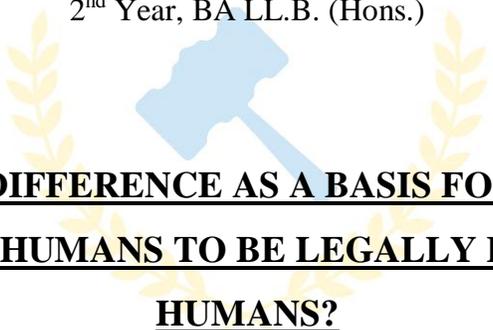


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SIMILARITY OR DIFFERENCE AS A BASIS FOR JUSTICE: MUST ANIMALS BE LIKE HUMANS TO BE LEGALLY PROTECTED FROM HUMANS?

Abstract

Man is full of greed and looks for benefit and profit everywhere around. This is the reason that animals have been exploited over years and years without any revolutionary change. People view animal rights as a philosophy because it has its roots in Hinduism, Buddhism and Jainism but it is rather a social phenomenon. Similarities and differences both exist between humans and animal, which will be discussed further. Like all human beings are protected and granted several rights and the question now arises is that whether should animals be treated like human to be protected from humans. We, as humans need to understand, that being superior to every organism, it is our duty to protect the vulnerable and the weak, rather than harming them. A lot many of us need to change our mentality, our perspective towards everything for the protection of animals. But we also need to understand that rights and duties go hand in hand. Also if rights turn out to be absolute, it might pose a problem. Being superior of all the species it is essential that humans get a little more logical and understand the vulnerability of the issue. Morality comes into play whenever we try to get off road. It has been the driving source of everything else and made us understand the differences and similarities more efficiently. India has been a diverse land, with a wide range of flora and fauna.. All three religions, Hinduism, Buddhism and

Jainism work upon the principle of Ahimsa. Famous case of Jallikattu tells us that Supreme Court is also supportive in protecting animal rights. Owing to all the differences that exist between humans and animals, it can be stated that animals should be treated as animals only and not as humans.

Introduction

We all have consumed animal products in our lifetime. We have been using dairy products, wool, leather; we have consumed meat and many more in the list. A lot many of us have caged birds and other animals on the pretext of them being our beloved 'pets'. But now the question of animal rights, seeks to guard the animals from the ill treatment towards them.

Human being is a greedy organism, who can go to any limits to satisfy his greed. Since centuries, humans have been using animals for their requirement and experimentation on new discoveries. Animals have been used for cosmetic purpose as well; they have also been used as source of entertainment, animals during circus gather a huge crowd to the circus, at many instances these animals are caged in zoo.

These animals are retained being a part their natural habitat, in which they are supposed to live, they are rather provided with manmade environment to sustain their life. Animals have been exploited in India since a very long time but now it's time for us to stand for them.

Like all human beings are protected and granted several rights and the question now arises is that whether should animals be treated like human to be protected from humans. Humans have rights at every small step they take and there are people guiding them throughout, we humans can speak, dance and use our intelligence, while animals have similar sort of emotions, they feel pain, pleasure, angst, guilt and every other emotion ever present. As a human we can express those emotions through words or grand gestures, whereas animals cannot.

Owing to all the differences that exist between humans and animals, it can be stated that animals should be treated as animals only and not as humans.

Evolution of Animal Rights

Foremost description of animal rights can be found in religious text books of Hinduism, Jainism and Buddhism. All these religions were following the concept of *Ahimsa*¹. Jainism was on an extreme path, like it avoid cutting of trees, wearing clothes that are extracted form silk or working at zoo, everything was not allowed, because they believed that it would harm the animal and cause cruelty.

First regulation that ever came into existence was 1935, it stated that ripping off wool from a living sheep is not permitted. *Richard Martin*² in 1822 passed an act which aimed at preventing cruelty towards cattle.

The first ever reference can be found in *Henry Stephens Slat*³, book *Animals' Rights: Considered in Relation to Social Progress, it mentions about prejudice towards animals*⁴.

Animals as humans

Every legal system has certain illegal acts; performance of such acts can lead to remedies under law, it could be damages, fines or punishment. Now, we need to look that if we treat animals as humans, will they be punished for commission of an offence, or will they be treated like children or an insane person and fall out of the purview of punishment, on the assumption that they did not know the consequences of the act performed.

But does that mean, animals should be treated like a thing? Certainly no!

Animals should no longer be treated like a thing or an object for the satisfaction of human wants, because they have feelings and emotions. So, treating them like a thing makes no point over here.

Another thing to note is that, humans have right to shelter, but whereas it is practically not possible to provide every bird and every dog a proper place to live, we cannot go on searching for those animals that do not have shelter; we cannot build nests for every bird around.

¹ Non violence

² Irish Politician

³ English writer and social reformer

⁴ <https://faunalytics.org/the-animal-rights-movement-history-and-facts-about-animal-rights/> (last visited on 18/10/21)

Animals should be protected from exploitation, and their rights should be well guarded and protected, but should not be treated equally to men. “Peter Singer in his book, *Animal liberation talks that equity stands on a firm ground that it should be based on equal consideration rather than equal treatment.*”⁵

Animal rights as a social movement

Humans are superior to animals, not because we may walk on two legs and have a good physique, but rather because we have a brain that processes things faster than animals do. But that in no way gives us the license to exploit animals all the way round to destroy the environment as well. The earth is already suffering a lot, we should at least try to protect the animals, because this is the least we could ever do.

We, as humans need to understand, that being superior to every organism, it is our duty to protect the vulnerable and the weak, rather than harming them. A lot many of us need to change our mentality, our perspective towards everything for the protection of animals.

This is not philosophical, but a matter of concern, because this animals can more or less be related to humans and exploitation of them also falls outside the ambit of public morality.

Supreme Court of India in 2014, stated one of precedent that extended the *article 21*⁶ and said that article 21 of the constitution protects human life and liberty and animals have right to live in a healthy, clean atmosphere, where they do not fear about being harmed or killed.

Ingrid Newkirk, *PETA*⁷'s founder mentioned that “When it comes to pain, love, joy, loneliness, and fear, a rat is a pig is a dog is a boy. Each one values his or her life and fights the knife.”

Cruelty against animals is dealt in section 428/429 of the *Indian Penal Code*⁸, also under section 39 of the wildlife protection act and we also have a separate act for the same, namely The Prevention of cruelty to Animal act, 1960.

Rights along with duties

⁵ [Animals should not have the same rights as humans - Brownfield Ag News](#) (last visited on 19/10/21)

⁶ No person shall be deprived of his personal liberty except according to the procedure established by law

⁷ People for ethical treatment of animals

⁸ Official criminal code of India

Being a citizen of India we all are granted various fundamental, legal and constitutional rights which also give rise to duties. All the citizens of India have fundamental duties to follow as well. No right can go single handedly, it is meant to be followed by a duty.

We humans are rational enough to make choices and distinguish between the right and the wrong but how will the animals distinguish the same. They lack rationale, due to which they have no duties. Animals act on instincts only and do not run on logic but we humans run on logic.

The point here is the protection of animals, protecting them from being a victim to exploitation rather than treating them equally as humans and granting all the rights. It is firmly believed that animals can be taken care of, and can be protected even without giving them equal status as that of a man.

Moral agency and personhood

Animals lack personhood, they fail to be natural born person but this doesn't mean that they can be treated like a 'thing'. They cannot be regarded as a thing because they have feelings and feel all type of emotions be that happy, sad, guilt etc. some of the animals also show social behavior like cows, dolphins, dogs possess a behavior that makes it easy for them to interact with humans using gestures and signs.

To protect the dignity of animals, for instance if they are given equal status then they should also be held accountable for all the wrongs committed.

Discussing a bit about history, in ancient times, in many societies, animals were punished for committing a wrong done, without that animal being aware about the wrong he committed, nor he be able to distinguish between right and wrong.

Sacred texts

India has always been a land of diversity and deeply rooted moral and religious values. In Hindu texts we worship so many animals like snakes, peacock, rats, tiger, elephant and the list is endless. Buddhism and Jainism follow the path of non-violence. In Hinduism there are several practices where a person has to feed cows, dogs, cats, birds and fishes and the list is endless.

One important case of the same could be the case of *Animal Welfare Board of India vs. Nagaraja*,⁹ decided by the court in 2014. Supreme Court of India banned the Jallikattu as known as bull fighting and bullock cart racing in the states of Tamil Nadu and Maharashtra. In this judgement Supreme court stated that under article 21, right to live with dignity is an important component and is not just confined to humans but to animals as well.

Uttarakhand High Court in July 2018, and an eminent judge Rajiv Sharma of Punjab and Haryana High court observed animals as legal persons, the court declared all the citizens of the stat to work for the welfare of animals.

Hence, it is evident that India has laws that prevent cruelty against animals. Animals should be considered safe in India. No right can be absolute, there needs to be line to control everything otherwise things might slip from the hand.

Use of animals for scientific research purpose

Discussing about rights and duties of animals we now move towards animals being used for scientific research.

The number of animals used for scientific research is too much. After every research these animals are destroyed. The situation is worst in UK and America; this is not just about the quantity that is being discussed but rather the pain that the animals have to go through during the process. Animals bear so much of pain just to satisfy the needs of growing and greedy human population. Animals are put under severe stress and conditions to carry out the experiment and note down the result.

Doctors and research scholars are continuously trying to develop better medicine each day. Hence they have a specific type of a drug that claims to cure cancer and the same has been tested on rats first. They are made to consume the whole thing can then roam around freely. Dr. Richard Klausner has stated that “The history of cancer research has been a history of curing cancer in the mouse...

Morale and scientific research

⁹ (2014) 7 SCC 547

Humans and animals are two of the life forms found on earth. Humans being more superior to animals because they have a better ability to think and act. Efficiency in humans of a particular society defines that how prosperous that society is.

The moral issue to be addressed is that, it is not allowed to use humans for any such experiment without their consent but whereas you can use animals for all such experiments without their consent. Then how could it be feasible to use animals for the same.

Humans have better rationale and thinking ability than animals hence it is important for them to act more protective towards the animals and protect them from all sort of discrimination and exploitation.

Racial and gender discrimination has a long history to discuss, it is after decades that humans can see improvement in racial and gender discrimination but this stigma is still stick to the brains of people. It is believed that as racial and gender discrimination gained success, animal rights issue will also take to a greater platform for better opportunities.

Humans certainly have different level of intelligence and hence our morals allow us to not discriminate against them, animals belong to lower strata but need our complete attention.

Even after years, bits of racial and gender discrimination still prevails in the society and we have to overcome that. Similarly reaching out to people and telling them the importance of animal rights is going to be a tough task, but eventually everything will fall back into place.

Whereas right to life, is of utmost importance. Right to live with dignity is covered under right to life. Animals may not be caged and can live in their natural setting. Wildlife sanctuaries and national park provide with such environment but whereas zoo is in violation of animal rights, because it keep the animals caged in a manmade setting, depriving him of his homeland.

We, as humans need to understand that animals may not talk or speak, but they can suffer.

The present scenario can be compared to the abortion rights of the fetus. Inside the womb, the fetus is unable to speak and raise the voice but is dependent on the people outside to raise a voice for the same. Similarly animals do not have a voice of their own but are dependent on us to speak on their behalf.

Conclusion

Animals form an important part of the whole ecosystem and hence the preservation of them is of utmost importance. People's attitude need to change, and the need to become more accepting towards everything. People need to understand that animals also need to be protected, and they should be guarded from exploitation and disintegration. Because animals have feelings, they can feel every emotion just like humans; it might feel that they should be granted the status of human according to law.

But we also need to understand that rights and duties go hand in hand. Also if rights turn out to be absolute, it might pose a problem. Being superior of all the species it is essential that humans get a little more logical and understand the vulnerability of the issue. Morality comes into play whenever we try to get off road. It has been the driving source of everything else and made us understand the differences and similarities more efficiently.

India has been a diverse land, with a wide range of flora and fauna. Hence it needs to be protected. Animal rights are clearly mentioned in our religious texts as well. All three religions, Hinduism, Buddhism and Jainism work upon the principle of Ahimsa. Famous case of Jallikattu tells us that Supreme Court is also supportive in protecting animal rights.

Scientific research uses animals ruthlessly for various experiments, using humans for the same is not permitted but animals are allowed as if animals don't have life.

It is important that people understand the importance of protection of animals and living in a cruelty free world. Animals may not be treated like humans but they need to get better treatment, which is only possible through formulation of laws. Legislative and judiciary need to take into consideration the same matter and work towards a better future for all the animals.

Treating animals equally to humans may be absurd but they can be granted equal protection, so that this cycle of discrimination could end, appears to be a viable idea.