

A Constitutional Analysis of Animal Rights in India

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ABSTRACT

INTRODUCTION

“To my mind, the life of a lamb is no less precious than that of a human being. I hold that, the more helpless the creature the more entitled it is to protection by man from the cruelty of man.”

- M.K Gandhi.

India claims to be the home of ahimsa. The doctrine of ahimsa places a strong emphasis on the fact that animals have a soul just like human beings. Not only this, it is a land where animals are worshipped. However, the case of animal cruelty is also on the surge in India. In today’s world, animal rights is an issue of contention.

As the G20 summit is being held in New Delhi, multiple videos went viral on social media, showing that the Municipal Board of Delhi has organized a massive unlawful operation to pick up stray dogs in various parts of the city. They were violently and forcefully dragged by their necks using a wire. The theme of G20 is “Vasudhaiva Kutumbakam” or “One Earth, One Family, One Future” so instead of hiding stray dogs in order to beautify the city we should showcase the peaceful coexistence between man and animals. In our daily lives, it is not uncommon to see individuals stoning and hurting stray animals. It’s also not uncommon these days to read news about gangrapes, rapes and brutality against animals. While there is data about violence against men and women, there is no data for violence against animals. We have time and again made animals feel as if they aren’t a part of the planet. But this has to end now. As M.K Gandhi has rightly said, that we need to protect the helpless creatures. We need to be the voice of the voiceless. We need to advocate for a change.

This paper aims to analyze the existing laws with respect to animals in our country and aims to give recommendations for the future.

Keywords: Animal rights, Constitution of India, Judiciary, NGO, Animal Activist, Animal Welfare Legislation.

RESEARCH OBJECTIVES

The study focuses on the following objectives:

1. To gain insight into the historical development of animal rights in India’s constitution.
2. To evaluate the effectiveness of the existing legislature related to animals in India.
3. To examine the contribution of judiciary to the development of the jurisprudence of animal welfare.
4. To analyze the contribution of civil society in advancing animal rights and welfare in India.

STATEMENT OF PROBLEM

Animals play different roles such as a companion, food, symbol of god, research models and so on in human beings life. Nearly all religions highlight the importance of co-existence with animals. Despite this, animals are suffering and animal cruelty is on a rise.

The Constitution of India enshrines the Fundamental Rights given to its citizens but it does not explicitly address the rights of animals. This absence has led to ambiguity and legal challenges regarding the status and protection of animals in the country. The lack of a clear constitutional framework for animal rights raises questions about the moral and legal obligations towards animals, their welfare, and the preservation of biodiversity.

RESEARCH QUESTIONS

The research I intend to undertake on this topic is mainly to answer the question following questions:

1. How animal rights developed in India's constitution?
2. How effective is the already existing legislature framework of animal rights?
3. What was the contribution of judiciary in the development of animal rights?
4. What was the contribution of civil society in advancing animal rights?
5. Why is it important to have animal rights?

LITERATURE REVIEW

1. Bhumika Sharma & Priyanka Sharma, Rights of Animals at practice in India, Journal On Contemporary Issues of Law Volume 3 Issue 7-
While this research paper mentions the historical context of animal rights globally, it fails to go in-depth about the historical background of animal rights in India. My research paper will completely focus on animal rights development in India.
2. Jessamine Therese Mathew & Ira Chadha-Sridhar, Granting Animal Rights under the constitution: a misplaced approach? An analysis in light of animal welfare board of India v. A. Nagaraja NUJS LAW REVIEW 7 NUJS L.REV. 349 (2014)-
While the conclusion suggests a duty-based approach as the correct path, it does not provide specific recommendations for policymakers. Offering practical recommendations for implementing this approach or areas of further research would be valuable. My research paper will provide specific and practical recommendations for the policymakers.

CHAPTERISATION

1. Constitutional Framework of India on Animal Rights.

In this chapter, we will explore the Fundamental Rights and their applicability to animals as well as the Directive Principles of State Policy and its take on animal welfare.

2. Legislative Framework of India on Animal Rights.

This chapter will deal with the historical development of animal welfare legislation. We will understand key provisions and amendments of The Prevention of Cruelty to Animals Act, 1960 and The Wildlife Protection Act, 1972.

3. The impact of Judicial interpretations on Animal Rights.

By offering interpretations and explanations of present legislation, the judiciary plays a significant part in establishing laws pertaining to the protection of animals. Here we will understand how judiciary has broadened the present legislations through landmark cases.

4. Role of NGOs and Animal activists.

Civil Society has gained a lot of importance all around the world especially because of their active and influential ways. This chapter will help us to gain insight into the role of Non- Governmental Organisations as well as Animal Activists in advancing animal rights and becoming the voice of the voiceless.

5. Conclusion and Recommendations.

In this chapter we will celebrate the milestones in India's Animal Rights journey and understand the present challenges. We will also discuss a few recommendations for the future.

This research paper aims to contribute to the ongoing discourse surrounding animal rights in India.

CONSTITUTIONAL FRAMEWORK OF INDIA ON ANIMAL RIGHTS.

India, with its rich cultural heritage and diverse ecosystems, has a deep-rooted relationship with animals. Over the years, there has been a growing awareness of the need to protect and preserve the rights of animals in the country. While specific legislation plays a crucial role in safeguarding animal rights, it is essential to understand the constitutional framework that underpins these protections.

The idea that animals should not be used or exploited by humans is known as "animal rights." The Constitution of India was adopted on January 26, 1950. Even though our constitution is not animal centric, there are articles and provisions that can be interpreted to focus on animal rights as well.

The Indian Constitution enshrines certain fundamental rights and directive principles of state policy that indirectly affect the welfare of animals. For instance, Article 21¹, which guarantees the right to life and personal liberty, has been interpreted by the judiciary to include the right to a dignified life for all living beings, including animals. This interpretation has led to several landmark judgments promoting animal welfare. Courts in India have recognized that animals too have a right to live with dignity and not be subjected to unnecessary suffering or cruelty.

The Preamble of the Indian Constitution emphasizes justice, liberty, equality, and fraternity. These principles are not limited to human beings alone but extend to all forms of life within the territory of India. By committing to securing justice and ensuring the welfare of all, the Constitution indirectly acknowledges the need for the welfare of animals.

Furthermore, the Directive Principles of State Policy (DPSP), as laid down in Part IV of the Constitution, advocate the protection and improvement of the environment. This includes the prevention of cruelty to animals, indicating the government's commitment to the welfare of animals through policies and actions. The Directive Principles of State Policy in the Indian Constitution contain guidelines for the government to promote the welfare of all citizens. Article 48², in particular, emphasizes the protection and improvement of animal breeds. It encourages the government to take steps for preserving and improving the breeds of livestock and prohibiting the slaughter of cows and calves. This directive principle reflects the nation's commitment to the welfare and conservation of animals, especially those used for agricultural purposes.

¹ India Const. art. 21.

² India Const. art 48.

Article 51A³ of the Indian Constitution lays down fundamental duties for citizens. It emphasizes the duty of every citizen to have compassion for living creatures. This duty extends beyond the mere protection of animals from cruelty; it calls for a broader cultural shift towards respecting and coexisting with animals. By enshrining this principle in the constitution, India emphasizes the importance of fostering a society that values the rights and welfare of animals.

Public Interest Litigations (PILs) have been filed in various courts across the country to seek redress for instances of cruelty and abuse against animals. These cases highlight the judiciary's willingness to use its constitutional authority to protect animal rights and welfare.

The constitutional framework of India provides a solid foundation for the protection and welfare of animals. While specific legislation plays a crucial role in defining and enforcing these rights, the principles enshrined in the Constitution lay the ethical and moral groundwork for a society that values the well-being of all living creatures. The inclusion of directives, fundamental duties, and the interpretation of the right to life and liberty in a broader context all contribute to a constitutional commitment to animal welfare.

LEGISLATIVE FRAMEWORK OF INDIA ON ANIMAL RIGHTS

Animals have been loyal and helpful companion for all humans. The brutal attacks of 9/11 left several people dead and injured. In the rescue efforts taken by state, Riley the Golden Retriever assisted. Apart from Riley, there were 300 more dogs involved. In India itself, police dogs have been trained to investigate murders and they have been so helpful in the same. Not only that, animals have been useful to study space. However, they have been at times subjected to extreme cruelty. Animals like guinea pigs have been tested drugs on for years. This has caused immense pain to them, tortured them and killed them at times.

In this background, protecting the rights on animals has been very important and since ancient India various efforts have been taken. Throughout ancient Indian history, various rulers and leaders promoted animal welfare in their own ways. Kings like Harsha and Akbar were known for their policies to protect animals, including the establishment of hospitals for injured and sick animals. However, when Mughals conquered India, they killed animals for food. Apart from this, they organized various animal hunting competitions which killed animals on a large scale. But they prohibited slaughter of cows during Hindu festivals out of respect for the beliefs and practices of the Hindu population. Emperor Akbar, in particular, was known for his policies of safeguarding cows and ensuring their welfare.

Significant moves in the direction of animal rights were made by British. In 1860, the British Raj enacted the country's first animal rights law. The Act established the legal framework for the prevention of cruelty and the protection of animals. It allowed for the prosecution of individuals who engaged in cruelty toward animals. The official criminal code of India is the Indian Penal Code (IPC) 1860 which was established by Britishers, which addresses all material dimensions of criminal law. All acts of cruelty, such as the killing, poisoning, maiming, or rendering useless animals., are punishable under Sections 428⁴ and 429⁵. In India, the first society for the prevention of animal cruelty was established in 1861. The Wild Birds and Animals Protection Act, 1912⁶ was also introduced. This legislation aimed to protect wild birds and animals by regulating hunting and poaching.

³ India Const. art. 51, cl (A).

⁴ Indian Penal Code, 1860, §428.

⁵ Indian Penal Code, 1860, §429.

⁶ The Wild Birds and Animals Protection Act, 1912, Acts of Parliament, No.8 of 1912 (India).

Post-independence, we enacted more laws for animals. In 1960, the Prevention of Cruelty to Animals Act⁷ was passed by Parliament. The goal of the Act is to change the laws governing the prevention of animal cruelty and to prevent the suffering or agony of animals. The act established the Animal Welfare Board of India. Additionally, The Wildlife Protection Act, 1972⁸ was enacted which focuses on protection and conservation of wildlife. It establishes protected areas like national parks and wildlife sanctuaries. This act was amended in 2006 and strengthened the Wildlife Protection Act by increasing penalties for wildlife-related offenses and enhancing the protection of endangered species.

THE IMPACT OF JUDICIAL INTERPRETATIONS ON ANIMAL RIGHTS.

The judge's interpretation of the law is known as judicial interpretation. Animal Rights has evolved greatly thanks to judicial interpretation. When it comes to dealing with the laws that safeguard animal rights, India is still in its infancy. Indian Judiciary has done an amazing work in filling the gaps which exist in these laws relating to animals.

Here are a few landmark cases that helped shape animal rights in India:

1. **Animal Welfare of India v. A Nagaraja and Ors**⁹:

Jalikkattu is a traditional sport that takes place in Tamil Nadu during Pongal. In this sport, bulls of a certain breed are released into a crowd of people. The people have to grab the hump of the bull and hold on to it while the bull is attempting to escape. This sport was into the notice of Madras High Court as it violates Article 21 that is right to life and liberty of animals.

In May 2014, the Supreme Court of India delivered its judgment in this case. The court held that Jallikattu and bullock cart races inherently involve cruelty to animals and are in violation of the Prevention of Cruelty to Animals Act. The court also emphasized the need to uphold the welfare of animals and the duty of the State to prevent any unnecessary pain or suffering to animals.

The judgment was seen as a landmark decision in the realm of animal rights in India, as it emphasized the importance of animal welfare and sought to prevent cruelty to animals in the name of tradition or sport.

2. **State of Bihar v. Murad Ali Baig**¹⁰

The Court addressed elephant hunting in this case. The court was asked to decide whether the Wildlife Protection Act and the Indian Penal Code allow for the hunting of elephants. The Wildlife Protection Act of 1972's sections 10¹¹ and 11¹², which include schedules, are also addressed by the court. According to the Honorable Supreme Court, killing elephants is forbidden because they are included on the list of animals included under Schedule 1.

The court further pointed out that the offence of hunting, as it is defined under the Wildlife Protection Act of 1972¹³, is distinct from the one stipulated in Section 429 of the Indian Penal Code of 1860¹⁴. The Indian

⁷ The Prevention of Cruelty to Animals Act, 1960, Acts of Parliament, No.59 of 1960 (India).

⁸ The Wildlife Protection Act, 1972, Acts of Parliament, No. 53 of 1972 (India).

⁹ Animal Welfare of India v. A Nagaraja and Ors, (2014) 7 SCC 547.

¹⁰ State of Bihar v. Murad Ali Baig AIR 1989 SC 1.

¹¹ The Wildlife Protection Act, 1972, §10.

¹² The Wildlife Protection Act, 1972, §11.

¹³ *Supra* Note 5.

¹⁴ *Supra* Note 2.

Penal Code and the Wildlife Protection Act have quite different definitions of what constitutes an offence. Thus, the two offences are distinct from one another.

3. People for Ethical Treatment of Animals v. Union of India ¹⁵

The Animal Welfare Board of India must issue a No objection certificate to any film that wishes to use animals, according to the Bombay High Court's decision in this case. This decision assures that animals will be better protected during the filming process. Thus, the judgement forbids more cruel practises such as beating, depriving animals of food and water, or subjecting them to loud, unusual noises.

Thus, the judiciary has helped in transforming India into a more animal friendly country but it is still at its infant stage.

ROLE OF NGOS AND ANIMAL ACTIVISTS.

The word “international relations” changed to global politics in the 21st century. This is because of the immense power that civil society gained in the last few decades. The increase in power of civil society has shaped global politics. Governments all across the global are paying more attention to issues raised by them such as women’s safety, education and literacy, agriculture and so on. They bring up issues that the government otherwise doesn’t pay much attention to.

In respect of animal rights, the role of Non-Governmental Organizations and animal activists have played a significant role. They have been instrumental in raising awareness about animal rights issues. For the same, they conduct campaigns, workshops, and educational programs to inform the common people about the importance of animal welfare.

People for the Ethical Treatment of Animals (PETA) India has been very successful in running various high-profile campaigns against animal cruelty in different sectors, such as the meat industry, entertainment, and fashion. Their campaigns featuring celebrities have reached millions. This has helped the society in understanding the pain of animals.

Jallikattu, a controversial sport was brought into notice by the efforts of NGOs. This helped in making legislative change which is a significant achievement and progress.

Let’s take the recent example of the viral videos of street dogs being manhandled and taken to unknown places. This again was brought into notice by People for the Ethical Treatment of Animals (PETA) India. During the pandemic, as there was less or no human activity, the stray animals found it difficult to find food to scavenge. Additionally, there were no vendors who provided food to animals. However, even animal activists and NGOs were helpless as there was a complete lockdown and they could not find volunteers. The economic situation also rendered them helpless due to less donations. As the situation became better, there was a rise in NGOs and citizen initiatives taken towards stray animals when situation was brought into notice. Now, there is a burgeoning number of citizens and animal activists that feed animals. A student led initiative taken called as “Kshudha” by Maharashtra National Law University, Mumbai is something that needs to be looked up to. It is a food drive initiative to feed stray dogs and cats. There should be more such initiatives taken by college students so that we bring a change.

¹⁵ People for Ethical Treatment of Animals v. Union of India, Writ Petition (PIL) (Lodging) No. 2490 of 2004.

CONCLUSION AND RECOMMENDATIONS

As the society progresses, we have adopted lifestyles that are more animal friendly such as switching to vegan type of diet. In this diet, animals and their products aren't consumed. This is considered as one of the best ways to stop animal cruelty. Apart from this, we are moving towards clothes that are more sustainable and made from animal-friendly products. The "PETA-Approved Vegan" certification authenticates handbags, shoes, apparel, accessories, furniture, and home décor goods created from vegan materials rather than those derived from animals, such as leather, silk, wool, fur, and feathers. Making ethical purchases that are in line with their principles is made easier with the help of this logo for consumers.

However, we are still facing difficult challenges such as wildlife trafficking through airports. This has become a serious issue as most of the vulnerable and threatened species are being trafficked. These animals are kept in small containers and in bad conditions which are harmful to them. There are often even animal parts being smuggled. We need to make our laws stronger and stricter for this. New issues like this need to be addressed. The airport officials need to be trained which has been already done by countries abroad. Our laws provide minimal punishment for animal cruelty such as a fine of just Rs.50. There are movements going on for amendment of these act such as 'No More 50'. By just paying Rs.50, we are allowing the people who harassed our animals to be free. If this continues, animal cruelty will continue. The deterrence theory of punishment claims that rapid, certain, and severe punishment is the most effective way to deter criminal behavior. In view of this, we need stricter punishments, laws that include the new issues such as wildlife trafficking through airports and so on.

On an individual level, we can rethink our everyday things such as feeding a cow by paying money to the owner. Those cows are starved so that the next day they can be fed a lot and this is again an act of animal cruelty. We can do simple things such as donate to food drives taken to feed stray dogs and cats.

The pursuit of animal rights in India is not just a legal matter but a moral imperative. It reflects our values as a society and our commitment to creating "Vasudhaiva Kutumbakam" or "One Earth, One Family, One Future". The journey toward better animal rights in India is ongoing, and it is a path that demands our attention, dedication, and compassion.