

LEGALFOXES LAW TIMES

ANIMAL CRUELTY IN THE INDIAN SCENARIO

By: Soumya Srinivasan and Sushmita Sureshkumar

A celebrated quote by the father of our nation Mohandas Karamchand Gandhi states that “The greatness of a nation can be judged by the way its animals are treated”.

This research paper shall focus on a topic that has escalated in recent times and has drawn our attention to the severe problem of "Animal Cruelty". It is something that needs to come to an end. The paper has been divided into 6 parts that will explain the different aspects related to this topic. Part I talks about what is animal cruelty. Part II focuses on the recent horrific instances of animal cruelty that have taken place in our country. Part III covers the existing legal provisions in our country for preventing animal cruelty. Part IV lists the shortcomings/ drawbacks in our existing laws. Part V lays down certain suggestions with regards to how the law can be improved to curb this problem. And lastly, part VI talks about the conclusion that we reach at, after our analysis.

I. WHAT IS ANIMAL CRUELTY / ABUSE?

Animals just like humans are a beautiful creation of God. In a time where we look towards humane conditions of life, human rights, empowerment of different sexes, it is pertinent to note the horrendous mistreatment of animals around the world. When the rights of humans are violated they raise alarms and cause hullabaloo but what about the animals? How can we imagine the plight of an animal that cannot express themselves or raise an alarm or speak about the injustices mankind offers it. This is nothing but bigotry on the part of humans, so to say that the rights and lives of humans and other races matter. What happens to their voices when there are horrendous injustices towards the animals.

Animal cruelty means subjecting animals to pain, danger or any kind of harm. We as humans are blessed that we can speak and express ourselves and our problems. But what about animals? They can't do so. They are poor and helpless creatures who can't talk. They can't express themselves. This being more of a reason for us humans to treat them well and to not neglect them. But what are we doing? Instead of being sensitive towards them, we add to their miseries. We act so inhuman and expose them to immense levels of danger and pain. When a person gets killed, his representatives can approach the courts to seek justice but animals can't do so. This is when we humans should come into the picture and seek justice for them. It's high time that we

should realize that animal lives are equally important as human lives. Murder of an animal is as horrendous as the murder of a human being.

Animal cruelty is rampant all over the world and it is worrisome. But this can be solved only if we acknowledge the practice as something that is extremely wrong and something that needs to be prevented and stopped. Unless we realize that it's a severe problem we can't rectify it. Animal cruelty needs to be highlighted owing to the increased number of such instances in our country daily. People need to be made aware of and educated about the same. We need to stop turning a blind eye towards it.

Animal cruelty cases are those that are highlighted only for a brief moment when the injustice happens and then gets lost and forgotten within a few days with no stringent action being taken to curb this problem. This sadly shouldn't be the case.

India is a home of various religions and different states follow a plethora of customs, traditions. Religions such as Hinduism, Jainism, Buddhism and Islam are prevalent in India. Many of these religions advocate non-violence and preach compassion and love as their priority.

All of us know, that Vedas are the ancient texts that teach Sanatana Dharma or the universal law for moral, ethical and harmonious living. Hinduism essentially talks about life by cause and effect which is all the deeds and actions of humans, as well as living beings, are a part of their karma or deeds which brings to the reason why a majority Indian Hindus do not consume meat. Vegetarianism is now on a boom around the world while the majority of Indians are staunch vegetarians. Hindus worship gods like Ganesha who is the son of Shiva and Parvati that took the form of an elephant (elephant), Nandi Gai (cow), Naga (snake) and many more.

Jainism is another such religion. Jainism preaches 'Ahimsa' meaning non-violence which is the crux of Jainism. Many of the Jains in India practice a lot of traditions to avoid the killings of even the smallest of insects.

II. INSTANCES OF ANIMAL CRUELTY

Poaching and hunting of animals has become very common these days, not to forget the infamous Blackbuck case of Rajasthan. Poaching and hunting of mammals is also on rise, which is the main reason why Tropical Asian waters have seen a decline of turtles and their eggs that are used for large scale consumption in China. If the poaching and hunting, in general, weren't enough, the cruelty of animals around the world is even more horrifying. All the first world countries and the elite people have a culture of buying so-called 'luxury' goods, to maintain their status in the society, which involve buying objects (products) made out of animal fur, leather, teeth and so on. An array of products like Bags, belts, shoes, scarves, jackets, make up brushes, and even the makeup products use certain insects and these products are also tested on animals.

With the boom of technology and ever-increasing wants and desires of consumers, such cruelty is bound to only increase.

The following instances show how humans have treated animals in the worst possible manner by hurting and exposing them to unimaginable levels of pain in the last three years. These instances in India prove the fact of how inhuman and heartless we have become. Let's take a look at some of the instances of animal cruelty in the last three years in India beginning with 2018.

JANUARY, 2018

- Reports say that a man in Vadodara allegedly had unnatural sex with three cows. He was a labourer at a cowshed. Moreover, later on in the day, the owner of the cows found that their legs were tied with ropes and one of them was already lying dead.¹

MAY, 2018

- Reports say that in the forest area of Kangra which is located in Hyderabad, the carcasses of 100 stray dogs were found. The complaint was filed by an NGO. The complaint said that unidentified persons were accused of picking the street dogs from Meerpet and killing them in the Kangra forest area.²

JUNE, 2018

- Reports say that a video was circulated which showed the merciless beating of an elephant in Jaipur by an elephant trafficker named Sameer Ballu Khan. He was specifically known for exposing the elephants he bought illegally and for subjecting them to torture.³

JULY 2018

- Reports say that a man was allegedly found raping a dog by tying a rope on its mouth. A few men passing the same street sensed some strange activity going on and caught the man raping the dog.⁴

¹ <https://timesofindia.indiatimes.com/city/vadodara/man-arrested-for-unnatural-sex-with-three-cows/articleshow/62533041.cms>

² <https://timesofindia.indiatimes.com/city/hyderabad/100-stray-dogs-culled-in-telangana-case-filed/articleshow/64225363.cms>

³ <https://www.timesnownews.com/mirror-now/society/article/shocking-visual-of-merciless-trafficker-torturing-elephants-in-jaipur-goes-viral/239966>

⁴ <https://www.newsbytesapp.com/timeline/india/27455/123473/kolkata-man-held-for-sexually-abusing-a-dog>

- Reports say that a pregnant goat was found dead by the owner after his goat was allegedly stolen by the culprit and was found to have been gang-raped by seven other people. The above incident took place in Haryana.⁵

MAY 2019

- Reports say that a man was found dragging and beating a dog brutally to death in Moolakothalam near Chennai. The above-reported incident was captured on a camera. The video also showed the man throwing the poor animal who was alive at that point of time directly into the river.⁶

JULY 2019

- Reports say that in Hathras district of Uttar Pradesh three men were booked in the horrific crime of kidnapping and gangraping the poor female dog. The said incident took place in Jalesar area of UP.⁷
- Reports say that in Telangana's Telladeverapalli village fifty stray dogs were found dead. The above crime was allegedly committed on the orders of the village head. He had instructed on poisoning those stray dogs. to poison those innocent stray.⁸

AUGUST 2019

- According to the reports, there was a horrific incident which took place wherein a dog's eyes were popping out and there was blood all around its body. His front legs were tied to a vehicle and it was discovered to have been dragged till its death.⁹

⁵ <https://www.hindustantimes.com/india-news/pregnant-goat-dies-after-being-gangraped-by-8-men-in-haryana/story-JIFvxZgoPAePsZ4SVz7RbJ.html>

⁶ <https://www.deccanchronicle.com/nation/current-affairs/150519/chennai-man-arrested-for-beating-drowning-dog-to-death.html>

⁷ <https://www.indiatvnews.com/crime/news-3-booked-for-raping-4-year-old-dog-in-up-hathras-533255>

⁸ <https://www.ndtv.com/cities/village-head-orders-poisoning-of-50-stray-dogs-in-telangana-2068211#:~:text=Authorities%20in%20Telangana's%20Nalgonda%20district,be%20killed%20a%20day%20earlier.>

⁹ <https://timesofindia.indiatimes.com/city/mumbai/stray-dog-tied-to-vehicle-dragged-along-till-it-died/articleshow/70747822.cms>

- Reports state that a stray dog known to be called by the name Lucky was allegedly thrashed on July 24 by a few security guards after it went to take shelter in one of Mumbai's esteemed residential complex in Worli. This incident gained a lot of media attention as many famous personalities came out in support against animal cruelty.¹⁰

DECEMBER 2019

- According to reports the dead body of a leopard was spotted in Wardha – Mandwa area of Maharashtra. It was seen noticed that the wild animal's teeth, paws and nails etc were chopped off to sell them in a local market. To commit this crime four people allegedly trapped the said canine in wires till it died.¹¹

- Reports state that a few security personnel made a disgusting attempt to bury a living stray dog after assaulting it brutally with batons. However, they didn't succeed in doing so as they were caught in the act by the nearby residents due to the loud cries of the innocent animal. This incident took place in Delhi.¹²

MAY 2020

- In a recent report, an injured elephant was found dead in the Velliyar river of Kerala at Thiruvizhamkunnu area's forest section. The poor elephant was pregnant while an explosive burst in her mouth which was inserted in the disguise of a pineapple. This incident attracted a lot of media attention during the first half of 2020.¹³

JUNE 2020

¹⁰ <https://timesofindia.indiatimes.com/city/navi-mumbai/mumbai-citizens-celebs-protest-outside-worli-building-where-dog-was-cruelly-thrashed/articleshow/70454038.cms>

¹¹ <https://www.indiatimes.com/trending/wtf/our-greed-their-death-body-of-leopard-found-in-maharashtra-with-head-paws-cut-off-502298.html>

¹² <https://www.hindustantimes.com/gurugram/security-supervisor-in-gurgaon-booked-for-hitting-stray-dog-attempt-to-bury-it-alive/story-EuXDVfN3DrZIV44eo7fopL.html>

¹³ <https://timesofindia.indiatimes.com/city/kozhikode/killing-of-pregnant-elephant-in-kerala-triggers-nationwide-outrage/articleshow/76183627.cms>

- To murder a jackal in Jeeyaturam forest area of Tamil Nadu, the offender had planted a bomb as bait for it. The jackal fell for this bait and died immediately.¹⁴

JULY 2020

- In the district of Kuda village, a female dog succumbed to death by being dragged by a motorcycle.¹⁵

These were a few of such incidents which made us ponder on whether animal cruelty is given importance at all in the current Indian scenario.

However, there are a few things to be happy about one of which is the ban on the trade of dog meat and sale of dogs, in Manipur, Mizoram and Nagaland which caught a lot of attention of the youth of the country and one always would speak against it. Now finally it has got its due attention from the state of Nagaland after the series of videos and pictures of dogs being shot on the spot and dogs in gunny bags were found. The State Government of Nagaland took a path-breaking decision wherein it decided to ban commercial import and trading of dogs, and dog markets, and also the sale of dog meat, both cooked and uncooked.

These were some of the instances where humans have been extremely brutal and inhuman towards animals. They are clear proof that animal cruelty is on the rise and the situation must change. It's unfathomable as to how and why people have become so cruel and ruthless towards these innocent animals. Humans have truly lost their humanity.



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III. LEGAL PROVISIONS TO PROTECT ANIMALS IN INDIA

Legal Provisions

¹⁴ <https://timesofindia.indiatimes.com/city/chennai/jackal-dies-in-tn-after-country-bomb-covered-in-animal-fat-explodes-in-its-mouth-12-arrested/articleshow/76267917.cms>

¹⁵ <https://timesofindia.indiatimes.com/city/ludhiana/2-booked-for-dragging-causing-dogs-death/articleshow/76882967.cms>

Constitution of India

Indian Penal
Code, 1860Prevention of Cruelty
Act, 1960Wildlife Protection
Act, 1972

As seen in the flow chart above there are four recourses for the protection of animals from any kind of torture and ruthless behaviour in India.

1. The Constitution of India.

The constitution recognizes the need to protect and safeguard the environment and wildlife of the country. It can be seen in the following 3 articles.

- ARTICLE 48

This article instructs the state to take positive steps towards the organization of agriculture as well as animal husbandry on scientific and modern lines.

Specifically, it should do the following –

- Preservation and improvisation of the breeds.
- Prohibition of cow and calves slaughter as well as of other milch and draught cattle.

- ARTICLE 48.A

This article says that the State shall try hard to do everything in its capacity to protect and bring about an overall improvement in the environmental conditions and also strive to protect and safeguard the forests and wildlife of our country. Keeping this particular directive principle in mind the Wildlife Protection Act 1972 has been passed for protecting the wildlife of our country.

- ARTICLE 51 A (g)

The above article provides that every citizen of India is obligated by the constitution as a fundamental duty to improve the environment and protect the same. The term natural environment includes the following –

- Forests
- Lakes
- Rivers
- Wildlife.

The article also requires citizens to be compassionate towards these living creatures.

Article 51 A lists down all the fundamental duties which the citizens are obligated to follow. Fundamental duties are inserted in the Constitution so that every citizen can follow the basic norms of democratic behaviour that is expected of them.

2. Indian Penal Code, 1860

- Section 428 - This section says that if any person commits mischief by doing any of the following –
 - By killing any animal,
 - By poisoning any animal,
 - By maiming any animal or,
 - Rendering useless any animal where the value of such an animal is 10 rupees or upwards

The punishment shall be as follows-

Imprisonment which may extend up to 2 years or a fine or both together.

- Section 429 – This section says that if a person commits mischief by –
 - Killing any animal,
 - Poisoning any animal,
 - Maiming any animal, or
 - Rendering useless any of the following animals –
 - Elephant
 - Camel
 - Horse
 - Mule
 - Buffalo
 - Bull
 - Cow or Ox, whatever may be its value
 - Or any animal whose value is 50 rupees or upwards

Shall be punished with imprisonment which may exceed up to 5 years or may have to pay the prescribed fine or may have to do both together.

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3. Prevention of Cruelty Act, 1960

— Certain important sections of this act are as follows :

- (a) “animal” means any living creature other than a human being

Sec 11 of Act tells exactly what comes under the purview of animal abuse/ cruelty

(1) If any person— (a) beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animal to be so treated; or

b) 1 [employs in any work or labour or for any purpose any animal which, because of its age or any disease], infirmity, wound, sore or other cause, is unfit to be so employed or, being the owner, permits any such unfit animal to be so employed;

- (c) wilfully and unreasonably administers any injurious drug or injurious substance to 2 [any animal] or wilfully and unreasonably causes or attempts to cause any such drug or substance to be taken by 2 [any animal]; or
- (d) 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; or
- (e) keeps or confines any animal in any cage or other receptacle which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for movement; or
- (f) keeps for an unreasonable time any animal chained or tethered upon an unreasonably short or unreasonably heavy chain or cord; or
- (g) being the owner neglects to exercise or cause to be exercised reasonably any dog habitually chained up or kept in close confinement; or
- (h) being the owner of 3 [any animal] fails to provide such animal with sufficient food, drink or shelter; or
- (i) without reasonable cause, abandons any animal in circumstances which render it likely that it will suffer pain because of starvation or thirst; or
- (j) wilfully permits any animal, of which he is the owner, to go at large in any street while the animal is affected with a contagious or infectious disease or, without reasonable excuse permits any diseased or disabled animal, of which he is the owner, to die in any street; or
- (k) offers for sale or, without reasonable cause, has in his possession any animal which is suffering pain because of mutilation, starvation, thirst, overcrowding or other ill-treatment; or
- (l) mutilates any animal or kills any animal (including stray dogs) by using the method of strychnine injections in the heart or any other unnecessarily cruel manner; or
- (m) solely to provide entertainment— (i) confines or causes to be confined any animal (including tying of an animal as a bait in a tiger or other sanctuary) to make it an object of prey for any other animal; or (ii) incites any animal to fight or bait any other animal; or
- (n) 3 *** organises, keeps, uses or acts in the management of, any place for animal fighting or to bait 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; or
- (o) promotes or takes part in any shooting match or competition wherein animals are released from captivity for such shooting;
- he shall be punishable, 4 [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].

4. Wildlife Protection Act, 1972

Some of the important definitions in this Act are as follows :

Section 2(1)

This section defines an animal under this Act and says that it includes the following –

- Mammals
- Birds
- Reptiles
- Amphibians
- Fish
- Other chordates and invertebrates (also including their young eggs)

Section 2(2)

This section defines an ‘ animal article’ as any article that may be made from a captive or a wild animal but doesn’t include vermin. It includes articles or any kind of objects which consists of the whole or a part of such an animal. It also includes articles made from ivory.

Section 2(16)

This section defines the term hunting and says that it includes the following –

- Killing any wild animal
- Poisoning any wild animal
- Poisoning any captive animal and also includes every kind of attempt to do the above mentioned.

The section also includes any person who captures, snares, traps, tries to bait or drive any wild animal or any captive animal and an attempt of the same.

It also includes any person who injures or destroys or takes a body part of any animal, or damages the eggs of any bird or reptile or tries to disturb the nests and the eggs of any bird or reptile.

Section 2 (31)

This section defines the term trophy as the whole or a part of the wild or captive animal which is preserved by any natural or artificial means. It includes specimens of animals, rugs of animals, the skin of animals which were derived by the process called taxidermy and also includes parts such as carapace, shell, bone, rhinoceros horn, hair, antler, feather, tooth, eggs, nail, tusk, nest and also honeycomb.

Section 2(35)

The term weapon includes things such as bows and arrows, firearms, ammunition, explosives, knives, hooks, snares, nets, poison, traps, and also includes instruments or any apparatus which is capable to anaesthetize, destroy, decoy, injure or kill any animal.

IV. CRITICISM OF THE LAW

Now as seen above India does have provisions for protecting animals from any kind of cruelty then why is it that such cases are still on the rise? Why is it that people are still not afraid to commit such crimes? Where are we lacking?

The reason behind this lies in the fact that our legal provisions in this regard suffer from certain shortcomings which hence doesn't let the main objective for which such laws were made in the first place be fulfilled.

1. The biggest shortcoming in our legal provisions lies in The Prevention of Cruelty Act, 1960. To begin with, this Act was enacted in the year 1960 ie 60 years ago. However after that till now ie from 1960 to 2020 the Act hasn't been amended even once. Amendments are an extremely part of all legal provisions. All statutes need to keep pace with changing times. If amendments are not made there would be no legal way of meeting the changing needs of society. As times change the types of crimes committed by such offenders also changes and hence amendments also need to be made to curb these crimes which go to infinite extents.
2. Section 11 of the Act gives a detailed list as to what comes under the purview of animal cruelty rather what acts specifically construe animal cruelty. Along with this it also lays down penalties for these offences. However, it's quite disappointing to say that these penalties do not go beyond the liability to pay a fine that may extend to only fifty rupees in the case of a first offence. In case the offender commits the crime for the second time within a period of three years from the previous offence, then he will be liable to pay a fine which is not less than twenty-five rupees, which may also get extend to hundred rupees or the offender may be imprisoned for a term which may extend to three months or both. This itself is the biggest example as to why we need the Act to be amended. It's

2020 and the maximum monetary penalty is just 100 rupees. How difficult would it be for a person to just pay 100 rupees for his crime and go free for his heinous crime?

3. The statement above takes us to the third shortcoming in this Act. The penalties laid down in this Act in no way deters a person from committing such crimes in the future, rather it gives them the surety that whatever crime they commit towards animals and however heinous it may be, they can pay a petty fine and get away with it. This particular Act doesn't fulfil the deterrent theory of punishment in any way. Sir John Salmond has defined deterrence as, "punishment is before all things deterrent, and the chief end of the law of crime is to make the civil doer an example and a warning to all who are not like-minded with him" In other words, the theory of punishment states that punishment was given to an offender usually creates a fear in the minds of the people who are law-abiding thereby making them avoid criminal activities. Therefore the punishment given to such criminals must be in proportion to the offence. And if the punishment fails to create fear in the minds of people it would lack its very purpose. This very main purpose isn't fulfilled in the Prevention of Cruelty Act hence the rise in the number of such cases.
4. The problem lies in the contradictory nature of the judgements and the prevention of cruelty act, 1960 itself. On one hand, the act prohibits cruelty towards animals, on the other hand, it envisages that nothing contained in this act shall render it an offence to kill any animal in a manner required by the religion of any community.
5. The government should stop straddling the fence and have a firm opinion and a unitary law in the question of cow slaughter as prohibiting cow slaughter in some states while allowing it in the others is like saying, " kill a person but not in front of me".
6. While the Wildlife Protection Act endeavours to protect the wild animals from any kind of cruelty, there are no severe deterrents for the crimes committed against other animals.



V. SUGGESTIONS

A few suggestions are; *OUR MISSION YOUR SUCCESS™*

1. The main focus should lie on bringing the necessary amendments in the Prevention of Cruelty Act, 1960 thereby ensuring better protection of all types of animals from cruelty.
2. There should be a separate animal welfare tribunal, like The green tribunal for the effective handling of the cases of animal abuse that go unheard most of the times.
3. Large scale spread of awareness of animal welfare, compassion, empathy and normalizing the relationship between animals and humans. Often we see that overprotective parents scare, or put the thought of animals being dangerous in the minds of their children.
4. Conducting seminars relating to animals, wildlife and nature in the 'EVS' classes conducted in primary as well as secondary schools.
5. To promote the adoption of stray animals to further humanize the relationship between children and animals, especially during COVID-19 times.

6. Studies show that animal cruelty is a similar behaviour seen in the minds of the hardened criminals, that take place much before the actual crime is committed against any human so, the next suggestion is to criminalize and penalize the crimes against animals on the same parameter as the crime against humans. Further, the punishment for the crimes relating to animals should be in proportion to the crime committed.

7. Many religious groups offer animals as 'Bali' which is a modus operandi to appease the various Gods, nevertheless, there exists no religion that preaches violence or killing of animals. The custom of sacrificing animals in the name of religion should be stopped and if not possible then at least the government must draw a fine line between an act of cruelty done lawfully and an act done unlawfully.

8. Once and for all there must be a clear demarcation by the state clarifying which animals would be allowed to be sacrificed rather than giving the public a warrant to kill animals under the cover of religious rites and practices.

VI. CONCLUSION

There exists a special connection or a relationship between humans and animals. As the saying goes a dog is a man's best friend indeed. Not just dogs but all animals deserve to be loved and treated well. If not love the least we could do is not hurt them intentionally. They too have feelings just like humans. An animal if loved well and treated well develops an intense bond with the humans that take care of it. They too deserve love and are capable of giving love. There is a concept existing abroad called as 'Dogs for the disabled' wherein dogs help the disabled in their daily lives to a great extent and make them feel better and on the other hand some people subject them to heinous crimes such as pelting stones on them and raping them. This behaviour is not acceptable. And not just dogs there are numerous instances of cows being raped as well. How low can we stoop as humans? It's disappointing to see that instead of such cases decreasing, they're increasing day by day. This is because our justice systems in this regard are lacking to a great extent. The legal provisions should be framed in such a way that people should get scared to commit such crimes in the first place. Committing the crime and then trying to go scot-free with minimum punishment is another story altogether.

As mentioned above in Part IV there are loads of shortcomings in the legal provisions which need to be rectified to improve the situation. Apart from the justice system, there is a lot to correct amongst us individuals as well. We need to start from the root cause that is from our households. The situation in India is such that parents rather than teaching friendly and compassionate behaviour towards the animals, put negative thoughts in the minds of children by telling them to not go close to them and touch them because they are not hygienic and create so much of fear in their minds that it makes them behave differently with them when they grow old. And also things like stopping a child from throwing stones at an animal is something that needs to be taught. It's the violent

behaviour of kids towards animals in their childhood which the parents neglect, or rather ignore to correct that leads to people committing such horrible and inhuman acts towards animals.

Even if a part of the above suggestions are implemented to immediate effect and the necessary changes be brought about in the law, it will help in reducing the number of crimes being committed towards animals drastically.



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