
ACCESS TO JUSTICE FOR CATTLE: NEED FOR PROPER RECOGNITION OF ANIMAL ABUSE

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ABSTRACT

In this paper author tries to explain access to justice in the context of cattle. The access to justice is not merely to move to courts, but is also to develop law in view of doing justice. This paper highlights the criminology and victimology aspect of animals.

INTRODUCTION

Access to justice is a basic element of Rule of Law. It suggests that everyone has access to Justice, more emphasizing on its adjudication part, for e.g. right to move courts for justice. But main questions arise here are, is access to justice limited only to seek justice before the court of law or is it having a broader aspect of evolving and developing more toward justicing? It is better to say, whether access to justice suggests other dimension in context of developing law or doing justicing? Is access to justice only limited to access to courts?

The phrase "access to justice" becomes more strong and expressive, if it talks about access to "Justice", as the emphasis will be more on justice. In doing so, the broader interpretation will be given to it, which will focus more on doing justicing and "access to justice" will mere part of it.

In access to justice the emphasis is more on justice, thus it is access towards justice, and access to courts either by free legal aids, ADR are facet of access to justice and are not access to justice. Thus access to justice is in much broader sense access towards justice.

Now this paper will focus the above understanding in the content of Cattles especially Cows and Bulls.

Before going ahead answering a question will illuminate the subject matter of this paper.

What are injustices committed upon Cows and Bulls?

- Slaughter
- Artificial Insemination

Is Criminology and Victimology limited to humans only? This paper tries to answer this question in the light of above injustices.

According to Washington Post on 16 July 2018 there are 5 million stray cows roaming in India.¹ Where are they coming from? These cows and bulls are the end result of milk industry and raw material for meat industry. The farmers use no more bulls in farming, so they are abandoned or

¹Annie Gowen, *Why India Has 5 Million Stray Cows Roaming the Country*, WP Company, 23 Dec. 2019, www.washingtonpost.com/world/2018/07/16/amp-stories/why-india-has-million-stray-cows-roaming-country/.

sold to slaughter houses by dairy owners after few years of their birth, and in case of cows when they stop giving milk.

The Prevention of Cruelty to Animals Act, 1960 does not protect draught cows or useless bulls from slaughter houses. Although there are some states who had ban cow slaughter, but lack in their application, whereas in Kerala and North East states there is no ban on cow slaughter.

In 2005, in the case of **State of Gujarat vs. Mirzapur Moti Kureshi Kassab Jamat and Others** the court observed that when the cattle gets old, they can be still use for energy production as by giving dung for biogas and fuel. It is wrong to say them useless. The foundation of Indian farming is the bovine and her offspring as it were. The entire structure of the Indian horticulture and its monetary framework is in a roundabout way reliant on the dairy animals. It was in this way viewed as important to force absolute denial against butcher of offspring of dairy animals.

In 2014 **Animal Welfare Board of India vs A. Nagaraja & Ors** SC held that animals have right to life. Protection of life under Article 21 extends to both human beings and animals.²

In **Narayan Dutt Bhatt vs Union of India & Ors**, 2018 Uttarakhand HC and in **Karnail Singh & Ors vs State of Haryana**, 2019 P&H HC, recognised doctrine of *parens patriae* to protect the right of animals.³

In **Sri Subhas Bhattacharjee vs The State Of Tripura** on 27 September, 2019 Tripura HC, The court had ban religious sacrifice of animals in the temple across the State and also held that the right under Article 21 is available to other species like animals/birds as well.⁴

Thus court is recognising the right to life of animals.

Animal Welfare Board of India move to the Tamil Nadu High Court in **Animal Welfare Board of India vs A. Nagaraja and Ors**. in respect of cruelty committed upon bulls in Jallikattu, a native sport in Tamil Nadu and prayed to ban this sport. The HC put a ban on it.

²Bar & Bench, *Takeaways from the Tripura High Court Judgment Prohibiting Animal/Bird Sacrifice in Temples*. Bar and Bench - Indian Legal News, www.barandbench.com/columns/takeaways-from-the-tripura-high-court-judgment-prohibiting-animal-bird-sacrifice-in-temples.

³Nonhuman Rights Project, *Indian High Court Recognizes Nonhuman Animals As Legal Entities*. Nonhuman Rights Project, 10 July 2019, www.nonhumanrights.org/blog/punjab-haryana-animal-rights/.

⁴Bar & Bench, *Takeaways from the Tripura High Court Judgment Prohibiting Animal/Bird Sacrifice in Temples*. Bar and Bench - Indian Legal News, www.barandbench.com/columns/takeaways-from-the-tripura-high-court-judgment-prohibiting-animal-bird-sacrifice-in-temples.

Later on several protest took all over the State and an Act was passed to make Jallikatu a valid sport. Thus Tamil Nadu Regulation of Jallikatu Act 2009 was passed. Then in appeal of *Animal Welfare Board of India vs A. Nagaraja and Ors.* was again banned by Supreme Court.

But the thing need to be consider here is, is there any difference between the cruelties justified by law i.e. slaughter house, cruelty not justified by law i.e Jallikatu. That is to say, the amount of injuries caused to bulls in sport, is it equal to cruelty caused by slaughter houses by taking away their lives, are they on the same footing? But the thing is cruelty of higher degree has been justified by law i.e. slaughter houses and the other lacks justification i.e. Jallikatu. And the irony is that the Animal Welfare Board was constituted under The Prevention of Cruelty to Animals Act, 1960 and demanding a ban on Jallikatu on the ground of cruelty on bulls ,and this same Act supports slaughtering of draught and useless, cows and bulls. Thus what is cruel or not remains arbitrary.

The victimization is not limited to this aspect only. The use of Artificial Insemination has also caused cruelty to cows and bulls. The semen is extracted from bull twice a day and four days a week, if bull does not perform well, then he has to go through a process of electro ejaculation in which 12-24 volt jolt of electricity applied in the rectum.⁵

The promotion of Artificial Insemination has not only affected the utility and importance of bulls but also led to ignorance and ultimately their victimization.

In Artificial Insemination, the semen is deposited in the cervix of cows and, in order to successfully place it, the technician inserts his hand in the cows bottom and place the cervix through the rectum.⁶

At the same time, the technician inserts the straw containing the bull semen into the cow's vagina and guides it into the cervix with the other hand.⁷

This painful processes have limited these animals from a living being to a product.

GREEN CRIMINOLOGY

⁵ Summary By: Sara Streeter | Original Study By: Narayanan, *The Lives Of Breeding Bulls In India*, Faunalytics, 14 Dec. 2020, faunalytics.org/lives-of-breeding-bulls-in-india.

⁶ *Ibid.*

⁷ *Ibid.*

Green Criminology was first proposed by Lynch in 1990.⁸ In 1995 Piers Beirne in his work tried to highlight animal abuse; and then in 1998 by Robert Agnew in Theoretical Criminology, and then Ted Bontor.⁹

Piers Beirne define one kind of green crime i.e. non speciesist criminology - that would focus attention on animal abuse.¹⁰

Beirne define animal abuse as :- *any act that contributes to the pain, suffering or death of an animal or that otherwise threatens its welfare. Animal abuse may be physical , psychological, , or emotional; may involve active maltreatment or passive neglect or omission; and may be direct or indirect, intentional or unintentional.*¹¹

Animals are victim of green crime committed by humans.

To define human killings of animals “Theriodicide” is the term proposed by Beirne, he even suggested that criminologist should consider the killing of animals by humans.¹²

CONCLUSION

From taking milk to the taking of life shows the insensitive and un humanistic approach taken by humans, and the cruelty and victimization of cows and bulls. This exploitation by human upon animals need to be considered and is upcoming demand of another dimension of criminology i.e green criminology.

Access to justice regarding animals can be more appropriate when study on green criminology will be done. Access to Justice is more about justicing rather than accessing. Accessing is a part or supplementary to justicing. And thus, proper recognition to animal abuse and formulating laws not on economic perspective but on humanistic approach in context of animals will only serve to access to justice.

⁸ Avi Brisman, *Of Theory and Meaning in Green Criminology*, Vol. 3 No. 2, JCJ&SD, 21,21 to 34(2014).

⁹ Ragnhild Sollund, *ANIMAL ABUSE, ANIMAL RIGHTS AND SPECIES JUSTICE*, ASC,1-22(2013).

¹⁰ Michael J Lynch, *Green Criminology and Environmental Crime: Criminology That Matters in the Age of Global Ecological Collapse*, Vol. 1 No. 1, JWCCC, 50,50–61(2020).

¹¹ *Ibid.*

¹² *Ibid.*