheep, elephants, apes and dolphins are examples of socially intelligent animals.

India's community encourages tolerance and reverence for all living beings. Cows are considered sacred by Hindus. Religious texts mention snakes, bulls, *garudas*, rodents, monkeys, elephants, tigers, and other animals. Non-violence is taught by Buddhists and Jains to all living things. People are encouraged to feed dogs, pigs, fish and birds according to different moral and religious traditions. For the vast majority of us, vegetarianism is a way of life.

Our laws protect animals from cruelty. This ensures that animals have a right to be free from cruelty. They have the right to liberty and it is against the law to keep them hostage. Article 51A (g) of the Indian Constitution imposes on us a profound obligation to protect wildlife and to have respect for all living things.

A variety of concerns occur as a result of the human-animal dispute. Innocent animals are occasionally killed by humans, and vice versa. This dispute arose as a result of the loss of forest cover or natural habitat for wild animals as a result of increased industrialist activities and population growth.

Protecting wildlife and having compassion for all living beings is a fundamental responsibility of every person under Article 51-A (g) of the Indian Constitution of 1950. Furthermore, Article 48A imposes an obligation on the government to preserve, safeguard and develop the country's forests and wildlife. Under the wildlife protection scheme, the centre, state and panchayats are given various powers, authorities and responsibilities.

There are several laws in place in the country to protect wild, domestic and street animals, but none of them are enforced. Despite the fact that the Wildlife Protection Act of 1972 is stricter than the Prevention of Cruelty to Animals Act of 1960, there have been recent cases of animal killing.

Outbursts can be heard around the world, demanding that justice be served in such egregious cases. Various NGOs have taken to social media to demonstrate, and people have joined and helped them.¹

An Overview of the Laws for Protection of All Animals

The Prevention of Cruelty to Animals Act of 1960 was the first animal welfare legislation passed in India after independence. However, it appears that the Act has not been revised or modified, since the fines prescribed in the Act are minimum, ranging from Rs. 10-500 for offences committed in violation of Sections 11, 20, or 26 of the Act.

Parts 428 and 429 of the Indian Penal Code, 1860, do not do justice to the lives of animals and the recommended negligible fines for their killing and maiming. In comparison to these statutes, the Wildlife Protection Act of 1972 is a better-equipped statute with sufficient fines and imprisonments, as well as the necessary mechanism to carry out its stated intent.

Laws for the treatment of Street Animals

¹ Deswal, V., 2021. *Do animals have rights?*. [online] Times of India Blog. Available at: <<https://timesofindia.indiatimes.com/blogs/legally-speaking/do-animals-have-rights/>> [Accessed 6 April 2021].

- Under Section 428 of the Indian Penal Code, 1860, killing, maiming, poisoning, or making an animal useless is punishable by up to two years in prison, a fine, or both. The imprisonment is 5 years under Section 429 of the Code and it occurs when the animal's cost reaches 50 rupees.
- Section 11 of the Prevention of Cruelty to Animals Act states that anybody who makes, or who himself beats, kicks, or tortures any animal in any way, causing it excessive pain and distress, will be fined up to Rs. 50. If the offence is committed again, the fine will be increased or a three-month sentence will be imposed.
- The Animal Protection (Dogs) Rules of 2001 establishes guidelines for both household and street dogs.

Laws for the treatment of Service Animals/Cattle

The Prevention of Cruelty to Animals Act's Chapter III deals with animal cruelty in general. The following actions are punishable under Section 11 by a fine of up to Rs. 25-100 and a maximum of three months in jail if they are repeated.

- Someone who hires an unhealthy animal to operate, such as one with a wound, infirmity or sores, or an elderly animal - Section 11 (b).
- Someone who transports an animal in a way that causes it discomfort or distress - Section 11 (d).
- Confines an animal in a cage or other type of confinement that is insufficiently large to enable the animal to move freely -Section 11 (e).
- The owner of an animal that causes a contagious or infectious disease-affected animal to die on the street -Section 11 (j).
- Someone who sells an animal that is in distress as a result of mutilation, malnutrition, thirst, overcrowding, or mistreatment -Section 11 (k).
- The government of India issued non-binding guidelines called National Code of Practices for Management of Dairy Animals in India in October 2014, in collaboration with a Non-Governmental² Organization called World Animal Protection.

Laws for the treatment of Wild Animals

The Wildlife Conservation Act of 1972 is India's most relevant wildlife legislation. Any wild animal or bird may not be killed, poached, trapped, poisoned or otherwise harmed under the Act. It also mandates the formation of Wildlife Advisory Boards in each state.

- Wildlife is defined as any species, aquatic or land vegetation that is a part of any ecosystem, according to Section 2 (37) of the act, making the term broad and inclusive.
- Section 9 of the Act makes it illegal to hunt any wild animal (specified in Schedules 1, 2, 3, and 4) and punishes offenders for up to three years in prison, a fine of up to Rs. 25,000/- or both.
- The Act empowers the federal and state governments to designate any area as a wildlife refuge, national park or other restricted area. The Act makes it illegal to engage in any industrial operation in these regions.
- Section 48A of the Act prohibits the shipment of any wild animal, bird, or plant without the approval of the Chief Wildlife Warden or any other official appointed by the State Government; and Section 49 prohibits the purchase of wild animals from dealers without a licence.

Laws for the treatment of Marine Animals

Aquatic species are also covered by the Wildlife Protection Act. Marine Protected Areas (MPAs) have been developed in India to protect marine species.

- All endangered marine species are classified in Schedule 1-4 of the Wildlife Conservation Act.
- Schedule III covers all sponge species, while Schedule IV protects a wide range of molluscs.
- Dolphins have been named as India's national aquatic animal and are included in Schedule I. India has outlawed the use of dolphins for commercial purposes, effectively prohibiting the establishment of any "dolphinarium" in the country.

Laws for the treatment of Birds

Birds, including land and marine species, are protected under the Wildlife Conservation Act of 1972 and the Prevention of Cruelty to Animals Act.

- Section 11 (o) of the Prevention of Cruelty to Animals Act punishes anyone who supports or participates in a shooting match or competition in which animals are released from captivity for the purpose of shooting.

- It is illegal to harm or kill wild birds, reptiles or other animals or to damage or disrupt their eggs or nests, according to Section 16 (c) of the Wildlife Protection Act. Anyone found guilty of any of this could face a sentence of up to 7 years in prison and a fine of up to Rs 25,000.

Laws for the treatment of Zoo Animals

The Wildlife Conservation Act also includes provisions pertaining to zoo animals.

The Central Government is required by Section 38A of the Act to create a Central Zoo Authority, which has the following responsibilities:

- outlining the basic criteria for animal treatment inside the zoo.

- recognize or deny the existence of zoos.

- recognize endangered species and transfer responsibility for captive breeding to zoos, etc.

- The Central Zoo Authority provides the guidelines for the establishment and scientific management of zoos in India, as per Section 38 H of the Indian Constitution. These regulations provide provisions for adequate space, healthcare, freedom of movement, and a naturalistic environment for the animals, among others.

Law for the treatment of Pets

Section 11 of the Prevention of Cruelty to Animals Act contains a number of laws pertaining to pets. As previously stated, any of these offences will result in a fine of up to Rs 100, as well as three months in jail if the offence is repeated.

- Any animal owner who, on a regular basis, negligently or deliberately chains a dog in a small space.

- Any owner who fails to provide adequate food, water, or shelter for his animal- Section 11 (h).

- Any owner of an animal who knowingly allows an infected, diseased or disabled animal to go into any street without a permit or leaves the animal to die in any street- Section 11 (j).

- Someone who intimidates another person, who is the owner of a pet, and prevents him or her from holding or caring for his or her pet, may be held liable under Section 503 of the IPC.

Laws for the treatment of Entertainment Animals

- No animal can be used for entertainment purposes without first registering with The Performing Animals Rules, 1973.
- The Prevention of Cruelty to Animals Act's Chapter V deals with performing animals and Section 26 of the Act punishes anyone who uses an animal for the purpose of amusement or performance with a fine of up to Rs 500, or imprisonment for up to three months or both.

Laws for the treatment of Animals used for Research and Experimentation

Throughout the world, millions of animals, particularly white mice, guinea pigs, rabbits, monkeys and other small animals, are used for experimentation, and they suffer and die in excruciating pain. Animal experimentation in the cosmetics industry is a form of extreme cruelty.

- Animal testing for cosmetic products was outlawed throughout India under the Drugs and Cosmetics Rules (Second Amendment) 2014.
- Someone who breaches the Act faces a sentence ranging from 3 to 10 years in prison or a fine ranging from Rs.500 to Rs.10,000, or both.
- No cosmetic that has been tested on animals may be imported into the country, according to Rule 135B of the Drugs and Cosmetics (Fifth Amendment) Rules 2014.
- The Breeding of and Experiments on Animals (Control and Supervision) Rules, 1998 (amended in 2001 and 2006) were issued by a committee formed under the provisions of the Prevention of Cruelty to Animals Act–The Committee for the Purpose of Control and Supervision of Experiments on Animals.
- The Prevention of Cruelty to Animals Act prohibits dissecting and testing on animals in schools and colleges in India.²

Cases for Reference

Here are a few Landmark Judgements in which Indian courts have played a pivotal role in reforming environmental jurisprudence and safeguarding animal rights and the environment.

² iPleaders. 2021. *A compilation of animal protection law in India or animal protection laws*. [online] Available at: <<https://blog.ipleaders.in/animal-protection-laws-in-india/>> [Accessed 6 April 2021].

Tilak Bahadur Rai v. State of Arunachal Pradesh, 1979 Cr. L.J. 1404.

A tiger was shot and killed by the accused. The Supreme Court ruled that if a person kills or injures an animal as a means of self-defence, the animal becomes the property of the government. The person who shot, killed or harmed the animal has no legal claim to the animal.

Naveen Raheja v. Union of India [(2001) 9 SCC 762].

The topic in question was the skinning of a tiger in an Andhra Pradesh zoo. The tiger was not protected by those whose job it was to keep it secure. The Supreme Court then issued relevant orders in the matter, including those relating to the safety of tigers.

Writ Petition (PIL) No. 77 of 2010: Gauri Maulekhi v. Union of India.

The illegal export of cattle and buffaloes from India to Nepal was the subject of this case. The Gadhimai festival is held every five years in Nepal. They kill these animals in the hopes that it will help them achieve their goals. The Court held that non-human living beings cannot be subjected to excessive pain or suffering in order to fulfil human desires. The court also decided that killing an animal should not be considered a way to please the Gods in any way.

State of Uttar Pradesh v. Mustakeem, 1999 (3) ACR 2668.

The case has been lodged in the Allahabad High Court. Goats and cattle were transported to be slaughtered in this situation. These goats and cattle were tethered to each other inextricably, in flagrant violation of Section 11 of the 1960 Prevention of Cruelty to Animals Act. The Court held that if an animal is removed from an individual's personal care and safety because it has been exposed to abuse while in his or her custody, the animal cannot be returned to the same person who previously caused the animal extreme pain and agony in any circumstances.³

And the following are a few examples of Animal Cruelty in India, where people didn't even consider animals to be living creatures, making one wonder if we as a society are left with humane values:

³ Tejnani, D., 2021. *15 Landmark Judgement of Indian Judiciary on Animal Rights*. [online] Legal Desire. Available at: <<https://legaldesire.com/15-landmark-judgement-of-indian-judiciary-on-animal-rights/>> [Accessed 6 April 2021].

- i. 4 July, 2020- In Ayodhya, Uttar Pradesh, a cow was killed after chewing explosives wrapped in dough. While the local police arrested two boys, the Deputy Superintendent of Police in Ayodhya said the duo used dough loaded with explosives to kill wild boar and other animals for meat.
- ii. 2 July, 2020- Police rescued a total of twenty-two dogs that were being transported illegally to Nagaland. According to preliminary investigations, the dogs were being cruelly transported to Nagaland in gunny bags, where they would be brutally slaughtered for meat consumption.
- iii. 27 May, 2020- A pregnant elephant was killed in Silent Valley, Malappuram, Kerala, causing widespread uproar. She was allegedly fed a pineapple loaded with strong crackers that was offered to her by a man. When she bit into the fruit, it exploded in her mouth, fracturing her jaw. She then went into the Velliyar river in Malappuram and stood in the water for hours, taking her last breath in agony.
- iv. 24 May, 2020- Two teenage boys were tracked down and found in Ujjain, Madhya Pradesh, after they were seen in a viral video cruelly binding and mercilessly drowning a poor dog. One of the defendants is a 19-year-old teen, while the other is a juvenile. The two boys had drowned the dog "just for fun," according to preliminary interrogation by local police authorities.
- v. 14 October, 2019- A 19-year-old man was arrested on Saturday in suburban Powai, Mumbai, Maharashtra, for allegedly performing unnatural sex with a stray dog.
- vi. 24 July, 2019- Villagers living near the Pilibhit Tiger Reserve in Uttar Pradesh's Terai area lynched an adult tigress.
- vii. 25th June, 2019- After a video of 78 dead dogs heaped in a truck in Siddipet surfaced on social media, four officials from the Siddipet Municipality in Telangana were suspended. The municipality is said to have ordered the mass culling.
- viii. 22 March, 2019- In Bengaluru, Karnataka, a woman threw eight puppies across the road, killing them all. Some of the pups' intestines were ripped out due to the impact. The sight of the mother who wouldn't stop crying and trying to wake them up, running around calling for help, disturbed the residents.
- ix. 25 July, 2018- A pregnant goat died in Maroda Village, Haryana, after being gang-raped by eight men.
- x. 23 March, 2018- Several stray dog carcasses were discovered in the lanes of Kalamna, Nagpur's Mhada quarters. According to reports, the stray dogs were poisoned by local meat vendors because they would steal meat from their stores.

- xi. 11 January, 2018- Eleven monkeys were discovered dead near the National Highway-8 in Rajasthan, about 66 kilometres from Jaipur. Officials with the Forest Service said they were battered with sticks and then sprayed with an abrasive substance, most likely acid.
- xii. 5 September, 2017- A 24-year-old Mumbai man severely abused a stray dog, fracturing its skull.
- xiii. 20 January, 2017- Animal activists saved twenty-one caged Beagles from a private research firm in Pune, where they were being used for laboratory study. They had been imprisoned in the business for the previous six years and had been exposed to severe cruelty and suffering.
- xiv. 2 November, 2017- In Katpadi, Tamil Nadu's Vellore district, a college student threw a puppy off a terrace, killing it on the spot.
- xv. 15 March, 2016- During an opposition rally, a BJP MLA attacked a police horse named "Shaktimaan" with a *lathi*, leaving the horse with a broken leg and eventually killing it.⁴

These events demonstrate just how low humans can go and what they are capable of. It is precisely for this purpose that the legislature must shake off its slumber and enact some stringent provisions in favour of animal rights that ensure their complete protection. India urgently needs a comprehensive piece of legislation that addresses all aspects of animal welfare. India urgently needs to pass comprehensive legislation that addresses all facets of animal rights and the depravity to which these animals are subjected. There are already legislation in effect, but the rules of these laws are obsolete and need to be revised as soon as possible to ensure that animals are not subjected to ill-treatment at the hands of creatures who appear to be more sensible and intelligent than them. It's past time for India to acknowledge that humans aren't the only ones who live on this planet.

Actions that the Government can take

It is unquestionably the government's responsibility to enact effective legislation, amend them on a regular basis, and ensure that they are widely publicised and followed by the

⁴ Images.assettype.com. 2021. *Animal Cruelty PIL*. [online] Available at: <https://images.assettype.com/barandbench/2020-09/8ab40a47-bf47-49e0-bc61-c5c2d07b4e99/SC_Animal_Cruelty_PIL__PCO_vs_UoI_.pdf> [Accessed 6 April 2021].

public. The government should monitor how citizens respond to legislation and what can be done to strike a balance between animal and human rights. Various projects have been carried out, with the results suggesting some progress in wildlife conservation in the region, though the results are not especially impressive. The government's scope and exposure are often restricted in rural areas, where the majority of these disputes occur. Furthermore, landowners whose crops or livestock are regularly attacked by these animals make only rudimentary attempts to disclose such occurrences. Furthermore, landowners whose crops or livestock are often attacked by these animals make only rudimentary attempts to report such events to authorities, preferring instead to deal with the animals themselves. Several videos have surfaced on social media showing crowds of villagers thrashing tigers and leopards as forest officials stand by as spectators. It would have been easier if the government had worked harder in the past to instil in the public a sense of appreciation for these authorities as well as animal rights.

Actions that Citizens can take

Let's look at how we can use the law to file a formal complaint about animal rights violations, and where we can do so:

Sending a Legal Notice: You have the choice of sending a legal notice to the person or community of animal abusers yourself through a lawyer or reporting the matter to an NGO that will do it for you. You can file an official complaint if the abuser does not take action after receiving the warning.

How to Register a Wildlife Case: Preliminary Offence Report, Offence Report, First Information Report, Seizure Intimation, and other names for an offence report vary by state. However, it is recommended that the report be titled Wildlife Offence Report to make the reports uniform. It was created under the Wild Life (Protection) Act of 1972, Section 50(4). Anyone, in general, can file this.

To file a 'complaint,' however, one must go to a judge and make an accusation either verbally or in writing. A forest officer may be contacted, who can then file a complaint with the magistrate. The following people may file a complaint with the magistrate under Section 55 of the WLPA:

1. The Director of Wildlife Protection, or any other officer approved by the Central Government to work on his behalf, Members of the Central Zoo Authority or Member-Secretary of the Tiger Conservation Authority, and the Director of the concerned Tiger Reserve.
2. Wildlife Warden in Chief
3. Any person who has given at least sixty days' notice to another person or community of his intention to file a complaint.⁵

Conclusion

Animal rights are effectively defended by our constitutional frameworks and judicial pronouncements. No right, however, can be absolute. Animal rights, like human rights, must be controlled. We must strike a balance between protecting animal rights while still ensuring the welfare and well-being of humans. Abuse of animals must come to an end. Humans must abandon their patronising attitude toward other animals. Human supremacy in terms of intelligence cannot be allowed to trump the living rights of other beings. All life forms must coexist in order to prevent our eco-system from being unbalanced.

⁵ iPleaders. 2021. *A compilation of animal protection law in India or animal protection laws*. [online] Available at: <<https://blog.ipleaders.in/animal-protection-laws-in-india/>> [Accessed 6 April 2021].