

## **Regulatory Measures for the Safeguarding of Animals in India**

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“Until one has loved an animal, a part of one’s soul remains unawakened.”

**Anatole France**

### **ABSTRACT**

Every person and animal have the right to live their own unique lives and to move about freely. Everyone has a unique way of thinking, wants to accomplish things, and leads a unique kind of life, but that does not give anyone the right to harm another person or violate their rights. Animals and marine life play an equal role in preserving the natural balance of the planet as do humans. Every living thing on this planet has a specific role in the food chain and makes a distinctive contribution to the ecosystem in that role. The ecosystem is made up of interactions between many organisms that are linked through food chains and webs. even if just one type of wildlife disappears from the ecosystem. It might disrupt the entire food chain, which would have severe effects. With 2.4% of the world's surface area and 7-8% of all known species, including 45,000 plant species and 91,000 animal species, India is one of the most biodiverse nations in the world.

**KEYWORDS-** Animals, Life, Environment, Ecosystem, Food chain, Natural Balance.

### **INTRODUCTION**

Animals serve as our friends, employees, eyes, ears, and food. Both in contemporary industrial farms and in old cave paintings, they are depicted. Some of them are domesticated, while others are still wild and occasionally put in danger by our actions. They keep us company, and while they occasionally offer humorous relief, they also act as important helpers for us. By eating plants and other animals, pollinating different plants, and exhaling carbon dioxide, which green plants need to survive, animals contribute to the preservation of the Earth's natural habitats. Additionally, animals contribute to plant fertilisation by leaving behind droppings that are nutrient-rich for plants. Animals are used as food by bacteria after they pass away. Animals are crucial to the environment in this sense.

### **ANIMAL RIGHTS IN VEDIC AGE**

In ancient India the animals and men coexisted happily and men used to worship them. The ancient literature and philosophy, the theory of creation believed by Indians further imposed an obligation to respect and conserve their flora and fauna. One of the prominent features of ancient texts such as Upanishads and Vedas is love and compassion for nature and all the beings. Vedas teach ahimsa or non- violence towards all living beings, leading many Hindus to practice vegetarianism. All the Hindu Gods have ‘vahanas’ that are all animals and birds. The Vedas urged men to treat animals with great love, compassion and not subject them to any kind of harm, pain or cruelty.

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According to Manu, “Meat cannot be obtained without injury to animals, and the slaughter of animals obstructed the way to Heaven; let him therefore shun the use of meat.”

According to the scriptures each animal has a spark of divine and is capable of becoming human and achieving salvation like the rest of us. Since the time immemorial, the Indian households are using animals for domestic purposes. According to Vedas, Bhuta Daya that is compassion for animals is one of the highest virtues and is possessed by the people of divine quality.<sup>3</sup>

### **ANIMALS IN MYTHOLOGY**

Animals holds a very important place in Hindu mythology. Animals such as mouse, bull (nandi), eagle (garuda), peacock, fish, dog, squirrel, boar, tortoise were regarded as aids to various lords and so were divine and worshipped along with their lords. Snakes are worshipped even in modern India on the day of Naag Panchmi because snakes are seen as a symbol of fertility in Indian culture. One can see elephants carved all around the temples, this is so because elephants are used as a symbol of God and as a mark of abundance. Cows are considered sacred and it is believed that their slaughter brings divine displeasure. Below are some quotations from sacred Bhagvata Gita:

1. I look upon all creatures; none are less dear to me and none dearer. But those who worship me with love live in me, and I come to life in them.
2. Non-violence and mercy to all life forms are the goals of godly persons who are endowed with my nature.
3. Avoiding harm to all creatures.... this is true knowledge. All else is ignorance.

The Atharva Vedas proclaims, “Protect the animals.” “Oh, Noble man! We do not commit violence. We do not hurt others. We do not quarrel either. We of course chant Vedas and act according to its dictates.”

From the above, it is apparent that the non-violence towards all living beings is the highest moral virtue. The ‘Mahabharata’ also mentions ‘Ahimsa Paramo Dharma’ which goes to show the cardinal importance of Ahimsa in Hinduism.

### **CONSTITUTIONAL ASPECT**

Constitution is the supreme law of land. The Indian Constitution recognizes sanctity of animal life and lays down the protection and treatment of animals with dignity as a fundamental duty of its citizens. The Constitution incorporates following provisions pertaining to animal protection:

### **FUNDAMENTAL RIGHTS**

Fundamental rights are enshrined in Part III of the Constitution. These are the basic human rights guaranteed by the Constitution of India. Article 21 impliedly discusses the animal rights.

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<sup>3</sup> Significance of Animals-A Vedic Perspective, *available at:* <https://www.hinduscriptures.in/vedic-lifestyle/customs-and-traditions/nature-worship/significance-of-animals-a-vedic-perspective> (last visited on Aug 30, 2022 )

Article 21 reads:

No person shall be deprived of his life or personal liberty except according to procedure established by law.

### **RIGHT TO LIFE FOR ANIMALS:**

The Supreme Court has expansively read the ‘Right to Life’ and incorporated ‘Right to Life of Animals’ in Article 21 in the case of Animal Welfare Board of India Vs. A. Nagaraja and Others (the Jallikattu case).

**Facts and Rulings of case-** Animal Welfare Board of India Vs. A. Nagaraja and Others.

Jallikattu or bull taming is a traditional event typically practised in Tamil Nadu as a part of Pongal celebration. In this game, a bull is released into a crowd of people who then try to grab onto the humps on the bull’s back and keep a hold onto it while the bulls attempt to escape. It is deeply debated and controversial because of its inbuilt danger which have resulted into major injuries and even deaths. Bulls used in the event are subjected to torture and brutality. It is reported that the tails of the bulls were bitten, twisted, their bodies stabbed and they were forced to drink alcohol.

Animal Welfare Board of India (AWBI) filed a case in Supreme Court in 2010 to ban Jallikattu. Supreme Court recognized and gave validation to their concerns of animal cruelty and public safety and ruled in the favour of AWBI banning Jallikattu. Supreme Court gave wider explanation to the word ‘life’ and held that every species has a right to life and security. For animals, life not only means mere survival or existence, but to lead a life with honour and dignity.<sup>4</sup>

### **DIRECTIVE PRINCIPLES OF STATE POLICY**

The Directive Principles of State Policy are enshrined in Part IV of the Indian Constitution. These are not justiciable but state has the duty to consider them while making laws. DPSP’s relating to animal welfare are given in following articles.

### **RIGHT OF PRESERVATION**

#### **ARTICLE 48: ARTICLE 48 READS**

The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter of cows and calves at other milch and draught cattle.

Cow slaughter has always been controversial issue in India and is highly debated on because cows are believed to be sacred by Hindus, Jains, and Buddhists. Several judgements are delivered pertaining to this issue. Some of them are discussed below:

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<sup>4</sup> The Constitutional Scheme of Animal Rights in India, *available at*: <https://www.animallaw.info> (last visited on Aug 30, 2022)

**Mohammad Hanif Qureshi Vs. State of Bihar (1959)**

In this case, Supreme Court held that “A total ban on cattle slaughter not permissible, if under economic condition, keeping useless bull or bullock be a burden on society and therefore not in public interest.

**State of Gujarat Vs. Mirzapur Moti Kureshi Kassab Jamat (2005)**

In this case, Supreme Court supported a total ban on the slaughter of cows and calves. It observed that cattle which has served the humans must be treated with compassion in its old age even though it is useless.

1. Many at times it has been brought to the light that ban on cow slaughtering violates Article 19(1)(g) of the Indian Constitution as it deprives people of their right to carry on any profession, trade, business, or occupation. But the courts of India have bent towards the idea of compassion and love for animals.

**Article 48A: Article 48A reads**

The State shall endeavour to protect and the environment and to safeguard the forests and wildlife of the country.

**MC Mehta Vs. Union of India (2002)**

Public Interest Litigation was brought before the Supreme Court in matter relating to air pollution in Delhi. Court held that the Article 39, 47 and 48A by themselves and collectively cast duty on the state to secure health of the people, improve public health and protect and improve the environment.

**FUNDAMENTAL DUTIES**

Fundamental Duties are moral obligations of all citizens uphold the feeling of patriotism and unity of India. Initially, fundamental duties were not part of the Constitution. They were added by 42<sup>nd</sup> Amendment Act of 1976 on recommendation of Swaran Singh Committee.

**RIGHT OF COMPASSION**

Article 51A: Article 51A deals with animal rights.

Article 51A(g) says to protect and improve the natural environment including forests, lakes, rivers, wildlife and to have compassion for living creatures.

Article 51A(h) says to develop the scientific temper, humanism and the spirit of inquiry and reform.

**LAWS FOR ANIMAL WELFARE****Pre- Independence Era**

Ashoka, the king of Maghadha, for the first time enacted a law for the preservation of wildlife and environment. During the British period, animal protection felt the blow because they rampantly killed the animals in the name of hunting and gaming. Indian Forests Act was first enactment in this area with an objective to protect and conserve forests and its habitat. After that, enactments such as the State of Madras 1873, Wild Birds Protection Act was passed.

## Post-Independence Era

The subjects related to environment are covered under Concurrent List in Seventh Schedule entitling both Union and State governments to make laws regarding the same. Major changes were introduced in terms of protecting the environment and wildlife by 42<sup>nd</sup> Amendment to the Constitution.

**The Prevention of Cruelty Act, 1960:** The Prevention of Cruelty Act was enacted in 1960 in order to prevent animals from pain or suffering. This Act constitutes the establishment of Animal Welfare Board to protect animals from being subjected to unnecessary pain and obligates it with following functions: <sup>5</sup>

2. To advise the central government regarding amendments and rules to prevent unnecessary pain while storing animals for experiments, transporting animals etc.
3. To encourage financial assistance, animal shelters, and rescue homes for old animals.
4. Imparting education and awareness on animal welfare using posters, brochures, lectures etc.

**The Wildlife Protection Act, 1972:** The Wildlife Protection Act, 1972 is the first comprehensive legislation relating to the protection of wildlife of India. The Act prohibits killing, poaching, trapping, poisoning or harming of any wild animal or bird. The definition of wildlife under the Act includes any animal, aquatic or land vegetarian that forms part of any habitat. <sup>6</sup>

1. The Act provides for the establishment of Welfare Advisory Board (section 6).
2. The act allows the centre and the state governments to declare any area ‘restricted’ for the wildlife sanctuary, national park, etc.
3. The Act empowers the forest officials to evict encroachments from protected areas.
4. Rewards for the informers of wildlife crimes were increased too.
5. This Act was amended in year 2006 enhancing the duration and value of sentences for disturbing the tiger habitat. The National Tiger Conservation Authority and Wildlife Crime Control Bureau was constituted to investigate and check the poachers and others interfering with tiger’s natural habitat.

## Indian Penal Code, 1860

Section 428 and 429 of Indian Penal Code provides punishments for the offences related to animals.

Section 428 states that ‘whoever commits the offense of killing, maiming, poisoning, or rendering useless any animal for the value of ten rupees or more, shall be punished with

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<sup>5</sup> An Overview of animal protection laws in India, *available at*: <https://blog.ipleaders.in/overview-animal-protection-laws-india/> (last visited on Aug 30, 2022)

<sup>6</sup> L.Lakshmi, Animal Rights and Law 41,42,43 (ICFAI University Press, Hyderabad, 2008)

imprisonment of either description for a term which may extend to two years, or with fine, or with both.'

Section 429 states that 'whoever commits the offense of killing, maiming, poisoning, or rendering useless any animal for the rupees of fifty or more shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.'

### **ROLE OF NGO's IN PROTECTING ANIMAL RIGHTS**

Many organisations have set up to support the noble cause of animal protection. NGO's work tirelessly to protect the ill and injured animals. They play pivotal role in spreading awareness about the importance of animal welfare by organizing camps, awareness drives and holding fundraisers to finance their expenses. They are playing very crucial role in protecting animals. Stray animals are worst affected because they are left on their own in dire conditions. In that case, NGOs comes to rescue because those ill or injured animals have no recourse but to resort to their fate. There are many non-profit organizations working to get animals their rights. Some of these are:

1. Friendicoes
2. Animal Rahat
3. PETA India
4. Stray Relief and Animal Welfare
5. Visakha Society for the Protection and Care of Animals.

### **CONCLUSION**

Credit for the survival of wildlife in India for all these centuries is attributable to its beliefs in spirituality, religious practices, moral obligations and philosophies. But with increasing industrialization animals are viewed as economic resources leading to their extinction. Therefore, it is a high time to spread awareness among the folks, launch stringent and effective laws, make national parks and wildlife sanctuaries so as to provide them a safe environment to flourish.