

PREVENTION OF CRUELTY TO ANIMALS ACT, 1960

Ananya Tripathi

National Law University, Nagpur

INTRODUCTION

India has a wide variety of wildlife. It has a wide range of plant and animal species, in addition to being abundant in domestic animals that are vital to the daily life of humans. With diversity comes great responsibility, and today, people are cruelly mistreating animals in order to further their own self-serving objectives. Animal cruelty cases are increasing every day both abroad and in India. There are laws in India such as Prevention of Cruelty to Animals Act 1960, The Wildlife Protection Act 1972, and Animal Birth Control Rules 2001 at the national level, cattle protection, and cow slaughter prohibition legislations at the State levels. But these laws are not stringent enough to curb the menace of animal cruelty. There is a need for strict amendments to the present laws and the formulation of new laws in the Indian legal system.¹ Every animal of our ecosystem has a unique role in the preservation of nature and for carrying on the life on earth. Every living thing is specifically placed on our food web or food chain where it can contribute in its own way for the integrity of the ecosystem. Animals are used by humans for a variety of purposes, including food, cosmetics, research, and medicines that are made from them. As a result, animal protection becomes even more crucial for humans to survive.

One more area that should be the focus of our concern is the relationship between animal cruelty and crime rates. Studies show that committers of serious crimes are more likely to have abused animals when they were children. In India cases of animal cruelty have seen a huge surge in their numbers. A report compiled by FAIO (Federation of Indian Animal Protection Organisations) and ACGS (All Creatures Great and Small) shows that, between 2010 to 2020 an exponential increase can be seen in the cases of animal cruelty. It is unfortunate that our animal protection laws have not been amended to make them more effective as a bulwark against animal cruelty. Animal cruelty cases sometimes go undiscovered as a result of weak laws. The major law for the protection of animals against human cruelty is The Prevention Of Cruelty To Animals Act 1960. The law was passed more

¹M Nayana Das, "Analysis of Animal Protection Laws in India : An intent to check cruelty against animals", available at: <https://heinonline.org>.

than 60 years ago, and since then, numerous new challenges have emerged that can only be addressed by amending the aforementioned act.

MEANING OF ANIMAL CRUELTY

In the Prevention of Cruelty to Animals Act 1960, animal cruelty is defined as “the infliction of unnecessary pain or suffering on animals”. Here the term animal means “any living creature other than a human being.”²

Section 2 (a) of the PCA Act defines two types of animals - Captive Animals and Domestic Animals. Captive animals are defined as “any animal (not being a domestic animal) whether permanent or temporary captivity or confinement, on which is subjected to any appliance or contrivance with a view of hindering or preventing its escape from captivity or confinement or which is pinioned or appears to be maimed.”³ This definition gives rise to a new question – Who is considered as a domestic animal? The term domestic animal is defined in the act as “any domesticated or tamed or sufficiently domesticated to serve some useful purpose of the man, or which is wholly or partly domesticated or neither has been nor is being intended.”

Further, there are two types of animal cruelty: Active cruelty, which happens when an animal is exploited in such a way to cause it immediate pain and suffering, and passive cruelty (harm inflicted by wilful neglect that leads to prolonged suffering). Examples of either one or both types of cruelty include the use of animals in research, sport and ritual, the slaying of animals for their fur, skins, and other body parts, hoarding etc.⁴

PREVENTION OF CRUELTY TO ANIMALS ACT 1960

This act has a total of 6 chapters and 44 sections along with 16 rules. The parliament enacted the act on 26 December 1960. The Animal Welfare Board of India was also established to supervise and control the cruelty inflicted on the animals. It was established in 1962 in accordance with section 4 of the act. Smt. Rukmini Devi Arundale pioneered the setting up of this board. Some of the important sections of this act are -

Section 11 of the PCA Act defines Animal cruelty in more detail. According to this section a person commits animal cruelty when he “beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering”,

²Prevention of Cruelty to Animals Act, 1960, s. 2(a).

³*Supra* Note 2.

⁴Animal Abuse, available at: <https://wildlife-rescue.org/services/advocacy/animal-abuse>.

“employs in any work or labour or for any purpose any animal which, by reason of its age or any disease, infirmity, wound, sore or other cause, is unfit to be so employed, “wilfully and unreasonably administers any injurious drug or injurious substance to animal” or attempts to do so, “conveys or carries, whether in or upon any vehicle or not, any animal in such a manner or position as to subject it to unnecessary pain or suffering”, “keeps or confines any animal in any cage” or “mutilates any animal or kills any animal (including stray dogs)”. Owners of domestic animals can also be made liable for animal cruelty. For example – not providing sufficient food and water to the animals.⁵

Section 12 talks about the practise of Phooka or Dhoom Dev which are performed for improving the lactation of a milch animal. Injecting animals to improve their lactation capacity is prohibited. If a person “permits such operation being performed upon any such animal in his possession or under his control, he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both.”⁶

Sections 17 to 20 talk about the experimentation on animals. These sections provide the conditions which need to be ensured while conducting experiments such as ensuring that animals are only experimented when there is no other alternative option available and when there is a need for experimentation, these animals are given proper medication to avoid unnecessary pain or suffering.

Section 21 talks about the training and exhibition of animals for the entertainment of the public. Animals are only allowed to be trained for such purposes when they are registered in accordance with the provisions mentioned in the PCA Act. The government through its official gazette may also specify animals which are prohibited from training and exhibition by giving notification through its official gazette.⁷

LACUNAE IN THE PREVENTION OF CRUELTY TO ANIMALS ACT 1960

- According to Section 11 (m) and Section 11 (n) of the PCA Act, a person commits animal cruelty if he “incites any animal to fight or bait any other animal” or “organises, keeps, uses

⁵Prevention of Cruelty to Animals Act, 1960, s.11.

⁶Prevention of Cruelty to Animals Act, 1960, s.12.

⁷Prevention of Cruelty to Animals Act, 1960, s.21.

or acts in the management of, any place for animal fighting or for the purpose of baiting any animal or permits or offers any place to be so used or receives money for the admission of any other person to any place kept or used for any such purposes”.

Despite such provisions animal fighting takes place in the form of a cultural and religious practise in many parts of India. For example , the famous bull fighting also known as Jallikattu still takes place in the State of Tamil Nadu. Despite the Supreme Court’s Ban in May 2014, the practise was revived in 2017 by the Tamil Nadu government.⁸ Nothing is mentioned in section 11 about the cultural and religious practises which involve animals fighting and the conditions which must be satisfied while performing them.

- The Prevention of Cruelty to Animals Act of 1960 does not talk about the genetic manipulation of animals. Though the Environment (Protection) Act of 1986 talks about genetic manipulation, there is no stringent law that prevents the exploitation of animals which takes place during the process of genetic modification.
- Section 11 of the PCA Act 1960 mentions a variety of practises that will come under the ambit of animal cruelty such as “abandoning an animal to kicking it, mutilating it or killing it”. However the problem is that, same punishment is provided for every act of animal cruelty and the intensity of crimes is not taken into consideration while providing the punishment. The idea of natural justice is blatantly violated because the severity of the crimes is not taken into consideration, putting a number of offences of differing severity on a par with one another. An amendment is required to establish the appropriate punishments and to classify the offences based on their seriousness.
- As compared to the severity of crimes committed, the punishment provided in this act is not proportionate. If a person is guilty of animal cruelty, he is punished “in the case of a first offence, with fine which shall not be less than ten rupees but which may extend to fifty rupees and in the case of a second or subsequent offence committed within three years of the previous offence, with fine which shall not be less than twenty five rupees but which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.” However, when seen in light of the current situation, the fine that must be paid is extremely low and manageable. This can make it possible for the perpetrators to avoid responsibility by making a little payment. There should be changes made to this area.

⁸Editorial, “Jallikattu begins today — the ‘barbaric sport’ that celebrates hard-working Tamil farmer”
The Print, Aug 15, 2020.

- Majority of offences mentioned in this act are non-cognisable as well as bailable. This makes it easier for the offenders to undergo punishment. It also encourages police passivity as the police cannot take action without the approval of the magistrate.
- Section 11 also mentions some practices that do not fall under the ambit of animal cruelty such as “the dehorning of cattle, or the castration or branding or nose-roping of any animal, in the prescribed manner.” However, because there are no appropriate parameters specified for these procedures, this dilutes the process of bringing justice to the animals. This enables the abusers to take advantage of these lacunae for their own gain.
- Captive animals and wild animals are protected under this act. However there is no mention about the exotic species of animals and the migratory birds that come to India during the migration period. This allows for the trade of these migratory birds and exotic species as no punishment is provided in the PCA Act.
- The PCA Act also allows the practice of Bali which results in the death of animals for religious purposes. According to section 28, “Nothing contained in this Act shall render it an offence to kill any animal in a manner required by the religion of any community.” By allowing the practice of Bali, the act allows the unreasonable exploitation of animals that takes place in the name of religion.
- The definition of “animal cruelty” in the legislation is likewise ambiguous. This law was enacted in order to “avoid the infliction of unnecessary pain or suffering on animals.” But this definition is vague as what is considered as “unnecessary pain” is highly subjective. This means that whether an act can be equated to animal cruelty is purely based on the discretion of the judges. Therefore the definition needs to be more precise as ambiguity will lead to confusion about the law.⁹

CASE LAWS

Gauri Maulekhi V. Union of India

In order to prevent smuggling of animals to countries like Nepal, where large-scale animal sacrifices are performed during the Gadhimai festival, the Supreme Court issued an order establishing guidelines. It was claimed that buffaloes were bought at marketplaces, maintained there in filthy conditions, and transported in abhorrently horrific circumstances to Nepal for mass-murder. A stay was placed on their transit to Nepal. Additionally; a

⁹Parth Maniktala, “For the welfare of animals” *The Hindu*, Sept 18, 2020, available at : <https://www.thehindu.com>.

committee was formed to offer suggestions on how to stop these acts of cruelty against animals. The court also ordered the formulation of rules on livestock markets.¹⁰

Animal Welfare Board V. A Nagaraja

After wide protests from various organisations such as AWBI and FAIO, the Supreme Court banned the practise of Jallikattu or bull fighting in the state of Tamil Nadu. According to the Supreme Court, every species has an intrinsic right to live and should be safeguarded by law, with the exception of those situations where it is necessary to do so. Additionally, animals have honour and dignity that cannot be unilaterally taken away, and their rights and privacy must be respected and safeguarded against unlawful acts.¹¹

Even after the court's ban in 2014, the Tamil Nadu government removed the ban on this practise in the year 2017.

CONCLUSION

Even though the Prevention of Cruelty to Animals Act suffers from significant flaws , it cannot be concluded that the act is totally ineffective to safeguard the animals. The Act mentions a variety of acts that are considered as a form of animal cruelty such as experiment on animals for cosmetics and improper treatment of pets by their owners. Considering the time it was made, the Act was quite advanced in its approach. However as the time has passed, more problems have come to our notice which can only be solved by amending the Act. However, despite having extensive and complex animal protection laws, India does not have an effective system to apply them. It is essential to realise that India's current legal system is not sufficiently strong and rational to bring a meaningful change. A few changes that can be made includes strengthening of Section 11 by raising punishment, a more clear and concise definition of animal cruelty and a robust monitoring system. Recently adraft for the amendment of PCA Act was introduced in November 2022, however it is yet to be passed in both the houses.

¹⁰Kunal Nema and Akshita Prasad , “Animal Cruelty In India: A Fatal Oversight”⁵ *Journal On Contemporary Issues Of Law* 45.

¹¹*Idem*.