
INTRODUCTION

“We speak for those who cannot speak for themselves”

The environment in which we are living is regulated through a chain of cycle, where every organism whether big or small is having its contribution in maintaining the cycle in order to carry it on smoothly. If any of such organisms has been destroyed or made to vanish, it may result into causing imbalance in the nature. The fast decline and disappearance of vast number of animals are causing a grave concern. There are certain species of animals which are no more existing on this planet or they are on the verge of extinction. This alarm of danger was first echoed in the year 1912 when the then British Government passed an Act named the Wild Birds and Animals Protection Act, 1912 with the object of protecting the life of endangered species of Wild Birds and Animals.

However, this Act could not become so effective. Besides this Act the various state laws which were existing in the post independent India were also found ineffective in terms of its implementation.. Such ineffective and out dated laws were found to be replaced by some effective and more commensurate uniform law in order to protect the endangered wild species of Animals.

Protection of Animals though is a State subject¹ provided in the constitution of India; still the Government of India in the wake of urgency and necessity felt it more important to have a legislation of its own Governing the entire Nation with a uniform law. Due to the constraint of being a State subject the only way

¹ Entry 20 of State List in the 7th schedule.

out for the parliament to have a legislation of its own was under Article 252² of the Constitution. Exercising the authority under this article many States³ of our country passed a resolution to that effect and authorized the Union legislature to pass one Union legislation on the subject. This resulted into the passing of the Wild Life (Protection) Act, 1972. The objective behind the passing of this legislation was mainly related with the protection of Wild Animals, Birds, and Plants and for matters related with them or ancillary or incidental there to. However, this objective has been shattered due to certain loop holes in legislative framework.

Apart from above government had come up with the various laws protecting animals against cruelty and provided with the mechanism to deal with the animal cruelty in a proper way. There have been some loopholes in legislative framework which are to be looked into.

² Article 252-says (power of parliament to legislate for two or more states by consent and adoption of such legislation by any other state)

³ States are - A.P., Bihar, Gujarat, Haryana, H.P., M.P. Manipur, Punjab and Rajasthan, U.P. and Bengal.

LAWS RELATING TO ANIMAL PRESERVATION AND PROTECTION

There are many laws for the protection and preservation of Animals in India, there is an exclusive list for the same, set out below:-

1. The Prevention of Cruelty to Animals Act,1960
2. The Performing Animals Rules,1973 and The Performing Animals(Registration) Rules,2001
3. The Prevention Of Cruelty To Draught And Pack Animals Rules,1965
4. The Transport of Animals Rules,1978
5. The Prevention of Cruelty to Animals(Slaughter House) Rules,2001
6. The Experiments On Animals(Control And Supervision) Rules,1968
7. The Wild Life Protection Act,1972

In this paper I have dealt with the main provision of the concerned Acts and rules. To start with;

1. THE PREVENTION OF CRUELTY TO ANIMALS ACT,1960

This act being a Central Act has force throughout the territory of India unless specified otherwise. Applies only to “captive” and “domestic” animals. Section 11 (1) (a) to (o) of The Prevention of

Cruelty to Animals Act, 1960 prescribes and enumerates the forms of cruelty.⁴

Provisions regarding penalty in PCA⁵

If any animal is subjected to any form of cruelty specified treated in any cruel way, in any of the ways provided under Section 11 (a) to (o) of The Prevention of Cruelty to Animals Act, 1960, the offender (in the case of a first offence) will have to pay fine which shall extend to fifty rupees and if it is the case of second offence or subsequent offence committed within three years of the previous offence, he will be fined with not less than twenty-five rupees but which may extend to one hundred rupees or with the imprisonment for a term which may extend to three months or with both. Also, in the case of second offence, the offender's

⁴ Sect 11(1)(a) Beating, Kicking, Over-riding, Over-driving, Over-loading, Torturing, Causing unnecessary pain or suffering to any animals; (b) Employing any animal which, by reason of its age or any disease, unfit to be so employed, and still making it work or labour or for any purpose; (c) Willfully and unreasonably administering any injurious drug or injurious substance; (d) Conveying or carrying, either in or upon any vehicle in such a manner as to subject it to unnecessary pain or suffering; (e) Keeping or confining any animal in any cage or any receptacle, which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for movement; (f) Keeping for an unreasonable time any animal chained or tethered upon an unreasonably heavy chain or chord; (g) Being the owner, neglects to exercise or cause to be exercised reasonably any dog habitually chained up or kept in close confinement; (h) Being the owner of any animal fails to provide such animal with sufficient food, drink or shelter; (i) Being the owner, without reasonable cause, abandons any animal in circumstances, which render it likely that it will suffer pain by reason of starvation or thirst; (j) Willfully permits any animal, of which he is the owner to go at large in any street while the animal is affected with a contagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal, of which he is the owner, to die in any street; (k) Offers for sale or without reasonable cause, has in his possession any animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment (l) Mutilates any animal or kills any animal (including stray dogs) by using the method of strychnine injections in the heart or in any other unnecessarily cruel manner; (m) Solely with a view to providing entertainment - (i) Confines or causes to be confined any animals (including tying of an animal as bait in a tiger or other sanctuary) so as to make it an object of prey for any other animal; (ii) Incites any animal to fight or bait any other animal. (n) Organizes, keeps, uses or acts in the management of any place for animal fighting or for the purpose of baiting any animal or permits or offers any place to be so used or receives money for the admission of any other person to any place kept or used for any such purposes; (o) Promotes or takes part in any shooting match or competition wherein animals are released from captivity for the purpose of such shooting.

⁵ The Prevention of Cruelty to Animals Act, 1960

vehicle is confiscated, and he will never be allowed to keep an animal again.

Cognizable and Non-Cognizable offences under the PCA

There is a list of offences in PCA which are cognizable and non-cognizable. Following chart enumerates the same;

Nature Of Offence	Section Violated	Cognizable Or Non-Cognizable
Beating, Kicking, Overriding, Over-driving, Overloading, Torturing, Causing unnecessary pain or suffering to any animals;	Section 11(1)(a)	Non-Cog
Employing any animal which, by reason of its age or any disease, unfit to be so employed, and still making it work or labour or for any purpose;	Section 11(1)(b)	Non-Cog
Willfully and unreasonably administering any injurious drug or injurious substance;	Section 11(1) (c)	Non-Cog
Conveying or carrying, either in or upon any vehicle in such a manner as to subject it to unnecessary pain or suffering;	Section 11(1) (d)	Non- Cog
Keeping or confining any animal in any cage or any receptacle which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for movement;	Section 11(1)(e)	Non-Cog
Being the owner, neglects to exercise or cause to be exercised reasonably any dog habitually chained up or kept in close confinement	Section 11 (1)(g)	Non-Cog
Being the owner of any animal fails to provide such animal with sufficient food, drink or shelter;	Section 11(1)(h)	Non-Cog
Without reasonable cause, abandons any animal in circumstances which render it	Section 11(1)(i)	Non-Cog

likely that it will suffer pain by reason of starvation or thirst;		
Willfully permitting any animals, of which he is the Owner to go at large in any street while the animal is affected with contagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal, of which he is the owner, to die in any street;	Section 11(1)(j)	Non-Cog
Offers for sale or without reasonable cause, has in his possession any animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment	Section 11(1)(k)	Non-Cog
Mutilates any animal or kills any animal (including stray dogs) by using the method of strychnine injections in the heart or in any other unnecessarily cruel manner;	Section 11(1)(l)	Cog.
Solely with a view to providing entertainment 1) Confines or causes to be confined any animals (including tying of an animal as bait in a tiger or other sanctuary) so as to make it an object of prey for any other animal; 2) Incites any animal to fight or bait any other animal.	Section 11(1)(m)	Non-Cog
Organizes, keeps, uses or acts in the management of, any place for animal fighting or for the purpose of baiting any animal or permits or offers any place to be so used or receives money for the admission of any other person to any place kept or used for any such purposes;	Section (1)(n)	Cog.
Promotes or takes part in any shooting match or competition wherein animals are released from captivity for the purpose of such shooting.	Section 11(1)(o)	Cog.

If any person performs upon any cow or other milch animal the operation called phooka or any other operation, including injection of oxytocin given by dairies to their milch animals in order to induce milk, which is injurious to health	Section 12	Cog.
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Police officer's power to stop cruelty on Animals

Section 34 of The Prevention of Cruelty to Animals Act, 1960 provides the general power of seizure for examination to the police officer above the rank of constable. If the police officer comes to know about an offence against commission of any offence under PCA Act has been committed or is been committed on any animal, he can seize the animal and produce the same for examination by the nearest magistrate or by the Veterinary Officer. Whether it is the case of overloading of animals or beating of animal or any offences under this PCA Act, the police have the power to seize the animals and send them to infirmaries for the treatment and care of animals. This is provided under Section 35 of The Prevention of Cruelty to Animals Act, 1960. Section 35 states that the animals are to be detained and have to be produced before the magistrate. Animals are to be treated and cared for in an infirmary, until they are fit for discharge. The animal sent for care and treatment to an infirmary cannot be released from such places unless the veterinary officer issues the certificate of its fitness for discharge. The cost of transporting the animal to an infirmary and its maintenance and treatment in an infirmary, has to be paid by the owner of the animal.

Problems with PCA

This act being comprehensive in nature covers all type of cruelty against animals. The main problems in PCA can be traced out by analyzing the act such as, a) the mechanism for implementation is not effective. In spite of having such a strong legislation, cruelty against animal is a very common talk in India today. b) Most of the offences have been categorized as non-cognizable, because of this there is no fear among people and they take animal cruelty very lightly.

THE PERFORMING ANIMALS RULES, 1973 AND THE PERFORMING ANIMALS (REGISTRATION) RULES, 2001

Performing Animals

Under Section 2(b), of the Performing Animals Rules, 1973, Performing Animals means any animal which is used for the purpose of any entertainment to which the public is admitted through the sale of tickets. Section 2(h) of the Performing Animals (Registration) Rules, 2001 specifies that this includes animals used in films and for equine events.

Section 22 of The Prevention of Cruelty to Animals Act 1960 restricts the exhibition and training of performing animals, unless the person interested in exhibiting and training the animal is registered in accordance with provisions of the Act. No animal can be exhibited or trained, where the Central Government, by notification in the Official Gazette, has restricted the exhibition and training of such animal. These following animals can't be exhibited or trained:

- 1) Bears
- 2) Monkeys
- 3) Tigers
- 4) Panthers
- 5) Lions

Conditions for the exhibiting and training of performing animals

The first and foremost condition is the registration of the person seeking permission to train and exhibit. Section 3 of The Performing Animals (Registration) Rules, 2001, provides for Application of registration stating that any person desirous of training or exhibiting performing animals has to apply for registration to the prescribed authority. Without being registered such a person is not allowed to exhibit or train any animal as a performing animal. Apart from this, Section 8 of The Performing Animals (Registration) Rules, 2001 lays down general conditions for registration, which the prescribed authority while granting registration may impose such terms and conditions. The following are the general conditions:

1. Every owner who has ten or more such performing animals shall have a veterinarian as a regular employee for their care, treatment and transport;
2. The owner shall not transport such animals by road continuously for more than 8 hours;
3. The owner shall ensure proper watering and feeding halts during such transportation;

4. The owner after transportation shall provide feeding and retiring enclosures in respect of the animals;
5. The owner shall ensure that any animal is not inflicted unnecessary pain or suffering before or during or after its training or exhibition;
6. The owner shall not deprive the animal of feed or water in order to compel the said animal to train or perform any trick;
7. The owner shall train an animal as a performing animal to perform an act in accordance with its basic natural instinct;
8. The owner shall not make a performing animal perform if it is sick or injured or pregnant;
9. The owner shall ensure that no sudden loud noise is deliberately created within the vicinity of any performing animal or bring an animal close to fire, which may frighten the animal;
10. The owner in case the performing animal is to be exhibited under artificial light, the overall intensity of such light shall not be more than 500 LUX;
11. The owner shall not subject the animals to any action, which may either kill or injure or use the animals in scenes, which may cause injury to the animals;
12. The owner shall not use any tripping device or wires or pitfalls for such animals;
13. The owner shall not expose any animal to either burning fire or to fire accidents;

14. The owner shall not keep any animal including horses in close proximity while shooting scenes involving explosives or other loud noises;
15. The owner shall ensure that props such as spears, nails, splinters, barbed wires or other such props shall not cause injury to the animals during performance;
16. The owner shall ensure that equines are not made to walk on hard surfaces without being shod and shall further ensure that the animals are not used in downhill slides or rodeo slide stops without proper skid and hock boots;
17. The owner of any equine shall not use any whip;
18. The owner shall ensure that the animal is not used on floors that are very smooth without the use of non-skidding mats;
19. The owner shall ensure that a large gathering of animals is not allowed in such a way, that may cause or result in a stampede.
20. The owner shall ensure that the animal is not made or incited to fight against other animal and shall further ensure that sedatives or tranquilizers or steroids or any other artificial enhancers are not administered to or inserted in any animal.
21. The owner shall ensure that the animal shall not be transported or kept or confined in cages and receptacles, which do not measure in height, breadth or length in accordance with the comfort of animal.

22. The owner shall ensure that the animal is not continuously used for excessive number of takes in shooting a film without providing adequate rest to the animal and in the event of a snake being used it shall not be made to ingest any substances or made to crawl across tarred or any other heated surface and shall not be contorted to wrestle.

23. The owner shall ensure that while using an animal in shooting a film, the fight sequence shall not be shot in any livestock holding area including poultry area and shall further ensure that no birds are shown in cages.

24. The owner shall inform the prescribed authority at least four weeks in advance informing the place, date and time of the actual making of the film wherein the animal is to be used;

25. Persons desirous of transporting horses from one place to another shall adhere to the minimum norms to enhance conditions of travel safety of the horses, namely:-

- No horse shall be tied up in such a way that his head and neck movements are unnaturally restricted while traveling
- All horses must be watered at least every four hours and provided adequate ration of hay during the journey lasting more than eight hours
- Adequate ventilation and free flow of fresh air in the vehicle shall be ensured during transport
- Rubber mats shall preferably be used for flooring instead of straw bedding

- Horses shall not be transported within twenty four hours of having raced
- No horse shall be raced, where the period of journey exceeds six hours, unless twenty four hours have lapsed since completion of the travel.

Offences with regard to performing Animal

Section 26 of The Prevention of Cruelty to Animals Act, 1960 lists the acts that amounts offences with regard to performing animals. Section 26 says that if any person a) Not being registered exhibits or trains any performing animal; or

- a) Being registered under this Act, exhibits or trains any performing animal with respect to which, or in a manner with respect to which, he is not registered
- b) Exhibits or trains as a performing animal, any animal which is not to be used for the purpose of exhibition
- c) Obstructs or Willfully delays any person or police officer from entry and inspecting the premises where the performing animals are kept
- d) Conceals any animals with a view to avoiding such inspection.

Any person found guilty of such offences will be punishable on conviction with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months or with both. The animal will be confiscated and the person will not be allowed to keep an animal again.

Exception

Section 27 of The Prevention of Cruelty to Animal Acts, 1960 acts as an exemption clause. It permits the training of animals for bonafide military or police purposes. However, Section 11 of The Prevention of Cruelty to Animal Acts, 1960 applies to those animals too. It has to be kept in mind that no animals can be treated cruelly or in a way that harms or injures them.

Preventive measures

If Police officer comes to know that the training or exhibition of any performing animal has been accompanied by unnecessary pain or suffering, Section 25 of The Prevention of Cruelty to Animals Act, 1960, provides that any police officer not below the rank of sub-inspector may enter at all reasonable times and inspect any premises in which any performing animals are being trained or exhibited or kept for training or exhibition and ask for the certificate of registration from the trainer or exhibitor. Section 26 states that anyone who –

- Obstructs or willfully delays any person or police officer from entry and inspecting the premises where the Performing Animals are kept.
- Conceals any animals with a view to avoiding such inspection

will be punishable on conviction with a fine, which may extend to five hundred rupees, or with imprisonment, which may extend to three months or with both.

Section 32 of the Act, states that if a police officer not below the rank of sub-inspector, has reason to believe that an offence of

cruelty has been committed or that any person has in his possession the skin of any such animal with any part of the head attached thereto, he may enter and search place or any place in which he has reason to believe any such skin to be, and may seize such skin or any article or thing used or intended to be used in the commission of such offence. Also, if a police officer, not below the rank of sub-inspector, has reason to believe that phooka or any other operation of the nature referred to in Section 12, has been performed or will be performed on any animal within the limits of his jurisdiction, he may enter any place in which he has reason to believe such animal to be, and may seize the animal and produce it for the examination by the Veterinary Officer in charge of the area in which the animal is seized.

THE PREVENTION OF CRUELTY TO DRAUGHT AND PACK ANIMALS RULES, 1965

Use of Draught and Pack Animals

Section 6 of The Prevention of Cruelty to Draught and Pack Animals Rules, 1965, lays down the general conditions for the use of draught and pack animals. No person is allowed to use any animal for drawing any vehicle or carrying any load: -

- (i) For an average of more than nine hours in a day;
- (ii) For more than five hours continuously without a break or rest for the animal;
- (iii) In any area where the temperature exceeds 37 degree C (99 degree F) during the period between 12 noon and 3 p.m. This means it is illegal to use draught and pack

animals in North India, Chennai and all other places where the temperature remains routinely above 40 degrees Celsius in summer

Maximum weight allowed for draught animals or animal drawn vehicles to carry

For Draught Animals

1) Small bullock or Small buffalo	Two wheeled vehicle a) if fitted with ball bearings b) if fitted with pneumatic tyres c) if not fitted with pneumatic tyres	1000 kilograms 750 kilograms 500 kilograms
2) Medium bullock or Medium buffalo	Two wheeled vehicle a) if fitted with ball bearings b) if fitted with pneumatic tyres c) if not fitted with pneumatic tyres	1400 kilograms 1050 kilograms 700 kilograms
3) Large bullock or Large buffalo	Two wheeled vehicle a) if fitted with ball bearings b) if fitted with pneumatic tyres c) if not fitted with pneumatic tyres	1800 kilograms 1350 kilograms 900 kilograms
4) Horse or mule	b) if fitted with pneumatic tyres c) if not fitted with pneumatic tyres	750 kilograms 500 kilograms
5) Pony	b) if fitted with pneumatic tyres c) if not fitted with pneumatic tyres	600 kilograms 400 kilograms
6) Camel	Two-wheeled vehicle	1000 kilograms

For Pack Animals

1) Small bullock or buffalo	100 kilograms
2) Medium bullock or buffalo	150 kilograms
3) Large bullock or buffalo	175 kilograms
4) Pony	70 kilograms
5) Mule	200 kilograms
6) Donkey	50 kilograms
7) Camel	250 kilograms

Preventive Measures

Section 11 of the Act, provides that if a police officer above the rank of a constable feels that the animal is overloading, he may ask the owner or any other person in charge of such animal to take the animal or the vehicle or both to the weighbridge for the purpose of determining the weight of the load which animal has been or is drawing or carrying. And if the owner in charge of the aforesaid animal refuses to comply with the demand of the police officer, the policeman has every right to take the animal or the vehicle or both to the weighbridge and get it weighted. And as soon as any weight is determined under this rule, the owner or other person in charge of the said animal shall be given a statement in writing signed by the police officer as to the weight so determined and any other information relevant for the purpose.

THE TRANSPORT OF ANIMALS RULES, 1978

General Conditions for Transport of Animals

Section 98 of The Transport of Animals Rules, 1978 provides the general conditions for transport of animals.

- 1) Animals to be transported shall be healthy and in good condition. They should be examined by a veterinary doctor for freedom from infectious diseases and their fitness to undertake the journey, provided that the nature and duration of the proposed journey shall be taken into account while deciding upon the degree of fitness.

- 2) An animal which is unfit for transport shall not be transported and the animals that are newborn, diseased, blind, emaciated, lame, and fatigued or having given birth during the preceding seventy-two hours or likely to give birth during transport shall not be transported.
- 3) Pregnant and very young animals shall not be mixed with other animals during transport.
- 4) Different classes of animals shall be kept separately during the transport
- 5) Diseased animals, whenever transported for treatment, shall not be mixed with other animals.

Essentials for Animal Transportation

As mentioned above, the general conditions laid down in Section 98 of The Transport of Animals Rules, 1978 should be strictly adhered to. And apart from that, there are different rules for transporting different categories of animal, provided under The Transport of Animals Rules, 1978. Overloading of animals amounts to treating of animals cruelly under Section 11 of The Prevention Of Cruelty to Animals Act, 1960. If the above general conditions with regard to the transportation of animals are not met, the animals should be immediately unloaded and sent to the nearest animal shelter. Some further conditions that must be observed are: In the case of trucks whose wheelbase is over 142 inches shall not carry more than six cattle without calves or five with calves.

- The Vehicle transporting them should be large enough to carry animals comfortably and the animals should not be packed and jammed inside. The animals should also be protected from the weather.
- Animals are not allowed to be transported by tempo.
- Within the vehicle, partitions must be provided at every two or three meters across the width to prevent the crowding and trapping of animals.
- Sufficient food and water shall be carried to last during the journey and watering facility should be provided at regular intervals.
- First aid equipment should be available in the vehicle.
- Suitable ramps should be provided for loading and unloading the animals.
- Materials for padding such as straw, shall be placed on the floor to avoid injury and this shall be not less than 5 cm thick.

Apart from this, there are specific rules for transporting different categories of animals provided under The Transport of Animals Rules, 1978 which specifies the maximum number of animals that can be carried by different types of vehicles. Overloading of animals amounts to treating of animals cruelly under Section 11 of The Prevention of Cruelty To Animals Act, 1960. The offender (in the case of a first offence) will have to pay a fine which shall extend to fifty rupees and if it is the case of second offence or subsequent offence committed within three years of the previous offence, he will be fined with not less than twenty-five rupees but which may extend to one hundred rupees or with imprisonment

for a term which may extend to three months or with both. Also, in the case of second offence, the offender's vehicle is confiscated, and he will never be allowed to keep an animal again.

When cattle are to be transported by rail an ordinary goods wagon shall carry not more than ten adult cattle or fifteen calves on broad gauge, not more than six adult cattle or ten calves on meter gauge, and not more than four adult cattle or six calves on narrow gauge. While transporting cattle by goods vehicle, only six cattle can be loaded per truck. The permissible loading in a truck is only 4 buffaloes, and truck having wheelbase below 142 inches, shall not carry more than five cattle without calves or four with calves.

THE PREVENTION OF CRUELTY TO ANIMALS (SLAUGHTER HOUSE) RULES, 2001

There are certain rules provided under The Prevention of Cruelty to Animals Act, 1960 namely Slaughter House Rules, 2001. Section 2(c) of the above mentioned Act defines '**slaughterhouse**' as a place wherein 10 or more than 10 animals are slaughtered per day and is duly licensed or recognized under a Central, State or Provincial Act or any rules or regulations made thereunder.

Section 3(1) of the above mentioned Act provides that animals cannot be slaughtered except in a recognized and licensed slaughter house.

Section 3(2), prohibits slaughtering of any animal

- which is pregnant or
- has an offspring less than three months old, or
- the animal which is under the age of three months or

- which has not been certified by a Veterinary Doctor that it is in a fit condition to be slaughtered.

Wherever there is a Government slaughterhouse, slaughter cannot be done anywhere else. If there is no government slaughterhouse in that area then killing can only take place in licensed slaughterhouse, which should be situated, where they are not a public nuisance or an environmental hazard. These slaughterhouses have to follow all Municipal Corporation laws and the ISI regulations. No animals can be slaughtered in slums, in roadside meat shops or in dhabas or in private houses. Slaughtering of any animal at any place other than a licensed slaughterhouse is prohibited. With regard to environmental hazard and public nuisance. Smt. Maneka Gandhi moved the Delhi Court against the Idgah Slaughterhouse of Delhi, in the larger public interest. The court gave the following directions, which apply, to all slaughterhouses:

1. Children below the age of 18 years shall not be allowed to work in the slaughterhouse
2. Each Slaughterhouse has a licence for a prescribed number of animals. The number of animals slaughtered may not exceed 2500 per day, i.e. 2,000 sheep and goats and 500 buffaloes.
3. There should be adequate number of veterinary doctors for the purpose of proper examination of animals thoroughly before issuing a fitness certificate for the animals to be slaughtered.

4. Compounding fee in respect of sheep/goats is increased from Rs 50 to Rs 500 and for buffaloes from Rs 200 to Rs 2000.
5. The maximum number of animals allowed to be carried in open trucks must not exceed 40 goats/sheep and 4 buffaloes.
6. The slaughterhouse should have proper light, electricity, fans and coolers in its various sections.

According to the Municipal laws, if there is a Municipal Authorised slaughterhouse then there can be no private slaughterhouse and no licence can be issued to such slaughterhouses, as they are illegal. As per the Indian Standard (IS), the basic requirements for a slaughterhouse are as follows:-

- a) Slaughterhouse may be located outside or on the periphery of a city or town and away from an airport.
- b) There must be services of potable water, electricity and proper hygienic sewage disposal facilities.
- c) There must be a resting place for the animals before slaughter.
- d) There must be adequate facilities for 'before-killing' inspection.
- e) Carrying out of humane slaughter
- f) Flaying, dressing and washing of the carcasses
- g) Inspection of meat and disposal of meat unfit for human consumption.

If any slaughterhouse does not adhere to these standards, it cannot be licensed.

The Prevention of Cruelty to Animals (Slaughter House) Rules, 2001 prescribes the following requirements for a slaughterhouse. Section 4 (1) to (8) states that: -

- The slaughterhouse shall have a reception area of adequate size sufficient for livestock subject to veterinary inspection.
- The veterinary doctor after examining the animal shall issue a fitness certificate for each animal.
- The veterinary doctor shall examine thoroughly not more than 12 animals in an hour and not more than 96 animals in a day.
- The reception area of slaughter house shall have proper ramps for direct unloading of animals from vehicles or railway wagons and the said reception area shall have adequate facility sufficient for feeding and watering of animals
- Separate isolation pens shall be provided in slaughter house with watering and feeding arrangements for animals suspected to be suffering from contagious and infectious diseases, and fractious animals, in order to segregate them from the remaining animals.
- Adequate holding area shall be provided in slaughterhouse according to the class of animals to be slaughtered.
- Ante-mortem (before death) and pen area shall preferably be covered and shall be paved with material such as concrete non slippery herring bone type or brick suitable to stand wear and tear by hooves, and suitable drainage facilities shall be provided around the borders of the area except at the entrances.

Section 5 (1) to (5) states that:-

- Every animal after veterinary examination shall be passed on to a resting place, adequate in size and sufficient for the

number of animals for resting for 24 hours before slaughtering.

- The space provided in the pens shall be not less than 2.8 sqm per large animal and 1.6 sqm. per small animal.
- The animals shall be kept separately depending on their type and class and protected from heat and rain.
- The resting place shall have adequate facilities for watering and postmortem inspection.

THE WILD LIFE (PROTECTION) ACT, 1972

This Act was enacted under the provisions of Article 252 to prevent the decline of wild animals and birds. It prohibits the poaching of certain animals except for the purpose of education or scientific research. In respect of certain wild animals, license is made a prerequisite for their hunting. It provides that a state government may declare any area to be a sanctuary or as a national park if it considers that such area is of adequate ecological, faunal, floral, geomorphological, natural or zoological significance for protecting, propagating or developing wild life or its environment.⁶

Legislative loop holes and their replacement

The above objective of the Wild Life (Protection) Act, 1972, after some years of its enforcement was made subject to targeted attack by the affected ones as well as the wrongful gainers in future. This led to various amendments in the Parent Act at

⁶ U. Sankar, "Laws and institutions relating to environmental protection in India". November 1-4, 1998

various intervals of times. Thus the first amendment was introduced in the year 1982 in the Act of 1972, thereby it was categorically specified that the Wild Animals listed in schedule 1 of the Act can not be hunted by any person except as given in section 11 and 12 of the Act⁵. Again in 1986, an amendment was brought in the Act which prohibited the trade in certain specified wild Animals and their derivatives after a period of two months from the date of commencement of the amending law. Thus the license of all such traders who were allowed under the Parent Act to trade or commerce in Wild Animals, Animal Articles and Trophies were withdrawn in order to check the wide spread poaching and illegal killing of wild animals and their trade. Further in 1991, another amendment was brought by the Amendment Act 44 of 1991. The amendment was the result of the need with the changing habitat conditions and was also based on the recommendations of the standing committee for wild life. By this amendment poaching or hunting of all kinds of wild animals (other than Vermin) was prohibited. However, hunting of wild animals in exceptional circumstances as mentioned in sections 11 and 12 of the Act was allowed to continue. This amendment has also raised the punishment for various offences under the Act to make it more effective besides amending the provision with the setting of National Zoo Authority to monitor the maintenance and development of various Zoos in India. Due regard was also being given by this Act to the rights of various people affected by the opening of new National parks and Sanctuaries. Finally again in 1993 and 2003 certain amendments

were brought in the Act of 1972. The amendment Act of 2003 made a provision for creation of two new types of reserves.

Firstly *Conservation reserve* would be an area owned by the State Government adjacent to National Parks and Sanctuaries for protecting the landscape, seascape and habitat of flora and fauna. **Secondly** *Community reserve* is an area which the State Government may notify after the agreement with the members of that community where the area is located for the protection of flora and fauna found in that area.

Legal Safeguards towards Protection of Wild Life

The Act in order to protect the flora and fauna along with wild life has taken a wide range of steps. Thus, willfully picking, uprooting, damaging, destroying, acquiring or collecting any specified plants from any forest or possession, sale or transfer of such prohibited plants is restricted under the Act, except under the circumstances where a license has been granted. Similarly section 39 of the Act says that, wild animals etc. to be the Government property. Thus, according to this section, no person without the previous authority in writing by the Chief Wild Life Warden or the Authorised Officer, shall acquire, or keep in his possession, custody or control or transfer to any person by way of sale, gift etc. any of such Government property. Thus, after the commencement of the wild life Protection Act, 1972, if any person was in lawful possession of any such Wild life, then he must submit a declaration in this regard to the chief wild Life Warden and get a certificate of ownership from him. Thus it is clear that

not only possession but also dealing with trophy and animal articles without license has been prohibited under the Act.

Prevention and Detection of Offences under the Wild Life Protection Act:

Prevention and detection of offences under the Wild Life Protection Act is the biggest challenge before the authorities under the Act. Though wide ranging powers have been given to various authorities in order to check the offences under the Act, still due to lack of effective strength and coordination of various authorities, the offences are increasing unabated. Section 50 & 51 of the Act are providing the extensive scope for the purpose of prevention, detection of offences and the penalties thereto.' Section 50 of the Act provide a wide ranging power to the director or any officer authorized by him or the Chief Wild Life Warden or any other Forest Officer or any Police Officer not below the rank of Sub-inspector, who on reasonable grounds believes that a person has committed an offence under the Wild Life Protection Act 1972, then such officer may:-

1. Require such person to produce for inspection any captive animal, wild animal, animal article, trophy or uncured trophy in his control, custody or possession, or he may require him for the production of license, permit which are being granted to him under this Act.
2. Such officer has also the power to stop any vehicle or vessel in order to conduct search and seizure of such vehicle.
3. He may seize any captive animal, wild animal, animal article etc. or trophy found from the possession of the

person under investigation. If the person so found in possession of banned animals or animal articles, does not supply the reasonable answer for possessing such things may be arrested by the officer without warrant. The officer is also empowered to release the person so found in possession of animal or animal article on, execution of a bond for production of the property so seized.

The Act further provides for the application of the general law of criminal procedure, i.e. Criminal Procedure Code and so the person so arrested must be produced before a Magistrate for dealing with him in accordance with law. The above mentioned powers of the Forest authority shows that they have got the same powers which a Police Officer is enjoying and therefore for checking the offences relating with Forest property their role is very important. When a person is found guilty of violating any of the provisions of the Wild Life Protection Act 1972, shall be held guilty of an offence under the Act and on conviction such person may be punished with imprisonment which may extend to three years or with fine which may extend to (Twenty Five Thousand Rupees) or with both.

However, the section says that where the offence is related with any animal specified in schedule-I or part-I1 of schedule-I1 or meat of any such animal or animal article, trophy or uncured trophy derived from such animal, or where the offence related with any sanctuary or national park, such offence shall be punishable with imprisonment for a term which shall not be less than (One year): but may extend to six years and also with fine which shall not be less than Five Thousand Rupees. It should be

noted that this section makes a special reference to section 360 of the Code of Criminal Procedure 1973 and also to the Probation of Offenders Act, 1958, by saying that the provisions of these Acts shall not be applicable in principle to such offences, made in violation of Wild Life Protection Act 1972. However in case of offender below the age of 18 the provisions of these two above Acts will be applied.

Efficacy of the Penal Provisions:

A report of a committee setup by the Supreme Court for looking into the complaints of wanton neglect and illegal activities in the reserved forest and National Park is an eye opener for the Government and the animal lovers. The findings of the committee reveal that conditions in most of India's National Parks and Reserve Forest are very alarming. There is a visible danger of the life of wild animals. The News says that the committee's report has posed a big question mark against the functioning and honesty of the authorities. A perusal of the venous penal provisions in the Act reveals that in the wake of violation of any of the provisions of the Act, the offender shall be liable for punishment. However, the increase in the number of cases under the Act shows that there is laxity either in the proper implementation of various provisions or lack of coordination and effort on the part of forest authorities or nexus between offenders and the authorities is existing. Going through various court cases under the Act it reveals that the stand of Courts in cases of violation of Wild Life Protection Act is very tough, but we find that it is because of the non serious efforts on the part of he forest

authorities and non sensitivity on the part of the Government at the State and Centre has posed a danger to life of Wild Animals. However, it is also evident from some cases that the court because of non availability of proof and evidences has taken a liberal approach in certain cases

LAWS ON ANIMAL SACRIFICE

Animal sacrifice is illegal. The act of animal sacrifices is covered under Local Municipal Corporation Acts, Prevention of Cruelty to Animals Act, 1960, Wildlife (Protection) Act, 1972, Indian Penal Code (IPC). It is also specifically forbidden in the following states under The Prohibition of Bird and Animal Sacrifice Act:

- a) Andhra Pradesh
- b) Gujarat
- c) Karnataka
- d) Kerala
- e) Pondicherry
- f) Rajasthan
- g) Tamil Nadu

Local Municipal Corporation Acts

Municipalities' laws prohibit the slaughter of any animal within a Corporation area, other than in a licensed slaughterhouse. Since temples and streets, where animal sacrifices usually occur, are unlicensed, it becomes illegal to slaughter animals at these places.

The Prevention of Cruelty to Animals Act, 1960

The Act, prohibits the infliction of unnecessary pain and suffering on an animal and makes such unnecessary pain and suffering a penal offence. Sub-section (3) of section 11 PCA says that it is the duty of every person having the care and charge of any animal to take all reasonable measure to ensure the well being of such animal and to prevent the infliction of unnecessary pain or

suffering. The penalty under this Act is, the offender (in the case of a first offence) will have to pay fine which shall extend to fifty rupees and if it is the case of second offence or subsequent offence committed within three years of the previous offence, he will be fined with not less than twenty-five rupees but which may extend to one hundred rupees or with the imprisonment for a term which may extend to three months or with both. Also, in the case of second offence, the offender's vehicle is confiscated, and he will never be allowed to keep an animal again.

Wildlife (Protection) Act, 1972

This Act prohibits injury to any wild animal, which is considered to be government property, under section 39. The definition of an "animal" in the Act includes amphibians, birds, reptiles and mammals and their young. In the case of bird and reptiles, even their eggs are included in this category. Section 51 of the Act provides the penalty for the person guilty of an offence under this Act. The accused on conviction will be punishable with imprisonment for a term of three years or with fine of twenty- five thousand rupees or with both. And in the case of a second or subsequent offence, the term of imprisonment will be seven years with fine of ten thousand rupees.

Indian Penal Code (IPC)

Under Section 268 of IPC, 1860 a person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in

the vicinity or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have persons who may have occasion to use any public right. A common nuisance is not excused on the ground it causes some convenience or advantage. Under 269/270It can be a negligent act or a malignant act which can spread infection or disease dangerous to life. These sections enable a person to file a charge sheet to prohibit the killing of an animal or the sale of the meat obtained from sacrificed animals, in any public place, other than those which are registered for this purpose. Also, the killing of an animal in public place amounts to public nuisance, and annoyance to the public.

SUGGESTIONS

1. The Government of India must enact a Central Legislation for protection of cattle wealth and totally prohibiting its slaughter. The inclusion of the subject of animal husbandry in the State list is not a impossible hurdle to overcome. This issue should be considered as an issue of vital national interest and rising above politics, the Parliament must enact a Constitution amendment to bring the subject in the Concurrent List to enable the Parliament to enact the law.

2. In the meantime, all the State laws should be studied by a Central agency (if possible by the Law Commission) and they should suggest amendment in laws to bring about consistencies in definitions and other provisions. The provisions regarding definitions, scope, burden of proof, cognizability of the offence, penal provisions etc. should be made uniform. The arbitrary powers given to the competent authorities (which are mainly veterinary doctors) should be withdrawn and some other arrangement must be thought about.

3. The Home Ministry should direct the States to constitute special squads in the Police department to check illegal slaughter, illegal transportation within the States and outside the State, particularly to Kerala and West Bengal. They should be directed to extend full support, co-operation and protection to animal welfare activists. They should also be directed to immediately register FIRs, institute legal cases and ensure their speedy disposal, so that the culprits are punished as per law.

4. In many State Acts there are a number of exemptions from the main provisions imposing complete / partial ban on slaughter. The exemptions are used more as rule and the very purpose of the legislation gets defeated. Hence any type of exemptions should not be provided in the Act.

5. Special arrangements to check smuggling on the boundaries with Bangladesh in the East and Pakistan in the West (Gujarat / Kutch borders) should be made. If necessary a section of BSF or Army may be entrusted with this responsibility.

6. The Transportation of Cattle Rules under the Prevention of Cruelty to Animals Act, 1960 should be strictly implemented and, even otherwise, the implementation agencies must be strengthened and oriented to the need for cattle preservation.

CONCLUSION

If properly used, the law can be your most effective weapon against animal exploitation. India has one of the most comprehensive set of animal protection laws in the world. There are detailed codes of conduct governing our use and treatment of both domestic and wild animals.

In fact, India is unique in that animal welfare is enshrined in our constitution and every citizen is required to show compassion to all living beings. Unfortunately, in spite of the importance accorded to animal protection by our founding fathers, animal protection laws have remained mere pieces of paper.

However with the animal welfare movement gaining momentum, numerous cases are now being brought and fought in court. In order to successfully challenge cruelty, it is useful to know the law as it applies to animals.

Though there have been various laws and cases regarding animal welfare, their protection and preservation, non-implementation of those laws have rendered these legislation mere a futile exercise.

For the better and effective implementation of these laws, not only government agencies but also people should come forward and should take the responsibility. Failing to do so, we have to suffer irreparable loss, which will not be fulfilled in any situation.

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