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ANIMAL ABUSE IN INDIA

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Abstract:

The purpose of this research study is to objectively examine the pernicious problem of animal cruelty in India, a subject with important ramifications for animal welfare and rights. Animal abuse and cruelty incidents in India are still shockingly common despite the country's extensive legislative framework, which includes the Wildlife Protection Act of 1972, the Prevention of Cruelty to Animals Act of 1960, and "sections 428 and 429 of Indian Penal Code 1860." This essay aims to investigate the factors that might lead to such misuse, concentrating on problems such a lack of enforcement, public perceptions, and legal loopholes. It will also look at the effects of this kind of mistreatment on the animals themselves as well as the larger effects on the environment and society. This article will present ideas for enhancing animal welfare in India and offer a thorough overview of animal maltreatment in the nation using a combination of legal analysis, case study evaluation, and statistical data assessment. The results of this study may add to the current discussion on animal rights in India. Fostering critical thinking, expanding legal study, and advancing justice and fairness are all goals of this research.

Keywords: Animal abuse, Animal cruelty, PCA 1960, #NoMore50, WPA 1972

Introduction:

India, with its rich biodiversity and cultural & religious reverence for animals, presents a unique factor for the study of animal rights and welfare. India is home to some of the endangered and rare species, like the Royal Bengal Tigers or the Great Indian Rhinoceros. Just like humans, animals also have the right to live freely. And it is our duty to ensure that their rights are protected. There

are various animal laws in India that help do so. However, despite the country's deep-rooted traditions of animal respect and coexistence, cases of animal abuse and cruelty are alarmingly frequent. This research paper goes through the critical issues of animal abuse in India, an area that has significant consequences for legal studies, animal rights advocacy, and societal ethics.

The scope of this paper is to study various forms of animal abuse, ranging from neglect and abandonment to physical harm and exploitation for commercial purposes. It seeks to understand the underlying causes of such abuse, including societal attitudes, lack of awareness, and gaps in the legal framework.

The legal perspective forms a crucial part of this research, with a focus on the Prevention of Cruelty to Animals Act, 1960, the Wildlife Protection Act, 1972 and section 428 & 429 of IPC. Despite the existence of these laws, enforcement remains a significant challenge, contributing to the persistence of animal abuse.

Through this research, we aim to shed light on the state of animal rights in India, identify the shortcomings of the current system, and propose potential solutions. The ultimate goal is to contribute to the discourse on animal welfare and inspire changes that will lead to a more compassionate society where all creatures are treated with the respect and dignity they deserve.

Gravity of Abuse against Animals

"The Greatness of a nation and its moral progress can be judged by the way its animals are treated."¹ Said by Mahatma Gandhi; father of the nation of religious country India, where majority of citizens follow Hinduism and they treat cows as their mother. In a country with lots of moral ethics and religious beliefs toward animals, relating them with god and goddess, it would be disturbing to go through the reports and survey.

The Federation of Indian Animal Protection Organizations² is the collective voice of the animal protection movement in India. In their report³ It was found that in 2020 there were 963 cases in which no complaint was filed, then there were 863 cases which had no legal recourse regarding the incident and after this huge number, just 569 cases were filed including under IPC & PCA.

Presently, the one provision that safeguards other species from "cruelty" is the PCA 1960⁴ which is defined in its preamble as protection from the "infliction of unnecessary pain or suffering on animals". In addition, the Wildlife Protection Act of 1972 (WPA) authorizes the government as the sole guardian of all wild animals and is invested with their protection in their natural habitat. Both the PCA and WPA⁵ were provided a constitutional foundation in 1977.

¹ <https://awbi.gov.in/> , last accessed April 29 2024

² FIAPO founded in 2010 , <https://www.fiapo.org/fiaporg/> , last accessed April 29 2024

³https://www.fiapo.org/fiaporg/wp-content/uploads/crimesagainstanimals/Crimes_Against%20Animals_Report_latest.pdf , last accessed April 29 2024

⁴ Prevention of Cruelty to Animals Act, 1960

⁵ 1972

The 42nd amendment to the Indian Constitution⁶ introduced environment, nature, wildlife and a concept of consideration to living creatures in the Constitution as directive principles⁷ and fundamental duties. Article 48(A) puts the responsibility on the state to protect and safeguard the environment, wildlife and forests. Article 51A (g) enforces a fundamental duty on every citizen of India to have consideration for all living creatures. Thereby, it may be implied that the Constitution of India recognizes the fundamental value; instead of instrumental value, in all living creatures. However, PCA still sees animals purely from a colonially inherited serviceable and instrumental value.

Laws in India for Animal Rights

In India, the very first offence related to animal abuse was penalized in 1860, through the Indian Penal Code under section 428 and 429. At that period these sections unintentionally used to protect the animal only in such cases where the intent of the accused is to damage or injure the owner of the animal. These sections were constructed to safeguard the owner of an animal from any reduction in the earning or utility of their property, for example animal itself. And hence, punishes any violence or killing of a valued pet priced at rupee 10 and 50, which represents the market value of the animal if they were traded at that time. Ironically, the government never bothered to upgrade the value even after the several amendments of the act. The punishment for criminal assault of an animal under section 11 of the PCA is rupee 50 fine, which is merely defined as cruelty.

The radical inequality in how crimes against animals are viewed triggers an absence of a sentence based understanding of animal suffering and also establishes a deep differentiation hierarchy between the human and the non-human victims of crime.

There are two provisions safeguarding Animal rights:

1. Prevention of Cruelty to Animals Act, 1960
2. The Wildlife (Protection) Act, 1972

- **Prevention of Cruelty to Animals Act, 1960**

The PCA Act 1960 is an Act of Parliament enacted on 26th December with an objective to prevent cruelties on creatures other than humans. This Act is the broadest law on the matter of Animal Welfare in India. Provisions of this Act is to empower law enforcement agencies, animal welfare workers, and citizens to take action against the offenders. As far as animal welfare laws are concerned, all acts of cruelty are covered under Section 11 of the Act.

Before exploring the Section 11 of the Act, let's go through with the main objective of the Act

1. The Act prevents unnecessary abuse or suffering on creatures other than humans.
2. The Act secures provisions for establishing the Animal Welfare Board of India, whether its powers, functions, constitution, territory and term of members of the board of the office.
3. The Act balances the guidelines regarding the scientific experimentation on animals, and empowers a committee to make rules with regard to such scientific experiments.

⁶ 1976

⁷ Article 51 A of the COI

4. The Act prohibits the pain and suffering caused to animals while exhibition and training of performing animals. Both the terms 'exhibit' & 'train' are explained under section 21 of the Act separately.

Forms of Cruelty and their Punishments under PCA 1960

Under Section 11 of the PCA Act 1960, all the various forms of cruelties and atrocities are perpetrated on both domestic and wild creatures. All the 16 sub sections of this section deal with the various forms of cruelty, under which an offender is liable for a fine of rupee 10, which may extend to rupee 50. Whereas, in frequent offences by the same offender, the offence committed within three years of the previous offence, shall be punishable with three months of imprisonment and fine of rupee 25 minimum which may extend up to one hundred rupee.

Offences under Section 11 are as follows:

Section 11 (1) if any person (a): Causing pain, suffering, or injury to an animal.

Any person treating an animal which results in unnecessary pain, torture, suffering and injury to that animal. Includes actions like beating, kicking, overriding, overdriving, overloading and torturing the animal as an offence.

Section 11 (1) if any person (b): Employing any unfit animal for work or labor.

Any person taking a sick, infirm, or wounded animal, or has employed such a weak animal is an offence. A complaint can be filed against that person who uses an animal which is suffering from any disease, infirmity, wound, or other causes which render the animal unfit for any work or labour.

Section 11 (1) if any person (c): Administers any injurious drug or injurious substance to animal. Willfully and unreasonably administering any toxic drug or substance to any domestic or captive animal is illegal. This sub-section also restricts giving an animal such drug and substance forcefully. For example, using Oxytocin meds on cows or buffaloes to increase milk production is an offence, unless done under proper prescription of a veterinary doctor.

Section 11 (1) if any person (d): Cruel manner of transporting and carrying.

This sub-section restricts carrying and transporting of any animal in such a manner that hurts them; if they suffer pain. It applies to the transportation of animals through vehicles or making them walk on foot more than their capacity. As per the rule mentioned under the Act, a lorry can carry up to six adult cattle, and a goods wagon cannot carry more than ten cattle.

Section 11 (1) if any person (e): Housing an animal in a smaller place that blocks their free movement.

Keeping or confining any animal in any cage or enclosed insufficient size of room falling to permit the animal a reasonable opportunity for movement is an offence.

Section 11 (1) if any person (f): Use of heavy chain or cord to restrict animal's movement.

Keep chained, tethered for unreasonable time is illegal under this sub-section.

Section 11 (1) if any person (g): Habitually chaining up of a pet dog by an owner.

If a pet, or a pet dog owner does not let the dog out, does not exercise their pet dog or keep chaining up or keeping a dog in close confinement is an offence. For example, in Germany all dog owners are legally bound to take their companion dogs on a daily 30 minute walk.

Section 11 (1) if any person (h): Food, water, and shelter need to be sufficient.

It is the responsibility of the owner of any animal to provide sufficient food, water and shelter.

Section 11 (1) if any person (i): Abandoning an animal.

If a person abandons his animal which has been taken care of by that person for long enough time that at the time of abandonment the animal could not survive without its owner, which renders that animal to suffer pain, either due to starvation or thirst, is an offence.

Section 11 (1) if any person (j): Letting a sick/injured animal to leave in the street.

This sub-section restricts a person to abandon any diseased animal to die in the streets. For example, a person permits any animal to go at large or roam freely in the streets while that animal is suffering from any contagious or infectious disease is an offence.

Section 11 (1) if any person (k): Trading any animal who is suffering from pain.

Selling or offering to sell any animal who is suffering pain due to mutilation, starvation, thirst, overcrowding or other ill-treatment is an offence.

Section 11 (1) if any person (l): Mutilate or kill any animal.

This sub-section made such activities punishable which includes mutilation or killing of any animal including stray dogs by using the method such as strychnine injections, or any cruel practices.

Section 11 (1) if any person (m): Using Animal for entertainment purposes.

Under this sub-section, using an animal solely for entertainment is an offence. This sub-section strictly restricts confining any animal, including trying an animal as bait in front of wild animals like lion, or in wildlife century to make that animal an object of prey. This sub-section completely forbids provoking any animal to fight or bait any other animal simply for entertainment purposes.

Section 11 (1) if any person (n): Organizing or managing a place for conducting animal fights.

A person shall be held guilty for selling or offering to sell the land or premises for conducting animal fights. This sub-section also prohibits a person from organizing animal fights and collecting money from spectators as entry fee.

Section 11 (1) if any person (o): Promoting or participating in a shooting competition.

This sub-section restricts any kind of promotion or participation in a shooting competition that involves animals. There are some cases where animals are released from captivity for such shooting.

Offences under section 11 are mostly non-cognizable, which means the offender will be arrested only after receiving an arrest warrant from the Judicial Officer or Judge. And other cognizable offences are mentioned under Section 11 subsection clause (l), (n), (o), these clauses are classified as cognizable offences mentioned in Section 31 of the Act, so police can arrest an offender without any warrant.

The violation of section 12 is also a cognizable offence, which restricts activities like 'doom dev' or 'phooka' performed on cow or milch animal to increase milk production. It leads to an imprisonment term for a maximum of two years, with a fine which may extend up to one thousand rupees.

- **The Wildlife Protection Act, 1972**

The WPA 1972 is a trademark in the history of wildlife protection in India. This Act was enacted on 9 September 1972. Act consists of 60 sections and VI schedules and divided into eight chapters. Under Section 2(37) the term 'wildlife' is defined as 'Any animal, aquatic or land vegetation which forms part of any habitat'. The Act was implemented to ensure the protection of wildlife of India, both territorial and aquatic and their habitats.

As per Section 62 of the Act, States can send a list of wild animals to the Centre requesting to declare them vermin for selective slaughter. This Act gives power to the Central Government to declare any wild animal (other than those specified in Schedule I and Part 11 of Schedule H) to be vermin for any area for a given period. While the Act makes sure the protection of wildlife animals, unfortunately, animals do not enjoy specific protections under the Act.

Humanity & Animality

India is a country of religious beliefs, every kid grows up with tales of Hinduism, at least the majority of them. All the stories of great gods & goddesses, and there is one thing common in all those stories, even in pictures or in statues we noticed several of mammals, birds, reptiles being companions of the great god and goddess of Hinduism. For example, Snake on lord Shiva's neck, Tiger of Goddess Durga, Swan as Lord Brahma's Chariot, A mouse Lord Ganesha's carrier etc. There were some more Gods who were half human and half animal. For example Ganesha, Hanuman and there is a long list of them. The point is India is a country full of morals. Upbringing and education is enough to shape a kid into a good human. But slowly the humanity of humans is getting worse than wild predators. Even most people, especially introverts, would be happy to spend time with pets; tamed animals rather than other people. Company of a domestic animal has become the new relaxation, relaxation or you can say escape from this world. People out there are obsessive about their pets, friend's pets or any tamed animal, to fill the empathetic space in people's minds. Having a company of Dog, Bird, Cat, Fish, Turtles and sometimes even harmless

reptiles. Animals whether they provide service (like carting, weight lifting) or not, their existence on earth is as necessary as Oxygen for humans. Even after all the great bond and connection between Humans and Animals, we humans have failed to be human.

There are countless increasing cases of Animal cruelty and abuse. The increasing number of cases are getting out of control to an extent that innocent kids of India can't find the difference between having a fun time with friends and having a fun time killing puppies with friends. There are dozens of cases in news from different places of India where teenage/minor boys burn puppies alive in Hyderabad and recorded the video, three boys aged between 8 to 10 burnt four sleeping puppies in Kanpur⁸. When a grown up adult execute an offence then he probably is deprived of something he desperately wants it from the society, so he robs to gain money, murder to fulfil his revenge, rape to fulfil his lust. In all the cases of an adult offender, he always wanted something he was deprived of. But the most disturbing and dark fact is that innocent souls; teenagers and minors have no idea about the gravity of the task they're doing. Today they find it fun to kill dogs and by the time they grow up with such poor parenting/upbringing, they'd be doing a lot more fun than the fun they had in their childhood.

Cruelty against animals has gone way too far than cases of animal abuse which have been reported. News of 'Kedarnath where the owners of horse mules subject the innocent animals to inhale cigarette smoke through their nostrils.' 'A video of two individuals assaulting a dog at Thane's Vetic Pet Clinic.' 'In Greater Noida a 28 year old man sexually abused a female dog, then threw her from the third floor.'⁹ There are countless cases of gruesome offences against the voiceless creatures. And for such increasing heinous crimes the justice system needs to be all prepared to deliver justice to nature.

#NoMore50 Campaign for Amending PCA

The issue regarding this topic is transparent in legal terms. The Prevention of Cruelty to Animals Act, 1960 is outdated by now. The penalization through this Act is weak at the justice part, and by now it's been visible to the majority of citizens in India. Many leaders, MLAs, Activists, Actors, Celebrities and Influencers were demanding the amendment of the concerned Act. The bill has been presented before the Lok Sabha in 2019 by DR. MANOJ RAJORIA, M.P, in the said amendment bill the fine and imprisonment is requested to increase from 50-100 rupee to 20,000-50,000 rupee, and imprisonment is requested to increase from 3-6 months to 2-4 years in jail.

The punishment should be as lethal as the offense done by the offender, in case of murdering a living creature, especially when there is not a single threat from the victim's side. The hashtag (#NoMore50) which has been circulating among people, demanding to abolish the outdated law is a fair demand. In fact, this situation shows how weak India is at its justice system. This issue has been disturbing for decades and no impactful decision has been made yet.

⁸ Stray Puppies Burnt Alive: Kanpur Crime News: 3 Boys Set 4 Stray Puppies on Fire in Kanpur Park | Kanpur News - Times of India (indiatimes.com), available at: <https://timesofindia.indiatimes.com/city/kanpur/shocking-news-3-boys-set-4-stray-puppies-on-fire-in-kanpur-park/articleshow/106074187>, last accessed April 29 2024

⁹ Man arrested for sexually abusing dog, throwing her from 3rd floor - Hindustan Times, available at : <https://www.hindustantimes.com/cities/noida-news/man-arrested-in-greater-noida-for-sexually-abusing-dog-throwing-her-from-3rd-floor-101698379259595.html>, last accessed April 29 2024

Suggestion & Recommendation:

- Prevention of Cruelty to Animals Act, 1960 needs to be amended as soon as possible, because longer the laws will remain lenient, the more accused/offender will get away, and nothing will change at Animal welfare end.
- There should be strict moral education among learners, to understand and observe the details of surroundings (the goods and bad, the high and lows, the right and wrongs), so that they learn to adjust and adapt to the change happening around the world. Then no individual gets denied and left alone with denial, which eventually prevents the bursting out of wrong deeds.
- The youngsters need to stay connected with nature as much as they should, and they are connected to technology. They need to be taught how nature is for our own good and how they can make good use of technology.
- There should be a proper system designed to take care and cure the individuals who are suffering from mental illness.

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