

LEGALFOXES LAW TIMES

A CRITICAL ANALYSIS OF THE PREVENTION OF CRUELTY TO ANIMALS

ACT,1960

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ABSTRACT

This research paper explores the question of whether a modification to the current Prevention of Cruelty to Animals Act, 1960, is required? Since the Laws enacted decades ago provide for criticism policies and penalties that may have been appropriate during that period, the adequacy and nature of the responsibilities imposed need to be considered now. The sentencing measures of the Act are ineffective in reducing the number of animal-related offences, nevertheless, owing to weak legislation, there is a risk of further offences and violations of Article 21, Art. 51A(g), Art.48, and Art.48A of the Indian Constitution. These regulations need to be amended so that the perpetrator is held accountable in a harsher sense and the offence against animals is reduced at a higher rate. It argues that animals have a basic right to exist in dignity and that cruelty to them is a violation of those rights. It also argues as to how far the killing of animals for religious purposes have been concerned by the Judiciary. The paper will conclude by stating that, in order to avoid future outbreaks of animal cruelty, a modification to the Act's present sentencing provisions and penalties are required.

Keywords: Prevention, Cruelty, modification, perpetrator, offences, violation, amended, religious purposes.

1. INTRODUCTION

There are many theories on 'How the law is made up of'.¹ However, when we consider the roles of rules, we can see that they are not just for human beings but also for the things that humans are surrounded by in order to improve their survival and preserve the balance between nature and humans. It signifies that the law applies to animals and other living creatures as well. It is our duty as humans to care for people who are unable to care for themselves. Throughout history, ancient Greek and Roman philosophers have debated the right treatment of animals and their position in human morality. Initially, every law and regulation passed in a constitutional state limited the allowed uses of animals, but history shows that animals have always been viewed as property by humans. These concepts were deeply ingrained in Christianity and were eventually codified in Roman law. Animals, like humans, have the ability to detect both physical and mental pain, as well as the intensity of both. Emotions exist in animals, just like they do in people. The government has passed multiple laws, and the courts have given several recommendations to conserve the earth's legacy with this goal in mind.

In this way, the legislature passed an act named "The Prevention of Cruelty to Animals Act, 1960," to prevent the infliction of unnecessary pain or to suffer on animals and to amend laws relating to the Prevention of cruelty to animals². It was authored by acclaimed dancer and animal lover Rukmini Devi Arundale.³ She proposed a private member's bill in the Rajya Sabha in 1952 to replace the current Prevention of Cruelty to Animals Act, 1890 ('PCA,1890') and address its shortcomings.⁴ . After delivering an impassioned and passionate address in the Rajya Sabha in 1954 emphasizing the necessity and importance of animal protection, Prime Minister Nehru established a committee to look into the topic and formulate comprehensive regulations. Rukmini Devi was requested to withdraw her bill, and he pledged that his government would

¹ Roscoe Pound, Theories of Law, The Yale Law Journals, Vol. 22, No. 2 (Dec., 1912), pp. 114-150 (37 pages).

² The Prevention of Cruelty to Animals Act, 1960, Statement of Object & Reasons

³ Gopalkrishna Gandhi, The woman who said no: How Rukmini Devi chose dance over presidency, HINDUSTAN TIMES, March 4, 2016,

⁴ Chinny Krishna & Maneka Gandhi, Rukmini Devi And Animal Welfare In Rukmini Devi Arundale, 1904-1986: A Visionary Architect Of Indian Culture And The Performing Arts 67-70 (2005).

draught suitable legislation to protect animals and their rights⁵. As a result of this, the PCA was passed into law. It then took the place of the earlier PCA, which had been in use since 1890.⁶

2. Is it necessary to amend the Prevention of Cruelty to Animals Act of 1960? If that's the case, why?

To begin, let's look at why the modification is necessary. For the offences under Sec.11 such as Causing pain, suffering, or injury to an animal, Employing any unfit animal for work or labour, Administering any injurious drug or substance, Carrying or transporting animals in a cruel manner, A fine of not less than Rs.10 but not more than Rs.50 will be imposed for housing an animal in an area that restricts free movement⁷, restricting animal's mobility with a heavy chain or chord, habitually chaining up a pet dog by an owner, not giving sufficient food, drink, or shelter, and so on. If you commit a second offence within three years, you can be fined up to one hundred rupees and sentenced to three months in jail, or both. In *Bali Parida v. Nira Parida*⁸, the Orissa High Court construed this clause to indicate that beating an animal is not punished under 11(1) of the Act and does not constitute an offence under this sub-section unless the beating causes the animal undue pain or suffering. As a result, in this scenario, Sec.11 demands a link between cruelty and needless pain or suffering, with the latter taking precedence. Thus, there is a risk of further offences and violations of Articles related to animals under the Constitution owing to the lack of strong laws. The act's punitive measures, it is believed, are ineffective in reducing the number of animal-related offences. Another reason for the need for an update to this legislation is that many provisions connected to animals in the act are not rigorously amended whether it comes to exhibition, training⁹ or experimentation¹⁰ of the animals under the act. It argues that Animals have a fundamental right to live in dignity¹¹, according to the Delhi High Court, which has issued a notice in response to a petition to ban

⁵ Ibid.

⁶ Ibid.

⁷ The Prevention of Cruelty to Animals act, 1960, sec.11.

⁸ *Bali Parida v. Nira Parida*, 1969 SCC OnLine Ori 129.

⁹ The Prevention of cruelty to animals act, 1960, Sec.23.

¹⁰ The Prevention of cruelty to animals act, 1960, Sec.19

¹¹ Art.21 of the Indian constitution.

animal exhibition and training in circuses.¹² Under Sec.23 of the act says, anybody willing to exhibit or train, any animals must submit an application in a regulated form to the designated authorities, and upon payment of the prescribed fee, he will be registered, unless the court orders otherwise, which was relieved by the Centre Government in proposing a ban on the use of animals in any sort of mobile entertainment or to say, exploited in the circuses¹³, However, it has yet to take effect. Thus, The courts on multiple occasions have held that animals have a fundamental right against infliction of pain-“Bulls must not be used in any type of performance which includes races, bullfights.”¹⁴

When it comes to experimentation on animals, it is proposed that non-sentient material or less sentient creatures be used instead of animals as subjects. It further said that governments and the Animal Welfare Board must preserve animals' "five freedoms," which include "freedom from hunger and thirst, discomfort, pain, damage, and sickness, fear and anguish, and the ability to exhibit natural behaviour."¹⁵ When animals are used in research, however, their rights are violated since they are not given a choice. Animals are subjected to tests that are often unpleasant, cause long-term suffering, or result in death, and they are never given the option of opting out. Ethical considerations have limited the use of higher model animals such as guinea pigs, rats, dogs, and monkeys in experiments. As a result, using other species has been recommended.

3. Animals are sacrificed for religious purposes.

The Sec.28 of the act says that “No provision of this Act makes it illegal to slaughter an animal in the way prescribed by a community's religion.”¹⁶ As a result, the question arises as to how extent animal rights are protected. Is it permissible to sacrifice animals for religious reasons? Then, if this is what the law mandates, where does the right to protect animals go? There have been several disputes on this topic, but the court has yet to reach a decision.

¹²Aditi, Federation of Indian Animal Rights Protection Organizations vs Ministry of Fisheries, Animal Husbandry and Dairying & Ors., Bar and Bench, 22 jul 2020. <https://www.barandbench.com/news/litigation/delhi-hc-issues-notice-in-plea-to-prohibit-animal-exhibition-training-in-circus>

¹³ The Performing Animals (Registration) Amendment Rules, 2018.

¹⁴ Animal Welfare Board of India v. A. Nagaraja, (2014) 7 SCC 547.

¹⁵ Ibid.

¹⁶ The prevention of cruelty to animals act,1960, Sec.28.

We feel that the PCA Act does not include animal sacrifice within the scope of animal cruelty, based on the legislative terms of the Act and the ruling of the Uttarakhand High Court. When we examine the judgement, we can see that the main purpose of sacrificing animals should be to provide sustenance for people, not to satisfy gods. Perhaps the legislature's goal was to avoid undue pain and suffering for animals while yet allowing for the death of animals in certain instances.¹⁷ In the case of Gauri Maulekhi vs State of Uttarakhand, the Uttarakhand High Court (HC) construed and established a relationship between Section 11(3)(e) and Section 28 of the PCA Act. The Supreme Court ruled that if an animal is killed, it should be done in accordance with the religion of the society in question, but that the sacrifice should be only for the purpose of providing sustenance for people and not for any other reason.¹⁸ The essential obligations have ramifications for judges' perceptions and interpretations of certain age-old traditions, among other things. The Supreme Court stated that animal sacrifice rituals were only practised in prehistoric periods, and that these traditions were solely based on superstition and ignorance at the time¹⁹. The Supreme Court further stated that the goal of the Constitution's drafters was to instil a scientific mindset in individuals and to free the society from blind religion and superstition.²⁰

You could wonder if this is an example of Article 25 of the Indian Constitution interfering with religious practice? People supporting the practise of ritual sacrifice cannot claim that it is a violation of their freedom of religion since freedom of religion is not an absolute right. Article 21 states that the judiciary has the power to act if a basic right is violated. The remainder is up to the court to decide if animal sacrifice is in violation of Article 21. When it comes to legal action in religious animal sacrifice cases, judges have had differing viewpoints. When a PIL under Article 32 was filed in 2015²¹, challenging religious animal sacrifice, the Supreme Court refused to interfere, stating that the judiciary cannot intervene in age-old

¹⁷ Ananthakrishnan G, 'There is a dichotomy: SC notice to Kerala on law banning animal sacrifice in temples', (The Indian Express, 17 July 2020)

¹⁸ Gauri Maulekhi Vs State of Uttarakhand [2010] Writ Petition (PIL) No. 77 with People for Animals DehraDun, Dehradun Vs State of Uttarakhand and others, [2010] Writ Petition (PIL) No. 73

¹⁹ In Ramesh Sharma vs State of Himachal Pradesh CWP No. 9257 of 2011 and CWO No.s 4499 and 5076/2012, MANU/HP/0934/2014.

²⁰ Supra Note 10.

²¹ Dhananjay Mahapatra 'Can't interfere in animal sacrifice tradition: Supreme Court' (Times News Network, 28 September 2015)

practises. The judges even stated that it is a delicate issue and that they cannot entirely disregard these centuries-old customs.

The PIL was filed under Article 226 of the Tripura High Court's²² ruling. Only animal sacrifice at Hindu temples in Tripura was the subject of the PIL. The petitioner did not object to the Muslim community's tradition of animal sacrifice on Bakri Eid. It's possible that the state's courts have the power to intervene and outlaw religious animal sacrifice in the state. Perhaps there isn't a way to completely ban animal sacrifice. When the epidemic hit in 2020, Muslims wanted to know whether they might make a donation to the needy instead of sacrificing animals²³. In response to the issue While the aim to contribute money rather than sacrifice an animal is not ill, Maulana Khalid Saifullah Rahmani, Secretary of the All India Muslim Personal Law Board (AIMPLB), remarked that the genuine motive for sacrificing is different, because a portion of the flesh is handed to the destitute. He went on to say that unless there is a law against it, sacrifice is required. I would like to bring the instance There are countless stories in Judaism on the importance of treating animals with kindness. Judah the Prince, who followed the illustrious Rabbi Akiva and was the chief redactor of the Mishnah. A calf was being carried to kosher slaughter one day when it broke free and hid under Judah the Prince's garments, whimpering in terror. "Go, you were designed for this reason," Judah remarked coldly to the calf, unmoved. Heaven then punished Judah with a series of severe and humiliating stomach ailments that lasted thirteen years because of his lack of sympathy for the calf. He begged for help from his terrible health several times throughout these years, but Heaven did not respond, just as Judah had not listened to the calf. Then one day Judah spied his maid in the act of killing a couple of small weasels in the house and restrained her, citing Psalm 145, "The Lord is good to all, and his compassion is over all that he has made." In response to this benevolence toward the weasels, Heaven withdrew Judah's punishment, and his stomach problems disappeared²⁴. If the statements of the Secretary of the AIMPLB are taken seriously, it can only mean that animal sacrifice on Eid-ul-Adha is not an essential Islamic practise. As a result, if the PCA Act is amended and Section 28 of the Act is deleted, the ancient Hindu and Islamic practise of animal sacrifice can be abolished.

²² Tripura HC bans state-sponsored goat sacrifice at Tripureshwari Temple' *Supra* note13.

²³ Syed Mohammed 'Bakrid:confusion over donation in lieu of animal sacrifice' (*The Hindu*, 19 July 2020)

²⁴ Daniel Capper, Learning Love from a Tiger (The Donkey Who Communed with Allah), University of California Press.

CONCLUSION

To conclude, it is inadequacies of current laws aimed at protecting animals' rights, as well as the Parliament's inability to recognise animals' rights and prescribe effective methods to preserve basic rights, a reform in the law is required. The PCA has already been subjected to more than three revisions. The parliament, however, has yet to pass them. Every day, fresh examples of animal cruelty are reported and discussed in the media. In view of the scenario, measures to alleviate animal suffering must be devised.

As a result, proposed amendments to the PCA are necessary, such as imposing legal culpability on individuals who violate animal rights for failing to execute their obligation of preserving animal rights. If the judiciary is unable to interfere in religious matters and safeguard the rights of animals, who will be able to bring about a change in people's superstition and irrational beliefs? Then there's no use in having fundamental rights for animals like article 21 and article 51A(g) if the state cannot safeguard them. Many historic practises would have been invalid if the fundamental rights had been enforced rightly. The legislative and the court must now decide if they wish to modernise the law, which has remained stagnant in this area, or perpetuate the pre-historic tradition.

