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Animal Rights and its importance in Today's era

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Animal rights have become important in recent times. These rights were more highlighted when recently a PIL was filed in the apex court of the country stating that a cracker full of pineapple was given to a pregnant elephant. This became a nightmare for that mother elephant to trust human beings and consume that fruit and she could not have helped herself because she needed food for her baby. Animal suffering is happening across the world. I have provided some data regarding animals beings used as food, entertainment, clothing, or other commercial activity. In this article, I have also discussed that animals have the right to live freely as all humans do. They are entitled to live free from sufferings and with dignity. This article also talks about the present situation in India, people's response towards animal rights, judiciary attitude, legislations, and some suggested measures which can be adopted to prevent human-animal conflicts and preserve animal and their rights.

Keywords: *animal, killing, rights, judiciary.*

INTRODUCTION

Long back animal rights were used to parody the case of women's rights when Mary Wollstonecraft published her *Vindication of Women Rights*. Many people started to give absurd remarks. Thomas Taylor tried to contradict Mary's argument saying that if the argument for equality of women was sound then why it should not be applied to animals. This argument

seemed to be absurd, and if this argument was held absurd and unsound for animals then it should be unsound for the women and since then this argument was used by people in different cases.

Many of us think that equality cannot be validly given to nonhumane animals because they are incapable of taking rational decisions. Men and women have the right to vote because they have the capability to understand the significance of voting and on the other hand animals do not have any such capability and therefore they don't have the right to vote. The different kinds of variations between men and animal give rise to differences in rights that each class have. A man cannot have an abortion so it would be absurd to talk of that right to have one. Therefore it can be stated that an animal cannot vote so it's meaningless to talk of their right to vote.

The adjunct of the main essence of equality from one group to another does not indicate that we must treat both groups in precisely the same way, or grant precisely the same rights to both groups. The main essence of equality does not need equal *treatment*; it requires equal consideration. Equal consideration for different beings may lead to different handling and different rights.¹ We should make this thing clear that equality should not be given just on the basis of one's intelligence, strength, moral capacity, or any other traits. Equality is a moral idea and not an assertion of fact, there must not be any assuming reasons to create differences between humans and animals in consideration according to their needs and interest.

Gary L. Francione, an American legal scholar in his book had stated various facts that how we people actually believe about animals and the way we treat them. Approximately 70% of Americans agree that an animal's life must be free of suffering and it must be as important as a human being's right to live free of tolerance is concerned. More than 50% of people believe that killing animals for the fur is wrong and among them, many had pet dogs and cats. These people spend a good amount of money on veterinary care and their food and other accessories. But there is always a dark side to everything. Annually we subject extreme pain and suffering to billions of animals. According to the US Department of Agriculture, people in

¹ Peter Singer, *Animal Liberation: The definitive of the Animal movement* (40th edition, Open Road Media 2009) 30

the U.S. kill 8 billion animals for food and more billions are being killed worldwide just for food. These animals have poor living conditions and were raised in horrendous conditions, slaughtered with various kinds of techniques, and transported long distances in small containers. Few millions of animals get killed for commercial purposes, other biomedical experiments, and entertainment purposes. And even if they don't die during this experiment time then they would be killed after the purpose is done. Animals that are used for entertainment purposes are confined, starved, have poor living conditions, and were brutally tortured just for the sake of people's purpose. Once these animals get old and don't serve their purpose, they consider those animals as waste and decide to kill or sell them to other commercial shooting clubs. These sufferings and pain which are being inflicted on these innocent animals are unnecessary and morally wrong. People might have the concept of not exploiting animals for their benefit but when it comes to action they might forget those. We people treat them as our property and tend to forget their interests and needs. We tend to become selfish and end up inflicting horrendous pain and suffering which leads them to death. The difference between humans and animals has been created by people and there is no way we can solve this as it had been pre-determined by the property status of animals.

There is one way through which this problem can be solved and that is applying the principle of equal consideration. This principle does not mean treating both classes of beings in the same way. It means if humans and animals have an equal interest then we should treat them their interest in the same way unless there is any good reason to make disparity. We cannot fully protect animals from all types of suffering. Animals are just being used as resources to satisfy our needs and wants. But the vice versa is not possible and is not practiced, as human exploitation is both morally wrong and illegal. This can also be done in the case of animals if we stop treating animals as our property and try to protect their interest by giving them basic rights the way we give to humans. We must consider this concept in our mind that all living beings which are present on this earth have moral significant interest in not suffering as some resource and in fact, people must come up and raise their voice against such incidents which are happening.

SITUATION IN INDIA

Now coming to India, it is a land where animals are either worshipped or sacrificed for the same. This can also question our culture which we have been following. The answer to this is there in our Vedas and Upanishads which had been correctly interpreted in the case of *State of Karnataka and anr. v. Dr. Praveen Bhai Thogadia*:²

"The chore of religion based upon spiritual values, which the Vedas, Upanishad, and Puranas were said to reveal to mankind seems to be - Love others, serve others, help ever, hurt never and Sarvae Jana Sukhino Bhavantoo. One-upmanship in the name of religion, whichever it be or at whomsoever's instance it be, would render constitutional designs countermanded and chaos, claiming its heavy toll on society and humanity as a whole, maybe the inevitable evil consequences, whereof."

Humanity in today's time has become an obsolete or old fashion for few people. It is really difficult to define what humanity basically is. Some people consider humanity as a moral duty as according to them protesting for human rights cannot be inhumane activity but they can ignore animal rights who just cannot express their viewpoints. People are constantly ignoring the basic rights of animals and due to this, they are suffering pain and torture. Our country has various animal rights legislation but due to improper implementation and delay in process people willing to raise their voices cannot speak up. Effective planning needs to be done to get both short-term and long-term remedies. *Legislations pertaining to animal rights passed by our parliament:*

Prevention of Cruelty to Animals Act, 1960 is the principle and foremost legislation that was passed during post-independence to prohibit any unnecessary pain and suffering on animals or to amend any existing laws relating to animals welfare. But this law has not been amended even for a single time and currently it fines Rs 50-100 people if they violate Section 11, 20, or 26 of the act. According to section 11 of the aforementioned act punishes the offender by fine and the maximum fine is Rs100 and in case of repetition, it would amount to 3 months of imprisonment. But this legislation does not consider dehorning cattle, killing stray dogs in a

² *State of Karnataka & Anr v Dr Praveen Bhai Thogadia* ILR 2003 KAR 3175

toxic chamber, and assassination of animals under the authority of law. Various parts and chapters of this Act do not consider illegal experiments on animals for the purpose of new discovery, medication for any disease, or knowledge for the same. Under section 28 of this act, it has been said that killing animals for the religious purpose shall not pose to any offence.

Wildlife Protection Act, 1972 is the chief act where most of the wildlife laws are included. Under the aforementioned act poaching, trapping, killing, poisoning, or causing harm in various other ways to wild animals or birds. Section 2 has defined what kind of animals it includes in wildlife and giving it a wider scope. Under section 9 of this act punishes the offenders with imprisonment of 3 years which may also increase to a fine of Rs 25,000/- or both. Other sections of the act also provide a certain restriction on the purchase and transportation of wild animals without prior permission. Section 49 forbid the trade of wild animals from dealers or merchants without a license. The aforementioned act is also applied to aquatic animals, birds, and other zoo animals. As dolphins are categorised as the national aquatic animal of India, they are put under schedule I of the act to ban commercial use for entertainment purposes.

Recently a writ petition was filed in the Supreme Court of India regarding the killing of a pregnant elephant by offering her cracker full of pineapple and when she ate them, the crackers burst in her stomach which led to the death of her child. The petitioner wanted the CBI probe and Special Investigation Team to look into the matter. Other social activists and NGOs started protesting for the same on social media after knowing about the incident. The main question which arises over here is why there is any need to file PIL? Are the laws which are there in our country for animal rights sufficient? Are the people not aware of their duty towards wildlife? These questions always remain unanswered as people are not that interested to take part in protecting wildlife and wild creatures.

Under *Article 51A (g)* of the Indian Constitution, every citizen has the duty to protect and safeguard wildlife and all other living creature. And under *Article 48A*, it is the duty of the state to preserve, promote and improve forests and wildlife. This responsibility had been given collectively to both state and citizen. There are different kinds of laws which our country has adopted in order to protect animals but the thing which is lacking is poor implementation.

When we compare both the acts we see, *Wildlife Protection Act, 1972* is stricter and has wider scope in nature than the *Prevention of cruelty to Animals Act, 1960* but still, there is a rise in the scene of the killing of elephants in Kerala (highest) accompanied by West Bengal, Karnataka, Tamil Nadu and Odisha (lowest). But the laws aren't reviewed and updated and the fine of Rs100 is still the same as it was earlier which is not viable in today's time. The reason behind the increase in the killing of animals is human-animal conflict. Dwellers try to capture the forest land making it difficult for wild animals to live freely due to this they try to approach nearby villages in search of food. With such limited resources, the interests of both animals and humans are bound to face off.

OUR JUDICIARY'S ATTITUDE TOWARDS ANIMAL RIGHTS

The role of the judiciary in every nation is very crucial as it suggests the law making body to be progressive in order to check offenders. Whenever there has been any dispute regarding certain laws, Supreme Court is there to interpret them and to provide suggested measures. In the case of *Ratilal Panachand Gandhi and Ors. v. State of Bombay and Ors.*,³ where Supreme Court held that sacrificing animals for religious purposes is necessary and would not amount to any violation of animal rights as the religious activity is been protected under Article 25 of the Indian constitution which is a Fundamental Right.

But in the case of *Sardar Syedna Taher Saifuddin Sahib v. State of Bombay*⁴, Supreme Court stated that "*there may be religious practices of the sacrifice of human beings, or sacrifice of animals in a way deleterious to the well-being of the community at large. It is open to the State to intervene, by legislation, to restrict or to regulate to the extent of completely stopping such deleterious practices.*"

Now in 2014, in the case of *Animal Welfare Board of India v. A. Nagaraja & Ors*⁵ Supreme court delivered a landmark judgement where they observed that under Article 51A (g) it is the fundamental duty of all citizens to protect the wildlife. The court observed that the rights of animals come under constitutional rights and they have the right to live with uprightness and

³ *Ratilal Panachand Gandhi & Ors v State of Bombay & Ors* AIR 1954 Bom 242

⁴ *Sardar Syedna Taher Saifuddin Sahib v State of Bombay* AIR 1958 Bom 253

⁵ *Animal Welfare Board of India v A Nagaraja & Ors* (2014) 3 SCC 547

integrity. The main question which arose after the judgement was delivered is whether the law or hundreds of year old custom would prevail in these situations. Here, we can conclude that law must prevail over any other situation, considering the fact that thousands of people were injured and their lives were lost and furthermore the fact was that these voiceless creatures were treated brutally and were harassed.

SUGGESTED MEASURES

There are several problems and connected to that there are intended impacts. Solutions cannot be just a straightforward approach but have to be in such a way that they will cover almost every ambit in a sustainable manner. Increasing the number of fines may be favourable for short-term solutions but that may not help for long-term and the main goals will remain unachievable. The solutions to this must be a combination of both short-term and long-term measures in the same fragment for the future development without co-operation with the present. Following are the measures:

- The area of the forest must be demarcated clearly from the place of habitation and those places must be regulated strictly by the officials.
- Those forests must be demarcated in such a way that it gives freedom to the animals to roam freely and at the same time protecting them from getting extinct.
- The legislation which had not been amended till date must be checked and minor alterations must be done to keep the legislation effective.
- Most people are not aware of animal welfare laws in India therefore people must be made aware of animal rights laws because *ignorantia juris non excusat* would apply to them.
- Recently a PIL was filed in the Supreme Court for killing a pregnant elephant where she was not given any immediate veterinary which was the cause of her and her child's death. So, these medical services must be mobile and responsive during emergencies.
- The government must keep checking the condition of zoo animals and see whether the zoo authorities are providing them with food, good shelter, and other necessities.

Though there are various laws which our parliament had passed, they are not effective and implemented correctly. Citizens and NGOs also try to raise their voices for animal rights but most of the time they don't prefer the legal way to deal with it as the process remains lengthy and most importantly ineffective legislation. Changes can be made by making the laws more stringent and effective by increasing the fine amount and punishment.