

Animal Rights in India

Harsh Vardhan Singh¹, Khushi Singh²

^{1,2}Student, Amity University Lucknow Campus

Abstract

India is known for the most biodiversity regions in the world. India is home for about 92,873 animals. Thus there are several reasons due to which animals are getting affected and one of the reason is human's rapacious nature. Also how animals have been exploited for various purpose. This research paper explores the comprehensive framework governing animal rights in India, focusing on constitutional provisions, legislative acts, and landmark judicial rulings. India's Constitution, through Article 51A(g), emphasizes the fundamental duty of citizens to show compassion towards animals. Furthermore, acts such as the Prevention of Cruelty to Animals Act, 1960, and the Wildlife Protection Act, 1972, provide legal safeguards for animals against exploitation and abuse. These animals rights are managed by the government or non-government organization.

Case laws such as the historic judgment include Animal Welfare Board of India v. A. Nagaraja & Ors. (2014) established that animals have intrinsic value and dignity, warranting legal protection. Furthermore, the Supreme Court's directive in People for Ethical Treatment of Animals (PETA) India v. Union of India (2014) mandated the implementation of guidelines to prevent cruelty towards animals in markets and transportation.

This paper elucidates how the judiciary plays a pivotal role in upholding animal rights by interpreting and enforcing laws, thereby fostering a culture of empathy and accountability towards our fellow beings. Despite legislative measures and judicial interventions, challenges persist, necessitating ongoing advocacy and enforcement efforts to ensure the well-being and dignity of animals across the nation.

Keywords: Rapacious; Animal rights; Constitutional provisions; Article 51A(g); Prevention of Cruelty to Animals Act, 1960; Wildlife Protection Act, 1972; Judicial interventions

Introduction

Animals have been subject to both cruelty and devotion. India is home to various animals such as Indian rhinoceros, big cats tiger, Blackbuck, barasingha, Nilgiri thar, Nilgiri langur, etc. Over period of time, with the evolution of human civilization lead to progress of relationship between humans and animals. Animal rights are provided to protect animals from being subjected to cruelty and to stop exploitation of animal for various purposes such as transportation, used for experiments, smuggling of animals, entertainment i.e. in circus, etc. In India, cruelty towards animals have been a common issues, which lead to formation of various decree by the legislation.

The Constitution of India has also pronounced various provisions for Animals. Constitution of India acknowledges the duty of human to protect animals and to treat them with dignity. In recent years, there have been various cases of animal cruelty which lead to active participation of each individual and social alertness. There has been various Section under which punishment for animal cruelty is mentioned such as Section 428 and 429 of the Indian Penal Code.

Need for the Animal Rights-

Biodiversity is essential for healthy and functional ecosystem. Thus eradication of wildlife from their natural habitat will lead to destructive result. In today's world humans for their selfish and for their mean uses animals for various purposes such as transportation, eat meat, for entertainment purpose i.e. circus, etc. However, people never give importance to think about how their actions are affecting the lives of animals, also how these actions lead to animal cruelty.

Animal rights is not just a philosophical concept, but it is a social movement which is to stop the society's traditional mind-set that animals are for their use but they also possess an ultimate importance in ecosystem. As animals too feel pain, loneliness and fear, thus it is necessary to consider and treat all species equally.

In a case Animal Welfare Board of India v. Nagaraja and Ors. Supreme Court banned the use of bull in the name of entertainment, because animals too have emotions thus they also feel pain, and therefore Court held a decree which says that animal's rights and privacy should be protected. Furthermore, after this case right to dignity was prolonged.

Constitutional schemes for protection of Animals-

The sense of Privacy and dignity given by the Constitution of India is not only limited to humans but also applies to Animals. Many elements of Constitution have been adopted by the people of other country so that it can function effectively without discrimination. The Constitution of India recognizes the protection of animals as Fundamental duty.

- (Part III) on Fundamental Rights. Article 21 of the Constitution of India guarantees the right to life, and the word 'life' refers not only to humans but also to all forms of life, meaning that animals too have the right to live with dignity and equality.
- (Part IV) determines the application of The Directive Principles of State Policy. Under Article 48, says that it is States responsibility to decide on agriculture and animal husbandry based on modern ideas and science. In this article it is prohibited to kill animals such as cattle, or use them for transportation or for agricultural purposes.
- Under Article 48A it deals with the State to Protect and development of the environment and to secure the forest and wildlife of the country.
- Part IVA of the Constitution proclaim the Fundamental duties of citizen of the country. Under which Article 51A(g), it deals with the provision where it's each citizen fundamental duty to improve and protect the natural environment wherein it considered of wildlife also.
- The Seventh Schedule of the Constitution of India gives the power to Union and State government to make decree to Prevent the animal cruelty and to protect the wildlife.

The Indian Penal Code, 1860-

Indian Penal Code also provide provision to protect animals from cruelty by the humans. Thus, According to Section 428, any act done such as killing, poisoning or rendering any animal whose worth is only 10 rupees gets punishment of up to two years in prison, or fine, or both.

According to Section 429, any act done such as killing, poisoning or rendering any animal whose worth is of fifty rupees or is more than fifty rupees gets punishment of up to five years in prison, or fine, or both. Offence under these Sections are bailable and cognizable offence, where a police officer can arrest an accused person without warrant. These Section are formed to provide animals their right and to stop the

animal cruelty by filing complaint under various government organizations and there are some non-government organization where the complaint is filed for the stray animals.

Prevention of Cruelty To Animals Acts, 1960-

The Prevention of Cruelty to Animals Act, 1960 was passed with the intention to obviate the infliction to the animals such as unnecessary harm and torturing them by using them for various purpose. Its objective is to prevent animal cruelty by reforming various legislation that is related to stop the animal cruelty. Under this Act 'animal' is referred to as 'the living being other than human being'.

There has been establishment of a board under Section 4 of this Act in 1962, which is known as The Animal welfare Board of India for the protection of animal from any harm.

Under Section 11 of this Act, various forms of acts are mentioned that are performed by humans which is considered as cruelty. Such as

- unnecessary torture,
- use them for labour work,
- for experiments,
- shut them in cage which causes them to grow with insufficient height or length,
- Negligence as owner of dog by keeping them in cage or cannot provide sufficient food, drink and shelter.
- For the business intention using animals for animal fighting or use them to make money by participating in any competition.
- Abandoning of animals who are suffering from any disease or any disabled animals.

Under this act no prosecution shall lie for any offences for more than 3 months. This acts provide instruction for those use animals for experiments.

Under this Act, there has been a formation of a rule known as The Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017. This Rule permits the magistrate to take the ownership of cattle who owns it while proceeding as he is facing charges under this Act. The Animal are kept in animal shelter or if the animal is facing any disease is kept under medical supervision. And after that authorities give those animals for adoption.

The Wildlife Protection Act, 1972-

Before implementation of this Act, In India there was only five national parks. It sets the rules and regulations for the protection of wildlife in India. It constituted the provisions establishment of more national parks, wildlife sanctuaries etc. It was enacted for the protection of endangered species. Under this Act, there was establishment of wildlife wardens, wildlife advisory boards and had determined their powers and duty.

Under this Act, there was formation of list in which endangered wildlife was mentioned and it happened for the first time in the country. This Act restricted the killing, hunting or smuggling of endangered animals. Under this Act Center and state government had the power to assert any area as 'restricted area' for the establishment of national park, wildlife sanctuaries etc.

Under Section 9 of this Act, it states the Prohibition of wild animals that are mentioned in schedule I, II, III. Whereas, under Section 11 of the Act, it allows to hunt the wild animals in specific matter.

Under Section 40 and 42, for the ownership of any wild animal will be issued only by the chief wild life warden. Whereas for the trade license, ownership cannot be transferred to any other person.

In this Act, there has been establishment of Central Zoo Authority which is formed for the any failure caused in the zoos in India. This Act also led to the formation of National Tiger Conservation Authority, which gave route for the endangered tiger to revive by protecting them from being extinct.

Wildlife Conservation Initiatives By Government Of India-

Wildlife Protection Act, 1972 has been formed with the aim to protect the wildlife animals. Therefore various wildlife conservation were made to take action on to preserve and to protect the various extinct animals which were drastically in declining status.

Thus for the wildlife to be protected and conserved, to maintain the ecosystem, to protect the biodiversity, the Government of India supported in various Conservation project for wildlife. Some of them are as follows:

- **Project Tiger:**

The project tiger was launched in April 1973 by the government of India under the Wildlife protection act 1972. It was initiated with the intention to promote conservation of the tiger. It was first initiated in the Jim Corbett National Park in Uttarakhand by Indira Gandhi government.

At the initial, when project was started, In India there were only 9 tiger reserves. Whereas now, there are 47 tiger reserves in 18 tiger range states of India. In 2005, there was establishment of a body for the project known as National Tiger Conservation Authority (NTCA).

The project tiger faced many challenges such as it was hindered by poaching, deforestation caused due to various reasons, and the discontinue in the administration of reserves. As tiger skin are in much demand in the international black market. They are used for cloth making, shoes, etc. The Forest Rights Act was passed in 2006, this led to create the interference with the project as there were certain rights to communities of forest, which increased the human-tiger contact.

But this project came to be fruitful too as there has been increase in number of tigers in India by 30% from 2010 to 2014. As at recent time, there are 2226 tigers in India, which also accounts to be highest in the world.

- **Project Elephant:**

The project elephant was launched in 1991-1992 by the Government of India to revive the elephant habitat and lessen the elephant being suffered. The project was almost established in 16 states or union territories in India. There were about 15000 elephant when the project was launched and there has been increase in number since then. The main cause of elephant population is being declining is the human-elephant conflict and also their is no elephant corridors in India.

This project was initiated with the aim to avoid hunting and poachers of elephant and unnatural reasons of elephant's death in India. Its aim was also to avoid the conflict between the human and elephants in elephant habitats. There are almost 32 elephant Reserves in India. Singhbhum Elephant Reserve of Jharkhand is the first elephant reserve.

The Project was successful as it can be determined from the fact that till now in India there has been 33 elephant reserves in 14 states and acknowledged elephant as a National Heritage Animal which is being protected under Schedule I of Wildlife Protection Act, 1972.

- **Crocodile Conservation Project:**

The Crocodile Conservation Project was introduced in 1975 in different states of the country. It's aim was to Conserve and improve the crocodile population through breeding, by setting up the management, by

installation of sanctuaries. Its objective was also to increase the population of crocodile from where there was 5 to 6 crocodile were seen per kilometre length of water were available.

Early 1975, in Odisha there was implementation of Gharial and Saltwater crocodile conservation for the very first time. After while Mugger conservation programme came into action.

The project came to be acknowledged successful as now there are 7000 Crocodiles, among which are 4000 alligators, 1800 mugger and 1500 Saltwater crocodile.

- **Sea turtle Project:**

The Sea turtle Project was initiated in November 1999 by the Ministry of Environment and Forests in collaboration with UNDP. It was started at the Indian Institute of Wildlife, Dehradun. It was initiated to conserve the olive ridley turtles and endangered marine turtles.

The Project was executed in 10 coastal states in India, and specifically in state of Orissa. Under this project major rules were set to conserve turtle by protecting the breeding areas and any other cause for their unnatural death. As there was a major need to initiate this project as almost all sea turtle are endangered, in which three of the seven remaining are critically endangered.

- **Project Snow Leopard:**

The Project Snow leopard was initiated in 2009 by the Ministry of Environment, Forests and Climate Change. Its main object is to promote the high altitude wildlife population and habitats by setting up various policies and plans especially to the local communities living in Himalayan states.

Snow leopard is mentioned in the Schedule I of the Wildlife (Protection) Act, 1972. The Project led India to assigned three large landscapes for conservation. In 2019, there was establishment of First National Protocol on Snow Leopard Population Assessment which was advantageous for monitoring of Population. Other than these Projects the Government of India has established other projects also for various animals who are critically endangered and to protect them and conserve them in their natural habitat. Such as project Indian Rhino Vision 2020, Project Hangul 1970, etc.

Judicial Pronouncement-

Animal Welfare Board v. A. Nagaraja and Ors (2014)

In this case supreme court held that use of bulls and bullocks for the entertainment purpose such as Jallikattu and bullock cart racing to be banned. As animals also suffer from pain, when human uses them for their purpose. Animals too acquire the dignity and honour. Thus court from various cases held that fundamental right against the pain is not limited to human as it is for animals also.

From the decree of the court, Animal Welfare Board and Governments should also protect the 'five freedoms' of animals. Such as:-

1. Hunger and thirst freedom
2. Freedom from pain, injury, disease and discomfort
3. Fear and distress freedom
4. To express normal behaviour

Thus court held that use of bull for any purpose such as racing or bullfighting should be banned and these freedom must be protected by the Union and state government.

Mohd Hanif Qureshi and others v. State of Bihar

In this case the petitioner who worked as butchers and it was part of their norms as it was practiced from generation, their source of income was through cattle slaughter. But Hindu religion being in majority

forbids them to practice slaughter of cow is considered as God in Hindu religion. Therefore in 1958, the petitioner claimed that the laws of Bihar state for animals infringed his fundamental right by not practicing the slaughter of cattle.

The Supreme Court which consisted of Justice S.K. Das and Justice P.B. Gajendragadkar held that there is some exception in slaughter of cow, as it states that buffalo above age of 13 can be used for slaughter after showing certificate from the particular authority. This was passed as there cannot be complete forbid of slaughter of cow as it is their only source of income. Also court denied the argument of petitioner where it states that sacrifice of cow is necessary in name of religious practice, but stating the fact that it is not necessary to sacrifice cow as many Muslims look as only holiday. Also court held that of Article 19(1)(g) of the Constitution of India in which it states the freedom of trade and occupation, that for public interest there can be some limitation imposed.

Conclusion-

India is known for its varying culture and traditions. As some community consider cow as God whereas some practice slaughter of cow as their tradition. But not only this, humans have used animals for various purpose due to which animal's habitat have been disturbed and caused unnatural death. Therefore there have been Animal Rights and welfare which ensured the protection and to prevent animal cruelty. These rights and welfare somewhat have been successful in accomplishing its goals as there have been decrease of animal cruelty case as it is considered as crime and there is proper punishment for the accused under Indian Penal Code, 1860.

The Constitution of India has also played a crucial role in animal protection by providing the fundamental rights under Article 21 as it extended its scope to animal as they have also right to live with dignity without any pain or suffering. Still there has been limitation in the provision of these laws which led to the suffering of the animals. There is still need of rigorous laws to be implemented against animal cruelty. The aim is to spread that animals too should be respected and should live without any unnecessary suffering.

References

1. Animal Laws of India by Maneka Gandhi 7th edition.
2. An Introduction to Animal Laws in India: P.P. MITRA
3. <https://byjus.com/free-ias-prep/wildlife-protection-act-1972/>
4. <https://www.drishtias.com/daily-news-analysis/prevention-of-cruelty-to-animals-act-1960>
5. <https://indiankanoon.org/doc/39696860/>