
LEGAL FRAMEWORK FOR ANIMAL WELFARE IN INDIA: ANALYZING KEY PROVISIONS OF VARIOUS RULES FOR PROTECTION OF ANIMAL RIGHTS

Nikita, Amity Law School. Amity University

ABSTRACT

The legal framework for animal welfare in India is a complex tapestry of legislation, regulations, and enforcement mechanisms aimed at safeguarding the rights and well-being of animals across various sectors. This study provides a comprehensive overview and comparative analysis of key provisions within the Indian legal framework, focusing on rules and regulations such as the Draught and Pack Animals Rules, 1965; Performing Animals Rules, 1973; Transport of Animals Rules, 1978; Slaughter House Rules, 2001; and Animal Birth Control (Dog) Rules, 2001.

Additionally, the study explores the concept of animal sentience and its implications for legal protections, emphasizing the importance of recognizing animals as sentient beings capable of experiencing emotions and sensations.

Furthermore, the study addresses various forms of cruelty against animals prevalent in India, such as experimentation, animal fights, circuses, and sexual harassment, underscoring the need for robust legal interventions and enforcement measures to combat these practices.

INTRODUCTION

The relationship between humans and animals is a complex tapestry woven with threads of cultural traditions, legal frameworks, and ethical considerations. Nowhere this complexity between humans and animals is more evident than in India. India is a country rich in cultural diversity and biodiversity. The treatment of animals reflects a delicate interplay of historical, socio-religious, and socio-political dynamics.

The evaluation of animal rights laws in India demands a nuanced approach. It requires delving into the historical roots of legislation, tracing its evolution from colonial-era initiatives to contemporary statutes. The journey begins in 1861 with the establishment of the Indian Society for the Prevention of Cruelty to Animals, marking the dawn of organized efforts to combat animal cruelty.

Instances of animal cruelty serve as stark reminders of the urgency to bolster legal protections and enforcement mechanisms. From experimental testing to circuses and illegal trading. Animals face multifaceted forms of exploitation, demanding comprehensive legal interventions. Legislative frameworks such as the Prevention of Cruelty to Animals Act, 1960, offer avenues for addressing these challenges. Still concerted efforts are needed to bridge the gap between legislation and implementation.

HISTORY

Animal experimentation commenced in India during the 1860s with Britain's introduction of new drugs to the colony. Due to plight of Indian strays and working animals, Colesworthey Grant established the inaugural Indian Society for the Prevention of Cruelty to Animals (SPCA) in 1861, situated in Calcutta. Indian SPCAs effectively advocated for anti-cruelty legislation during the 1860s, later extended nationwide in 1890–91. An obelisk in honor of Colesworthey Grant stands near the Writers' Building in Calcutta.

In contrast to the burgeoning anti-vivisection movement in Britain, such sentiments failed to gain traction in India. Both British officials and British-led SPCAs opposed the implementation of the British Cruelty to Animals Act of 1876, which regulated animal experimentation in India. By the early 1900s, the vulnerable stray population faced heightened risks of cruelty due to limited animal welfare laws and minimal public awareness.

Post-Independence, although several animal welfare laws were enacted, they yielded minimal success. The Prevention of Cruelty to Animals Act of 1960 marked a significant legal stride in safeguarding strays in India. Subsequent legislative measures included the Breeding of and Experiments on Animals (Control and Supervision) Rules, 1998, and the Wildlife Protection Act, 1972, which imposed stricter regulations on wildlife preservation and hunting.¹

ANIMAL SENTIENCE

The definition of sentience varies depending on the entity defining it. Its origin lies in a Latin root meaning "to perceive" or "to feel." While the dictionary characterizes it as "feeling or sensation," the American Psychology Association describes it as "capable of sensing and recognizing stimuli."

The scientific research and evidence suggest that animals, including fish, birds shows signs of sentience. Animal sentience embraces their ability to perceive and also to experience emotions including joy, pleasure, pain, and fear. Elephants can even display more complex emotions like grief and empathy. Recognizing animals as sentient beings promotes the importance of addressing their emotional and physical well-being.²

The significance of animals' emotions is often underestimated as subjective and elusive. However, advancements in scientific understanding over the past two decades have shed light on animal sentience.

It is important to continue educating the public about animal sentience if we want to truly honor animals' perspectives and ensure their voices are heard. The ethical principle is if a creature can suffer, we should strive to minimize its suffering. Recognizing animal sentience challenges us to confront existential questions about our relationship with other beings and the systems that perpetuate their suffering. Ignoring these questions is not an option actually it is a call to reconsider our ethical responsibilities towards all sentient beings.³

¹ Animal Welfare Legislation in India – Its History, available at: <https://www.strawindia.org/blogs/1031/animal-welfare-legislation-in-india--its-history.aspx>. (last visited on Jan 26, 2024).

² What is Animal Sentience available at: <https://www.worldanimalprotection.ca/education/what-animal-sentience> (visited on Mar 16, 2024)

³ What 'Sentience' Means, and Why the Concept Matters for Animals available at: <https://sentientmedia.org/sentient-definition/> (visited on Mar 16, 2024)

CRUELTY AGAINST ANIMALS IN INDIA

Various forms of cruelty against animals are perpetrated by humans. To take an example experimentation, circuses, animal smuggling, and sexual harassment.

Experiments on animals

Scientists utilize non-human animals in laboratory settings to conduct tests, experiments and research. It is aimed at solving various biological challenges. Animals are subjected to distress, pain and death. While such research may yield benefits for humans, it often violates animals' fundamental right to life.

Animal fights

Dog fighting is prohibited in India but it is still prevalent. Dogs are trained for combat, entertainment and financial rewards to owners. This cruel sport occurs in both rural and urban settings. Which results in severe injuries or death to the animals involved.

Other forms of animal fights persists.

Circus

While circuses are marketed as entertainment. The reality for animals behind the scenes is one of abuse and suffering. Often, animals are coerced into performing dangerous acts. They are subjected to beatings and severe mistreatment. Despite their natural aversion to fire tigers are compelled to leap through flaming hoops. Elephants, the largest land mammals, are forced to ride bicycles. The sloth bears are coerced into dancing.

Sexual harassment:

Under Section 377 of the Indian Penal Code, 1860. The sexual offenses that involves animals were deemed punishable.⁴

⁴ An overview of animal protection laws in India, available at: <https://blog.ipleaders.in/overview-animal-protection-laws-india/> (last visited on Jan 29, 2024).

RULES UNDER THE ACT

Many rules have been implemented within this Act to govern all facets concerning animals.

Draught and Pack Animals Rules, 1965

This regulation sets forth the guidelines regarding the maximum and minimum load that pack animals are permitted to carry. The animals which are utilized for transporting materials on their backs. The pack animals like donkeys are distinct from draught animals like bullocks and camels which pull loads but do not carry them.

Animals are prevented from pulling vehicles or loads for over nine hours a day. When adequate rest is not provided to them. In certain areas where the temperature exceeds 37 degrees Celsius. During the time particularly between noon and 3 p.m. After work the animals must be released from their harnesses.

The use of spiked bits for driving or riding animals is strictly prohibited. The act of saddling a horse in a manner that causes the harness to directly press on the animal's withers. By not taking adequate clearance between the saddle arch and the withers is not permitted.

Furthermore, only four individuals other than the driver and children which are under 6 years old are allowed to ride on a vehicle drawn. ⁵

Performing Animals Rules, 1973

The motive behind this regulation is to oversee the treatment of performing animals. It imposes restrictions on the utilization of animals in exhibitions and training sessions for public performances. It is possible only if the organizer possesses a valid license under the Parent Act. Moreover, a blanket prohibition is enforced on the use of bears and lions. However, it is worth noting that animals appointed for police or military duties may be exempt from these provisions.

⁵ Draught And Pack Animal Rules, available at: <https://egyankosh.ac.in/bitstream/123456789/70856/1/Unit-15.pdf> (last visited on Feb 6, 2024)

Performing animals are defined as animals utilized for entertainment purposes. Where the admission is gained through ticket sales. These animals are trained to perform various acts for human amusement.

In accordance with the powers conferred by the PCA Act, 1960. The Central Government introduced the 'Performing Animals (Registration) Rules, 2001.

The owners who wish to lease or lend a performing animal for filming purposes are required to provide advance information in the prescribed format. This includes details such as the type and age of the animal. It should also mention its physical health and the nature of the performance. The duration of use and training regime should be justified for its involvement in the film.

The Performing Animals (Registration) Amendment Rules, 2001 introduce the following alterations:

The racehorses registered with the Turf Authorities are exempt from registration. As per these rules after notifying the prescribed authority. However, they remain subject to general conditions. By providing additional conditions imposed by the prescribed authority.

The racehorses are subjected to veterinary inspection for injuries. After each race and also within six to eight hours.

The transportation of horses must stick to minimum standards to ensure their well-being and safety during travel.

- a) Horses should not be prevented in a manner that hinders natural head and neck movements.
- b) during journeys exceeding eight hours, they should be regular watering.
- c) The availability of proper ventilation and airflow are essential in transport vehicles.
- d) The rubber mats are preferred over straw bedding for flooring.
- e) The Horses should not be transported within 24 hours of racing.

f) A horse cannot be raced if the journey exceeds six hours. It is acceptable if 24 hours have passed since the completion of travel.⁶

Transport of Animals Rules, 1978

The transportation of animals promotes various purposes such as marketing, slaughter and veterinary treatment. The majority of livestock in developing nations are transported by foot, road or rail. It provides posing significant stress and risk of injury. This can adversely influence animal welfare and productivity.

The chapter 2 of the Transport of Animals Rules, 1978. It specifically addresses the transportation of dogs and cats. The rules 4 to 14 apply universally to the transportation of dogs and cats. without considering breed if done by rail, road, waterway, sea or air.

Some regulations govern the transportation of dogs and cats which include prohibiting the transfer of animals in advanced stages of pregnancy. Animals in the same container must be of the same species and breed. The offspring should not be transported with adult animals. They should be transported only with their mothers. Moreover, female animals in heat should not be transported with males.

The monkeys must be accompanied by a valid health certificate issued by a qualified veterinarian. It ensures their fitness for travel and freedom from infections or contagious diseases. Monkeys from diverse trapping areas should not be mixed to prevent cross-infection risks. Pregnant and nursing monkeys are generally prohibited from transportation. Until it is permitted by the Central Government.

These rules outline guidelines for transporting various animals. These animals include monkeys, poultry, and cattle. It impose strict need regarding the size of transport cages.⁷

Slaughter House Rules, 2001

The regulation defines that animals cannot be slaughtered at a casually chosen place. It can be

⁶ Performing Animals Rules, available at:
<https://www.egyankosh.ac.in/bitstream/123456789/70857/1/Unit-16.pdf> (last visited on Feb 7, 2024)

⁷ Transport Of Animals Rules, available at:
<https://www.egyankosh.ac.in/bitstream/123456789/70860/1/Unit-17.pdf> (last visited on Feb 10, 2024)

done only at a duly recognized or registered slaughterhouse. The Wildlife Protection Act, 1972 prohibits animal sacrifice. During the planning and construction of a slaughterhouse. The owner must stick to the criteria outlined in these regulations. This ensures the prevention of cruelty to animals. It is authorized by the Animal Welfare Board of India. Individuals or organizations can inspect slaughterhouses to verify compliance with these rules. The local authority are empowered to take action against any violations.

Slaughter means killing or destruction of animals for food. It embraces all processes and operations involved in preparing them for slaughter. A slaughterhouse is a facility where 10 or more animals are slaughtered per day. It should hold a valid license or recognition under provided laws.

Slaughtering of animals within municipal areas is limited to recognized or licensed slaughterhouses. It is sanctioned by the competent authority. Some animals that are pregnant with offspring that is less under three months old should not be slaughters. Animals which are less than three months of age is not allowed to be slaughtered. If veterinarian certify that some animal is not fit for slaughter are not to be slaughtered.

Slaughtering animals in sight of other animals is prohibited in slaughterhouses. Owners of slaughterhouses should provide a designated area. It should be sloped for drainage where carcasses can be washed with water jets.

The person tasked with slaughtering animals must hold a valid license or authorization from the authority. He should be at least 18 years old and be free from any diseases. Under the PCA (slaughterhouse) rules, authorized bodies like the State Animal Welfare Board or qualified veterinarians should conduct unannounced inspections during working hours.⁸

Animal Birth Control (Dog) Rules, 2001

The Animal Birth Control program by the World Health Organization (WHO). It serves as a practical approach to manage the street dog population and eradicate rabies. It includes a series of steps, capture, maintenance and release at the capture site.

⁸ Slaughterhouse Rules, available at:
<https://egyankosh.ac.in/bitstream/123456789/70862/1/Unit-19.pdf> (last visited on Feb 11,2024)

The Animal Birth Control (Dogs) Rules of 2001 highlights the methodology for managing street dog populations. It aims at rabies eradication. It tries to mitigate human-dog conflicts through evidence-based practices.

At the state level, municipalities and numerous NGOs implement the Animal Birth Control program. It focuses on dog sterilization and vaccination. These rules provide comprehensive guidelines for controlled breeding and sterilization. It provides provisions for euthanizing incurably ill or injured dogs in a humane manner.

As per these rules the sterilized dogs must remain within their habitats. It is mandated by various High Court Orders. If a dog remains unsterilized. In that case the society can engage an animal welfare agency for sterilization and vaccination.

The Animal Birth Control program sequence includes capturing, sterilizing and providing post-operative care. The dogs should be released at the capture site.

The local monitoring committees are established under this. It comprises representatives from the local authority, public health department, animal welfare department and animal welfare organizations. These committees ensure compliance and oversee euthanasia processes. It is conducted by qualified veterinarians. During specified hours and approved by the Animal Welfare Board of India (AWBI). Euthanasia procedures prohibit the presence of other dogs. It mandate verification of the animal's death before disposal.⁹

Recommendation

To safeguard animal rights and curb cruelty towards them. several recommendations are proposed:

1. Promoting social awareness among the populace regarding animal rights and welfare.
2. Enforcing stringent laws to protect animals and penalize offenders effectively.
3. Initiating community development programs and awareness campaigns to foster a culture of compassion towards animals.

⁹ Animal Birth Control (Dogs) Rules
available at: <https://egyankosh.ac.in/bitstream/123456789/70867/1/Unit-22.pdf> (last visited on Feb 22, 2024)

4. Encouraging parents to instill values of love and empathy towards animals in their children.¹⁰
5. As the Act is outdated, its provisions need revision and amplification to align with the current scenario of animal abuse. The existing fine of Rs.50 for animal torture must be substantially increased to Rs.750 to Rs.3,750. Moreover, any act of harming or killing animals should be deemed a criminal offense punishable with a fine of Rs.75,000 or three times the value of the affected animal.
6. Strengthening the enforcement mechanism to ensure strict adherence to animal protection laws and taking stringent action against offenders.

By implementing these recommendations, India can take significant strides towards ensuring the well-being. And towards protection of its animal population.¹¹

VARIOUS JUDICIAL INTERPRETATIONS

Naveen Raheja v. Union of India (2001)

In this particular case, the matter concerned the skinning of a tiger within a zoo located in Andhra Pradesh. The Court was profoundly bothered upon learning the details of the incident. The tiger, entrusted to the care and protection of responsible authorities. It was left vulnerable and defenseless. It recognizes the urgency of the situation. The Apex Court deemed it mandatory to summon the chairperson of the central zoo authority to appear before the court. It provide insights into the strategies implemented for the conservation and safeguarding of tiger species. In the zoos and protected forests. Subsequently, the Court issued directives relating to the protection of tigers.

Mohd. Hanif Qureshi v. State of Bihar (1959)

In a case, the Supreme Court ruled that A complete prohibition on cattle slaughter would not be justified due to economic circumstances. Due to maintaining unproductive bulls or bullocks imposes a burden on society. Thus is not in the public interest.

¹⁰ Why Animal Cruelty in India Needs To Be Addressed Urgently? What Does the Law Say?, available at: <https://www.lawctopus.com/academike/animal-cruelty-in-india/> (last visited on Mar 14, 2024).

¹¹ Bhumika Sharma & Priyanka Sharma, "Rights Of Animals At Practice In India" , 3, Journal On Contemporary Issues Of Law (2023), <https://jcil.lsyndicate.com/wp-content/uploads/2023/06/Bhumika-Priyanka.pdf>

Gauri Maulekhi v. Union of India, 2010

This case relates to the illegal transportation of cattle and buffaloes from India to Nepal for a religious festival known as the Gandhimi Festival. It observed every five years. Animals such as buffaloes, rats, pigs and bats, etc., are sacrificed to fulfill wishes. This festival is recognized as one of the largest sacrificial events globally. The Supreme Court emphasized that causing unnecessary pain or suffering to any non-human living beings. To solely to fulfill human desires is unacceptable. It further ruled that animal sacrifice cannot be justified as a means to please gods. The Court instructed the Central Government of India to ensure that no cattle and buffaloes are illegally transported to Nepal. It was to amend the export and import policies accordingly.¹²

People for Ethical Treatment of Animals v. Union of India (2004)

In this particular case. The Bombay High Court mandated that any film intending to involve animals. It must acquire a no objection certificate from the Animal Welfare Board of India. This verdict enhances the protection of animals. In the complete film making process. It shields them from potential abuses such as exposure to loud noises, physical mistreatment or deprivation of food.¹³

Ozair Hussain v. Union of India

The Delhi High Court mandated that packaging for various products. It includes food, drugs and cosmetics. It should disclose whether they are of vegetarian or non-vegetarian origin. This ruling upholds the freedom of expression under Article 19(1) of the Indian Constitution and Article 10(2) of the International Covenant on Civil and Political Rights. It requires clear labeling. Food items containing any part of an animal must display a brown circle within a square outline. The vegetarian products should feature a green circle within a green square. By extending the citizen's right to free speech to food preferences. The court had an intention to empower individuals to make more knowledgeable choices related to the products they consume.

¹² An overview of animal protection laws in India, available at: <https://blog.ipleaders.in/overview-animal-protection-laws-india/> (last visited on Feb 25,2024).

¹³ An overview of animal protection laws in India, available at: <https://blog.ipleaders.in/overview-animal-protection-laws-india/> (last visited on Feb 25,2024).

CONCLUSION

In conclusion, the examination of India's legal framework for animal welfare reveals a multifaceted landscape marked by historical evolution, constitutional provisions, and specific regulations aimed at protecting animals from cruelty and exploitation.

Despite these legislative measures, various forms of cruelty against animals persist in India, including experimentation, animal fights, circuses, and sexual harassment. The enforcement of existing laws remains a challenge, necessitating greater awareness, stricter penalties for offenders, and community development programs to foster a culture of compassion towards animals.

By implementing these recommendations, India can enhance the welfare and protection of its animal population, moving towards a more compassionate and responsible society where the rights of all sentient beings are respected and upheld.