

## INHUMANE ACTIONS AGAINST THE WILD CREATURES: THE LEGAL PERSPECTIVE

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### OVERVIEW

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It has been righteously quoted and aptly repeated what the Gandhiji meant when he spoke that *“The greatness of a nation can be judged by the way its animals are treated.”* Animal Rights are the set of rights that are conserved and perpetuated for the creatures cohabiting and existing in their natural habit and surroundings. The consequence and influence of having a certain set of rights have always been greatly acknowledged and welcomed in the case of human beings, but the canvass is not similar to the animals reproducing and residing in the ambiance of the subjects of the state. Rights enormously emphasize the duty of the other party which is sought backed by statutory sanctions, and which is required to be fulfilled to obtain an equilibrium between rights and duties. It is very well and righteously said by Mahatma Gandhi, *“Rights that do not flow from duty well performed are not worth having.”* Therefore, the equal achievement and gratification of duties are required to ensure that rights are being guaranteed and perfected.

Animals, being mouthless creatures, are more on the vulnerable and susceptible side, and are expected to surface a huge quantity of merciless torment from human beings. However, certain rights aim at restricting the suffering and persecution faced by the creatures on a day-to-day basis. But the situation has been deteriorating ever since, India was given “Rank 18” in the whole world under the Animal Protection Index, and is supposed to be an active performing country in the field of *Sanction Cruelty category*. In a country where Cow is served to be as a divine and pure animal, animal cruelty with cow persists. However, the rank of India has improved in 2020, but there are certain domains in which improvement is still desired and essential.

### STATISTICAL INCREMENT IN ANIMAL CRUELTY

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Animal Cruelty is on its rise, and human beings are taking immeasurable steps to improve the prevalent conditions. Below cited data reflects the gravity of present-day animal cruelty:

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<sup>1</sup> BA LLB, THIRD YEAR, UPES, DEHRADUN.

- Each minute, one animal suffers cruelty or any sort of abuse.
- More than 60% of the animals who are abused are dogs.
- As per reports each year there are over 9.5M deaths of animals due to animal cruelty and abuse in America alone.<sup>2</sup>
- More than 19,000 cases were recorded alone in Mumbai of animal cruelty and annihilation in the year 2016.
- The victim of animal abuse is more likely to be dogs, cats, birds, goats, horses, bulls, cows, etc.<sup>3</sup>
- More than 2, 00,000 animals are subjected to cruelty and hoarding each year.
- More than 70% of pets have been domestically subjected to cruelty and abuse by their owners.
- More than 80% of families have been associated with child abuse as well as animal abuse.
- More than 90% of Animals which are subjected to cruelty and hoarding are farm animals.

### **STATUTES ADMINISTERED FOR THE BETTERMENT OF ANIMALS**

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India is a land that is diverse in its population of animals existing and habituating within the surroundings, and animals like cows have always been worshipped and provided a divine status in the society. Instances of Animal Cruelty questions the veracity of the society towards the diversification extant in the society. The origin of divine culture amongst the Animal Kingdom can be sourced from the Vedas and the Upanishads.

There are certain provisions in the IPC,1860 which criminalize the tormenting of animals, and instances of animal abuse. One such provision is Section 428,<sup>4</sup> which penalizes and construes the ambit of any individual killing, harassing, poisoning, or abandoning any animal

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<sup>2</sup> Aleksandar Hrubenja, *37 Deeply Disturbing Animal Abuse Statistics & Facts*, Pet Pedia (May 29, 2020), <https://petpedia.co/animal-abuse-statistics/#:~:text=Close%20to%2065%25%20of%20all,abuse%20in%20the%20US%20alone.&text=On%20average%2C%20250%2C000%20animals%20every,mills%20in%20the%20United%20States>.

<sup>3</sup> Badri Chatterjee, *19,028 animal cruelty cases in Mumbai over 5 years; not a single arrest*, Hindustan Times (June 03, 2017, 10: 20 AM), <https://www.hindustantimes.com/mumbai-news/19-028-animal-cruelty-cases-in-mumbai-over-5-years-not-a-single-arrest/story-71BzHW03ON SXiKhu8FN0HL.html>

<sup>4</sup> The Indian Penal Code 1860 § 428.

as fruitless and incompetent for the society. These acts have been penalized with rigorous imprisonment of 2 years along with a fine.<sup>5</sup>

Section 429 of the Indian Penal Code, 1860,<sup>6</sup> extends to cattle and the creatures whose value is more than Fifty Rupees, whereas the former provision described the ambit of punishment for creatures whose value is not more than ten Rupees.<sup>7</sup>

As per the recent judgement in *PETA v. UOI*,<sup>8</sup> the court told that a film involving animals needs prior written permission from the **Animal Welfare Board of India** for the entanglement of that animal within the film. In the 2010 judgement of *Sh. Ajay Marathe v. New Sarvodaya*,<sup>9</sup> it was herein held that a consumer is entitled to all the remedies under the Consumer Protection Act, 2019<sup>10</sup> therefore a consumer cannot abstain from the breeding and acquisition of animals permitted to be domesticated.

In the case of *Nair v. Union of India*,<sup>11</sup> it was held that animals cannot be specially trained to perform acts that are performed in circuses and other circumstantial events. In the case of *AWBI v. A. Nagaraja*,<sup>12</sup> it was held that bulls cannot be treated as a merciless animal of entertainment, and namely to perform bullfights.

The **Wildlife Protection Act 1972**, is special legislation that deals with the physical well-being of these creatures. The statute includes all kinds of animals like amphibians, birds, reptiles, etc.<sup>13</sup> The statutory punishment for committing an act penalized under this section is three years or a fine of twenty-five thousand rupees, some extreme circumstances may involve both.<sup>14</sup>

It is righteously mentioned that “*There are two sides to every coin*”, and this phrase applies to its appropriateness to the existent statutes formulated and codified for the betterment of animals and related creatures. In the *Prevention of Cruelty to Animals Act, 1960*<sup>15</sup>, Section 11 deals with penalizing offences related to animal abuse. The drawback, which is dubious in its

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<sup>5</sup>*Id.*

<sup>6</sup> The Indian Penal Code 1860 § 429.

<sup>7</sup>*Supra* note 6.

<sup>8</sup> (2005) W.P. (Criminal) 234/2005.

<sup>9</sup> (2009) W.P. (Civil) 676/2009

<sup>10</sup> The Consumer Protection Act 2019 § 1.

<sup>11</sup> (2001) W.P. (Civil) 3609/2001

<sup>12</sup> (2014) SLP (Civil) 116/2007.

<sup>13</sup> The Wildlife Protection Act 1972 § 2 cl a.

<sup>14</sup> The Wildlife Protection Act 1972 § 51.

<sup>15</sup> Prevention of Cruelty to Animals Act 1960 § 11.

sense, is that the amount of monetary compensation which is to be awarded is only Fifty Rupees.

## **INHUMANE CASES OF ANIMAL ABUSE**

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### Gang rape of Pregnant Goat in Haryana

In late July 2018, a pregnant goat was lost and unidentified, after a week she was found inactive of her senses and dead. The post mortem reports suggested that the goat was subjected to abuse and awkwardly rape. The accused was taken into custody, and when he was acquainted with the owner, he confessed to enjoying the incident.<sup>16</sup>Elephant Abuse by Traffickers in Jaipur

Numerous Elephants were mercilessly tormented and tortured in the city of Jaipur after buying them illegally. The accused even snapped pictures and videos of the barbaric incident.<sup>17</sup>

### Experimentation on Beagles in Pune

More than 20 beagles (a breed of dog) were reported to be extricated and used by illegal laboratory experiments by a private research company in Pune. The dogs were subjected to immense barbarism and cruelty for over 5 years.

## **CONCLUSION & THE ROAD AHEAD**

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Animal Cruelty has been termed as “Ethnic Crime” by the former Minister for Women & Child Development of the Union and has already been surrounded by the apex court of our country i.e., Supreme Court to eliminate liberal interpretation of laws related to animal abuse. After the said incident, numerous amendments or changes have been made by the Supreme Court in the Prevention of Cruelty to Animals Act 1960,<sup>18</sup> however, it has been demonstrated and observed that the serial offenders are still on the loose and on a spree on committing

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<sup>16</sup> Leena Dhankhar, *Pregnant goat dies after being allegedly gangraped by 8 men in Haryana*, Hindustan Times (July 29, 2018, 2:15 PM), <https://www.hindustantimes.com/india-news/pregnant-goat-dies-after-being-gangraped-by-8-men-in-haryana/story-JlFvxZgoPAePsZ4SVz7RbJ.html>

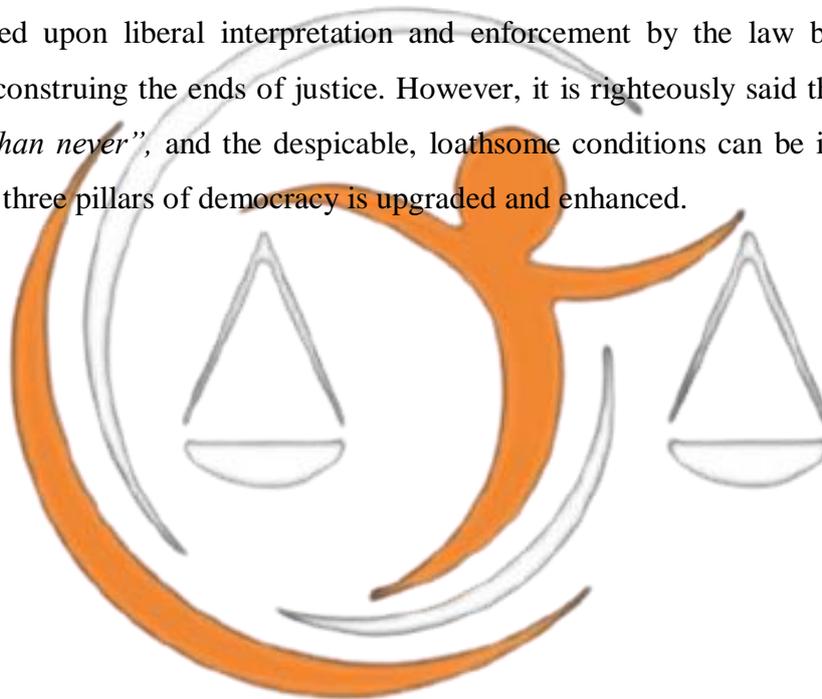
<sup>17</sup> *Shocking visual of merciless trafficker torturing elephants in Jaipur goes viral*, MirrorNow News (June 13, 2018, 4:56 PM), <https://www.timesnownews.com/mirror-now/society/article/shocking-visual-of-merciless-trafficker-torturing-elephants-in-jaipur-goes-viral/239966>

<sup>18</sup> The Prevention of Cruelty to Animals Act 1960 § 1.

abhorrent animal-related crimes. A stricter implementation and enforcement of animal laws and rights is the need of the hour.

Gauri Maulekhi is an activist for animal rights who in the year 2019 had filed an appropriate petition under the Right to Information Act, 2005<sup>19</sup> seeking details about the functioning of the State Animal Welfare Board (SAWBs), which were established and originated for the betterment of the local animals. However, it was observed that SAWBs have been performing immeasurable or vague functions in most metropolitan states.<sup>20</sup>

The appropriate rights exist in contemporary society securing justice and fraternity amongst animals and punishing those who carry out animal abuse. However, these rights are immensely inexhaustible and can be violated by any subject to pay a minor fine.<sup>21</sup> The central issue is focused upon liberal interpretation and enforcement by the law bodies, and not appropriately construing the ends of justice. However, it is righteously said that “*It is better to learn late than never*”, and the despicable, loathsome conditions can be improved if the functioning of three pillars of democracy is upgraded and enhanced.



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<sup>19</sup> Right to Information Act 2005 § 17.

<sup>20</sup> Mayank Aggarwal, *Who's looking after the animals of India?*, Mongabay (Mar. 09, 2020), <https://india.mongabay.com/2020/03/whos-looking-after-the-animals-of-india/>

<sup>21</sup> *Supra* note 17.