



**Centre for Animal Rights
Directorate of Distance Education
NALSAR University of Law, Hyderabad**

Course Material

**ADVANCED DIPLOMA IN
ANIMAL PROTECTION LAWS**

**1.1.3. LAWS RELATING TO PREVENTION
OF CRUELTY TO ANIMALS - 1**

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(For private circulation only)

READINGS:

- PCA 1- Summary, Sonia Shad, ALC
- Ch. 6, Laws Relating to Animal Welfare, Vivek Mukherjee, NALSAR
- Ch. 8 Laws Relating to Animal Welfare, Vivek Mukherjee, NALSAR

LAWS:

1. The Code of Criminal Procedure, 1973
2. Indian Penal Code, 1860
3. Prevention of Cruelty to Animals Act, 1960
4. Wildlife Protection Act, 1972
5. Drugs and Cosmetics Act, 1940

RULES:

1. Prevention of Cruelty to Animals (Care and Maintenance of Case Property) Rules, 2017
2. Recognition of Zoo Rules, 1992
3. Prevention of Cruelty (Capture of Animals) Rules, 1979
4. Performing Animals (Registration) Rules, 2001
5. Performing Animals (Registration) Amendment Rules, 2002
6. Animal Birth Control (Dogs) Rules, 2001
7. Animal Birth Control (Dogs) Amendment Rules, 2010 with each state having a State ABC monitoring committee
8. Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017
9. Prevention of Cruelty to Animals (Dog Breeding and Marketing Rules) Rules, 2017
10. Prevention of Cruelty to Animals (Pet Shop Rules) Rules, 2018
11. Breeding of and Experiments on Animals (Control and Supervision) Rules, 1998

ADDITIONAL SOURCES:

1. Ban on Exhibition/Training of Six Performing Animals notified in 2011
2. The Government of India (Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training) Office Memorandum dated 26th May, (2006).
3. AWBI, Circular No.3-3i202 r-2022tPCA dated 03.06.2021.

PREVENTION OF CRUELTY TO ANIMALS ACT-1

STRUCTURE

1. Introduction
2. Laws Relating to Cruelty to Animals
3. Laws Relating to Performance Animals
4. Laws Relating to Companion Animals
5. Laws Relating to Animal Experimentation
6. Abbreviations/ Keywords

Part 1: INTRODUCTION

The objectives of this summary are to provide a general understanding of laws relating to animal welfare.

Animal welfare and protection laws often work in tandem with other legal regulations like the Food Safety and Standards Authority's Rules, The Indian Penal Code, etc. and in certain offences vary by state, like cow slaughter.

“Enforcement Agencies”, are those government agencies authorised to enforce the law. Some enforcement agencies of animal welfare protection laws are the Police, the Committee for the Purpose of Control and Supervision of Experiments on Animals (CPCSEA), the Forest Department and Wildlife Crime Control Bureau.

As laws that are not specific to animal welfare often overlap and intersect with animal welfare laws depending on the situation, other enforcement agencies like the Railway Police, Food Safety Officers, Customs Authority or Enforcement Directory may also be required to help.

Although this summary highlights the basic reporting procedure and follow up this will be covered in detail in the courses Prevention of Cruelty to Animals – 2, and specifically for wild crimes- Wildlife Laws.

Part 2. CRUELTY TO ANIMALS

S. 3 and s. 11 of the Prevention of Cruelty to Animals Act, 1960 (*hereinafter* “PCA”) and s. 428 and s.429 of the Indian Penal Code aim to provide a legal protection for general acts of cruelty to all species of animals in India.

This does not apply to the lawful killing (slaughter/ destruction) of animals unless there was undue or unnecessary suffering in the process of such killing.

In the event an animal has suffered cruelty in violation of these laws, any person, or organisation can file a complaint with the police. You do not need to be a lawyer or an animal protection organisation to register a complaint.

RELEVANT SECTIONS & LAWS

Section 3, Prevention of Cruelty to Animals Act	Duty of all persons having the care or charge of any animal to ensure well-being of animal. In this document the word animal includes birds as defined in the Act. (This duty is not restricted only to actual owners. In fact, ‘owner’ is defined in the Act as including any other person as well, in possession of an animal, whether with or without the consent of the actual owner.)
Section 11 (1)(a), Prevention of Cruelty to Animals Act	Beating, kicking, overriding, overloading, torturing and causing unnecessary pain to any animal
Section 11 (1)(b), Prevention of Cruelty to Animals Act	Using an old or injured or unfit animal for work. Applies to owner as well as user.
Section 11 (1)(c), Prevention of Cruelty to Animals Act	Giving an injurious drug/medicine to any animal.
Section 11 (1)(d), Prevention of Cruelty to Animals Act	Carrying an animal in any vehicle in a way that causes pain and discomfort to it.
Section 11 (1)(e), Prevention of Cruelty to Animals Act	Keeping any animal in a cage where it doesn’t have reasonable opportunity of movement.
Section 11 (1)(f), Prevention of Cruelty to Animals Act	Keeping an animal on an unreasonably heavy chain or an unreasonably short chain or for an unreasonable period of time.
Section 11 (1)(g), Prevention of Cruelty to Animals Act	Keeping a dog in confinement or habitually chained up, and not causing it to be exercised.

Section 11 (1)(h), Prevention of Cruelty to Animals Act	Owner fails to provide food, water and shelter to animal.
Section 11 (1)(i), Prevention of Cruelty to Animals Act	Abandoning an animal.
Section 11 (1)(j), Prevention of Cruelty to Animals Act	Allowing an owned animal to roam on the streets or leaving it on the streets to die of disease or old age.
Section 11 (1)(k), Prevention of Cruelty to Animals Act	Having possession of or offering for sale, an animal which is suffering because of hunger, mutilation, thirst, overcrowding or other ill treatment, etc.
Section 11 (1)(l), Prevention of Cruelty to Animals Act	Mutilating or killing any animal, including stray dogs, cruelly. (Animals, including stray and ownerless animals, can only be killed if permitted by law; and can only be killed in the manner permitted by law.)
Section 11 (1)(m), Prevention of Cruelty to Animals Act	Using an animal as a bait for another animal, or inciting any animal to fight another animal, or use it as a bait for another animal.
Section 11 (1)(n), Prevention of Cruelty to Animals Act	Organising, keeping, using or managing any place for animal fighting, or for baiting any animal.
Section 11 (1)(o), Prevention of Cruelty to Animals Act	Shooting an animal when it is released from captivity for such purpose.
Section 12, Prevention of Cruelty to Animals Act	Injecting any substance to improve lactation (Eg: Oxytocin).
Section 22 (i), Prevention of Cruelty to Animals Act	Exhibiting or training an animal without registration with the AWBI.
Section 22 (ii), Prevention of Cruelty to Animals Act	Making such an animal perform which has been banned (monkey, bear, lion, tiger, panther, bull).
Section 428 and 429 Indian Penal Code	Killing, poisoning, maiming or rendering useless any animal or animals of the value of more than Rs, 10 and Rs 50 respectively. Almost all animals are above this valuation, including stray dogs and cats.
Section 503 Indian Penal Code	Criminal intimidation to be charged if animal caretakers are prevented illegally/forcibly from keeping pets or feeding street animals. {Section 289 of I.P.C. is not applicable to the care-givers of stray dogs & other ownerless animals.}

PROCEDURE FOR REPORTING

Whenever possible it is helpful, but not necessary, to record, or take images of the cruelty that was inflicted, or the condition of the animal, which can be used to support the complaint being filed with the police.

If a complaint is submitted under the appropriate legal provisions the police are then required to follow the steps mentioned below after the complaint has been made:

1. Case should be duly registered.
2. Photography and videography of the scene of crime to be made for purposes of prosecution.
3. Police Officer not below the rank of a Sub Inspector may enter any premises and seize an animal against which an offence has taken place. The Prevention of Cruelty to Animals, (Care and Maintenance of Case Property) Rules, 2017 apply when an animal has been seized under the provisions of the PCA or the rules framed under.
4. The animal needs to be produced before a Veterinary Officer in charge of the area for health examination and identification.
5. A government veterinarian on the request of a District Veterinary Officer should attend to the animals.
 - a) If animal is dead – Post mortem must be carried out
 - b) If animal is alive – Health certificate must be made
 - c) If animal is injured or diseased – Treatment to be ensured.
6. In case of suspected poisoning, viscera must be sent to a forensic laboratory once the veterinarian has sealed and stamped it. Signatures of complainants may be taken as witnesses.
7. Custody of live animals to be handed over to any suitable facility, like an SPCA or any registered animal welfare organization or infirmary or gaushala and a custody letter has to be made by the Police Officer for the same.
8. Carcass of the animal can be buried after post mortem examination.
9. Statements of the accused and the complainant must be recorded.
10. Any other article of evidentiary value such as a weapon, heavy chains, cage in which animal was confined or any other must be taken into custody as well, and produced before the magistrate along with photographs, health/forensic reports and statements.

Please note that in order for the reported case to be successful, it is imperative that the person who witnesses the cruelty or abuse, be the person that reports it. It becomes

extremely difficult to provide **legally admissible evidence** (will be covered in Criminal Law) if the witness does not participate in the process. Therefore simply informing an AWO or activist who cannot make it to the scene of the activity in time to be a witness, is usually not sufficient to ensure that case will proceed past the initial complaint and no AWO or individual activist has the power to confiscate, or remove animals that belong to someone else or are on their property. Thus it is extremely important to directly report the violation to the appropriate law enforcement body, usually under the PCA & Rules framed thereunder, the police. AWOs can assist with the process but they themselves are not a valid authority to report to under the law and wherever possible should not take over the reporting entirely.

Part 3. LAWS RELATING TO PERFORMANCE ANIMALS

The relevant laws applicable to performance animals are Prevention of Cruelty to Animals Act 1960 (see **Part 2. Relevant Sections and Laws, s.22, s.24 PCA**), Performing Animals (Registration Rules) 2001, Performing Animals Registration (Amendment) Rules 2001 and the Wildlife Protection Act, 1972. The important provisions of these acts are listed in the table below:

Rule 3, Performing Animals (Registration) Rules	Mandatory for every person who is training or exhibiting a performing animal, to be registered with the respective prescribed authority for the training and performance of those number and kinds of animals. Race horses, registered with the turf authorities, do not need a separate registration, but still have to follow the conditions in R.8. <i>(amended)</i>
Rule 5, Performing Animals (Registration) Rules	Allows the prescribed authority permission to approve the method of performance and training of such animals, and also allows them to impose any conditions they deem appropriate.
Rule 7, Performing Animals (Registration) Rules	Mandates that the person who hires or lends a performing animal for use in a film must provide all details of the animal, and the proposed performance, including the need for using the animal in a film. Every application has to be accompanied by a fitness certificate along with an ownership certificate if the animal is covered under the Wildlife Protection Act.
Rule 8(1)(i), Performing Animals (Registration) Rules	Owners with ten or more such performing animals shall have a veterinarian as a regular employee for their care treatment and transport.
Rule 8(1) (ii)- (iv), Performing Animals (Registration) Rules	Responsibilities of owners during transportation.
Rule 8(1)(v), Performing Animals (Registration) Rules	Owners have to ensure there is no unnecessary pain and suffering during, before and after the training or exhibition.
Rule 8(1)(vi), (vii), Performing Animals (Registration) Rules	The animal cannot be deprived of food and water to train them, or be trained to act in a manner that is not in accordance with their basic natural instinct.
Rule 8(1)(viii), Performing Animals (Registration) Rules	Sick, injured, or pregnant animals cannot be made to perform.
Rule 8(1)(ix)-(xv), Performing Animals (Registration) Rules	No exposure to fire, fire accidents, shooting scenes involving explosives and loud noises, tripping devices, wires or pitfalls,

	high intensity light (over 500LUX), or anything else that may kill or injure the animal. Sharp props like spears, nail splinters and barbed wire should not cause injury to the animal.
Rule 8(1)(xix), Performing Animals (Registration) Rules	Animals cannot be kept in a manner that will cause or result in a stampede.
Rule 8(1)(xx), Performing Animals (Registration) Rules	No animal can be made or incited to fight against other animals. Sedatives, tranquillisers, steroids or any other artificial enhancers cannot be administered to the animal. Exception is for anaesthesia administered by a veterinary doctor for treatment of the animal.
Rule 8(1)(xxi), Performing Animals (Registration) Rules	Animals cannot be transported or kept confined in anything that doesn't meet the requirements under the Transport of Animals Rules, Recognition of Zoo Rules, or any other act or order.
Rule 8(1)(xxii)-(xxiv), Performing Animals (Registration) Rules	Specific conditions for animals used in films.
Rule 14, 15 Performing Animals (Registration) Rules	The prescribing authority can depute an officer or authorise someone to supervise and inspect the manner of care provided to the performing animals at all points of the process to ensure the conditions of registration are complied with. After inspection a report must be submitted to the prescribed authority.
Section 2(7A), Wild Life Protection Act	Defines the term circus: an establishment either stationary or mobile – where animals are kept or used mainly for the purpose of performing tricks and manoeuvres.
Section 2(39), Wild Life Protection Act	Includes circus using any wild animals within the term “Zoo”.
Section 38H, Wild Life Protection Act	No zoo can operate without being recognised by the central zoo authority.

NOTE:

R.2(h), of the Performing Animals (Registration) Rules, 2001, defines a “Performing Animal” as an animal which is used for the purpose of any entertainment. Entertainment includes films, circuses, and any animal events into which public are admitted.

At every event with performing animals the exhibitor or trainer must have a Performing Animals Registration Certificate (*hereinafter* “PAR”) from the Animal Welfare Board of India which contains **all** the details about how the animals are to be used in the event.

Dog shows, animal rides, animal races, and animal sports require a registration certificate as detailed in the afore mentioned laws, as they all fall under the ambit of performing animals as defined in rule 2(h).

When s. 2(7A), 2(39) and 38H, of the Wildlife Protection Act, 1972 are read together, wild animals that perform, fall under the definition of circus, which comes under the term Zoo in the act. Therefore wild animals, cannot perform in any circus without recognition by the Central Zoo Authority, and compliance with the housing and other needs detailed in the Recognition of Zoo Rules. This means that all local wildlife animal performances like snake charming and dancing bears etc. are illegal. The government of India has prohibited the performance of Bears, Monkeys Tigers, Panthers, Lions and Bulls. (SC: *Nair N.R. and Ors. Vs. Union of India and Ors*).

Bull races are also in violation of Sections 3, 11(1) and 22, PCA. The Supreme Court in *AWBI vs A Nagaraja & Ors* specifically stated that bulls are not performing animals). The Supreme Court further highlighted that unless it is of human necessity, no animal can be treated cruelly. Culturally significant events are not a valid ground to allow animal cruelty.

All animal fighting necessarily involves animal cruelty and cannot be carried out without the same, therefore all animal fights are in violation of Sections 3, 11(1)(m) & 11(1)(n) and any other provisions under section 11(1) as relevant and 22, PCA.

Part 4. LAWS RELATING TO COMPANION ANIMALS

The primary laws that apply to companion animals are the Prevention of Cruelty to Animals Act, 1960, Indian Penal Code, 1860, The Animal Birth Control Rules, 2001 and 2010 amendment, the Dog Breeding and Marketing Rules, 2017 and the Pet Shop Rules, 2018

RELEVANT SECTIONS & LAWS

Rule 7, Animal Birth Control Rules	Stray animals can only be captured for the purpose of treatment and/or sterilization. Once treated, they must be returned to the same locality they were taken from. A member from an AWO must be present at the time of capture and release and records of captured and released dogs must be maintained. AWBI has issued guidelines on the Standard Operating Process for carrying out the same.
Rule 10, Animal Birth Control Rules	In the case of dogs suspected of rabies (furious/dumb) If they are examined and likely to have rabies, they are kept in an isolation ward and allowed to lie naturally. If it is found that the animal is not likely to have rabies, the animal is sent to a recognised AWO or SPCA for cure, treatment and/or rehabilitation.
Rule 12, Animal Birth Control Rules	Breeders must be registered with the AWBI.
Rule 13, Animal Birth Control Rules	No state government or other body has the authority to make rules, or policies that worse for the welfare of the animals when compared to the ABC Rules. Upheld in SLP 691/2009
Rule 3, Dog Breeding and Marketing Rules	Every person who wishes to breed a dog, whether professionally or in their own home can only do so if they have a certificate of registration with the State Animal Welfare Board. (SAWB) They have to agree to allow individuals authorised by the SAWB to inspect their premises and must obtain separate registrations for each breeding facility.
Rule 7(3), Dog Breeding and Marketing Rules	Every legal breeding establishment has to be inspected at least once a year.
Rule 8, Dog Breeding and Marketing Rules	Only healthy puppies, above 8 weeks of age, that are vaccinated and microchipped can be sold. They cannot be displayed in public places for immediate sale. All details of the sale must be kept and the breeder needs to check on the animals once a year.

	No breeder can sell a dog to a pet shop without a valid licence.
Schedule II, Part I, Dog Breeding and Marketing Rules	Facilities Required for registration.
Schedule II, Part II, Dog Breeding and Marketing Rules	No female dog should give birth to dogs twice in one year. A mandatory one year gap between the date of birth and birthing of a new litter is allowed. Female dogs can give birth to a maximum of five litters in their life span.
(8) Schedule II, Part II, Dog Breeding and Marketing Rules	Tail docking, mutilation of any part, ear cropping, debarking/declawing, dyeing injecting substances or change of appearance by artificial means is strictly forbidden.
(22) Schedule II, Part IV, Dog Breeding and Marketing Rules	Dogs must be housed in appropriate facilities. Only dogs in outside areas can be tethered with enough length to move inside shelter, access to water, food and must be a minimum of three times the length of the dog measured from nose to tip of the tail and is able to use its full range.
(24) Schedule II, Part IV, Dog Breeding and Marketing Rules	All animals must receive sufficient socialisation and exercise. This must be decided in consultation with a vet.
(30) Schedule II, Part IV, Dog Breeding and Marketing Rules	All dogs at the facility and all dogs sold or moved out of the facility must be tagged, it's details recorded and microchipped.
Rule 3, 4, 14 Pet Shop Rules	All pet shops must be registered with the State Animal Welfare Board No registration can be granted if the person (or organisation) has been convicted of an offence, under any law relating to animals (including the WPA) or if the person was operating a pet shop without a valid certificate which resulted in its closure. No pet shop can be granted a licence by the local authority without a certificate of registration from the State Animal Welfare Board
Rule 6 Pet Shop Rules	A pet shop must have a permanent structure with adequate facilities and the space requirements in Schedule II of the Pet Shop Rules.
Rule 8, 12 Pet Shop Rules	.The owner must maintain records of suppliers and breeders, the animals received, sold, died and euthanised along with the circumstances and details surrounding the same. These records have to be available at the pet shop for inspection by any authorised person or intending purchaser The pet shop also must submit a report on the animals in the shop presently in, sold, died, euthanised, given away, exhibited, boarded etc.) to the State Board every year.
Section 503 Indian Penal Code	Criminal intimidation to be charged if animal caretakers are prevented illegally/forcibly from keeping pets or feeding street animals. It can also be used if pet owners are forced or coerced to abandon any animal in their care.

	{Section 289 of I.P.C. is not applicable to the care-givers of stray dogs & other ownerless animals.}
AWBI, Circular No.3-3i202 2022tPCA 03.06.2021.	r-dated AWBI, Circular No.3-3i202 r-2022tPCA dated 03.06.2021 deals with the management of the stray cat population These guidelines are to be read harmoniously with the ABC Rules, 2001.

COMMON OFFENCES AND CORRESPONDING LEGAL PROVISIONS

Illegal Breeding or Sale of Companion Animals. (particularly dogs)	Rule 3, Dog Breeding and Marketing Rules, 2017 or Rule 3 of the Pet Shop Rules, 2018. Sections, 3, 11, 38, PCA Section 429, IPC & Rule 6 r/w Section 38 of PCA if their ears are cropped or tails have been docked Sections 32 and 34, PCA authorises the police, to enter search and seize animals and they should record the seizure.
Displacement of Stray Animals	R. 7 (6), ABC Rules, 2001. Animals must be placed back into the same locality they were taken from after treatment and/or sterilisation. Stray animals can only be dealt with in the manner prescribed by law ie. ABC Rules (<i>Animal Welfare Board of India v. People for Elimination of Stray Troubles. & Ors, SLP(C) 691/09,</i>)
Killing of stray dogs by local authority (municipal corporation/ municipality/ panchayat/ cantonment or any other body)	Section 11 , PCA. Section 429 of Indian Penal Code. Some States have provision to prevent animal cruelty in the Police Act. Killing of stray dogs, or dislocation, i.e. picking up dogs from one place and leaving them in some other place have been disallowed. Even municipal authorities cannot do this. (SC Orders: order dated 23.1.2009, 18.11.2015 & 4.10.2016 in SLP no 691 of 2009, and order dated 6.2.2013 in SLP no 4453 of 2013, and order dated 10.5.2013 in SLP no 17112 of 2013). The states have been asked to follow Animal Birth Control Rules only and not resort to any methods other than ABC rules to control the population of dogs. A revised module was also provided for implementation of ABC rules. The Government of India (Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training) Office Memorandum dated 26th May, (2006) states that any government official who commits animal cruelty would be liable under the CCS Conduct Rules.

	Rule 3(1)(iii)(xviii) and Rule 3-B, Central Civil Services (Conduct) Rules, 1964
Slaughter of companion animals for consumption- dogs, cats etc.	Poultry, pigs, goat, sheep and cattle are listed as food animals under the Food Safety and Standards Act, may be slaughtered for the purpose of food in a manner prescribed by law. Any animal other than those listed cannot be slaughtered (FSSAI Notification, Dated 6.08.14) Designated food inspector to be asked to destroy meat. Live animals to be seized. FIR to be drawn under Section 429 of IPC,
Harassment/ Intimidation of pet owners and stray animal caretakers/feeders	Section 503 Indian Penal Code is the offence of criminal intimidation. When any person carry's out or threatens injury to another person's or someone (they care for) else's: person, property or reputation, with the intent of prohibiting them from carrying out their legal right (like feeding stray animals) or to carry out an illegal action (like killing, or displacing stray dogs,/abandoning an animal) the offence of criminal intimidation is made out.

NOTE:

The Animal Birth Control Rules, 2001 prescribe two methods to deal with the stray dog population: immunization and sterilization in accordance with Rule 3(3), Animal Birth Control Rules, 2001.

Rule 13 of the Animal Birth Control Rules, 2001, clearly states that any act, rule, regulation or by-law made under any law by any state or local authority will not apply if the provisions are more irksome, inconvenient or harmful to the animal. Only those which result in greater animal welfare ie. that ensures a higher degree of wellbeing and care are legally valid. (SLP 691/2009)

No state, local or other authority can impose conditions relating to stray animals that are worse for their welfare when compared to the ABC Rules. This includes Housing Societies, Resident Welfare Societies etc. While they are allowed to place reasonable restrictions like designating feeding spots in consultation with animal caretakers, requiring pets to be leashed while using common spaces, and requiring pets to have up to date vaccinations etc., any attempt to displace, kill, hit, injure, or force any owner to abandon any animal would be illegal.

The court in *Airport Authority of India v. Municipal Corporation of Greater Mumbai & Ors.*, (2004) 106 (4) Bom LR 915, stated that relocation of strays permitted at airports since this is a

special circumstance. Culling of these strays is also permitted at airports under exceptional circumstances where there is direct risk to passengers/aircraft. Even in such circumstances the process of culling must be humane and animal suffering has to be avoided.

PART 5 LAWS RELATING TO ANIMAL EXPERIMENTATION

The specific instruments through which safety testing is mandated for various product categories, varies. In some cases the mandate derives from a specific act and the rules framed within it (such as for drugs, pharmaceuticals and cosmetics). In other cases such mandating is accomplished by executive government orders either in the form of circulars or gazette notifications.

The regulatory framework in India that governs the safety testing of new product categories and therefore the use of animals for such tests, is not uniform – either in terms of the government agencies involved or in terms of the administrative instruments (acts and rules, gazette notifications, circulars) that lend formal mandate to safety testing mechanism.

In order to be eligible to market products across the world different frameworks are used meet the regulations and guidelines in addition to the Indian requirements. Some of the most commonly used international guidelines are listed below

- The U.S Food and Drug administration (USFDA) guidelines for pre-clinical testing.
- Organization for Economic Co-operation and Development (OECD) guidelines. OECD guidelines for evaluating toxicological effects of chemicals for risk assessment purposes are generally practiced by most companies producing chemicals.
- ISO standards are another set of standard guidelines which are used extensively by Indian pharmaceutical and other chemical companies to standardize their products internationally

This section covers only the specific animal welfare legislation of the regulatory framework and it is important to note that the international standards and ancillary laws, rules guidelines and standards play a significant role in the regulation of animal testing.

RELEVANT SECTIONS & LAWS

Section 15, 16 Chapter IV,	Provisions for setting up a regulatory body to control and supervise animal testing.
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Prevention of Cruelty to Animals Act	
Section 17, Chapter IV, Prevention of Cruelty to Animals Act	Power of the Committee (CPCSEA) to make rules to regulate animal testing and inter alia, minimise suffering of animals, before during and after and avoid utilisation of animal testing wherever possible.
Rule 3, 4, 5 Breeding of and Experiments on Animals (Control and Supervision) Rules	Breeders/Establishments breeding animals for experimentation and establishments that wish to carry out animal testing must be register with the CPCSE.
Rule 7, Breeding of and Experiments on Animals (Control and Supervision) Rules	Specifications for housing, feeding and maintenance of animals.
Rule 13. Breeding of and Experiments on Animals (Control and Supervision) Rules	Each institution has to form an Institutional Animal Ethics Committee (IAEC). This body is responsible for inspecting the concerned institution's animal house and approving or rejecting animal research projects. The IAEC, by an amendment brought about to the Breeding of and Experiments on Animals Rules in 2006, was given power to permit only experiments on small animals.
Rule 9, Breeding of and Experiments on Animals (Control and Supervision) Rules	The institution must only use the lowest number of animals, on the lowest phylogenetic scale to achieve an accuracy of 95%. If there are non-animal alternatives available, there must be sound justification as to why the alternatives were not used. Animals that are unable to function, cognitively or physically to a significant extent, or if in extreme pain during the experiment, or recurring pain and it exhibits signs of the same, or it's destruction is required to protect lives can be euthanised.
Rule 9(n), 9(2)(cc), Breeding of and Experiments on Animals (Control and Supervision) Rules	The responsibility to ensure compliance with the law, including the welfare standards rests with the person in charge of the institution, or if it is occurring outside the institution the person performing for the experiment. The person carrying out the experiment is responsible for the welfare of the animal. The institution must either rehabilitate the animals. If they are sending the animal to a duly recognised rehabilitation/welfare institution they must pay a lumpsum amount that is proportional to the cost of undertaking the rehabilitation.
Section 150-C, Drugs and Cosmetic Act,	Specific approval required by the relevant authority for carrying out tests on animals. The institution must comply with the requirements listed in the law including the PCA

Section 135-B, Drugs and Cosmetic Act,	No cosmetic that has been tested on animals after 2014 can be imported
Rule 18(4), The Cosmetics Rules, 2020	No cosmetic that has been tested on animals after 1 2.11. 2014 can be imported
Rule 39(7), The Cosmetics Rules, 2020	No person can use an animal for cosmetic testing in India,

NOTE:

There are many animal tests that can be replaced with non-animal alternatives with equal or more accuracy and more research is being done to create alternatives where there currently are none.

Unfortunately due to the cross jurisdictional aspects, and delays in shifting to more advanced alternatives, many obsolete and avoidable animal tests remain. The 3 Rs – Reduce, Replace and Refine are an important baseline approach to mitigating harm caused to animals due to testing and research.

ABBREVIATIONS / KEYWORDS

AWBI Animal Welfare Board of India

CrPC The Code of Criminal Procedure, 1973

IPC Indian Penal Code, 1860

PAR Performance Animal Registration Certificate

PCA Prevention of Cruelty to Animals Act, 1960

SC Supreme Court of India

WPA Wildlife Protection Act, 1972

ABC Rules Animal Birth Control Rules, 2001

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Chapter 6 **Prevention of Cruelty to Animals Act, 1960**

Definition, Nature scope and Development

Overview of the Prevention of Cruelty to Animals Act 1960

Section	Provisions
3	Duty of owner to ensure well being of an animal. In this document the word animal includes birds as defined in the act.
11 (1)(a)	Beating, kicking, overriding, overloading, torturing and causing unnecessary pain to any animal
11 (1) (b)	Using an old or injured or unfit animal for work. Applies to owner as well as user.
11 (1) (c)	Giving an injurious drug/medicine to any animal.
11 (1) (d)	Carrying an animal in any vehicle in a way that causes pain and discomfort to it.
11 (1) (e)	Keeping any animal in a cage where it doesn't have reasonable opportunity of movement.
11 (1) (f)	Keeping an animal on an unreasonably heavy chain or an unreasonably short chain or for an unreasonable period of time
11 (1) (g)	Keeping the animal in confinement, not giving an opportunity to exercise.
11 (1) (h)	Owner fails to provide food, water and shelter to animal.

11 (1) (i)	Abandoning a animal.
11 (1) (j)	Allowing an owned animal to roam on the streets or leaving it on the streets to die of disease or old age.
11 (1) (k)	Having possession of or offering for sale, an animal which is suffering because of hunger, mutilation, overcrowding etc
11 (1) (l)	Mutilating or killing an animal cruelly.
11 (1) (m)	Using an animal as a bait for another animal.
11 (1) (n)	Organising, keeping, using or managing any place for animal fighting.
11 (1) (o)	Shooting an animal when it is released from captivity for such purpose.
12	Injecting any substance to improve lactation (Oxytocin).
22 (i)	Exhibiting or training an animal without registration with AWBI.
22 (ii)	Making such an animal perform which has been banned (monkey, bear, lion, tiger, panther, bull).

Other Acts

Section 429 Indian Penal Code	killling, poisoning, maiming or rendering useless, any animal
Section 378 Indian Penal Code	Stealing an animal
Section 503 Indian Penal Code	Criminal intimidation to be charged if animal caretakers are prevented illegally/forcibly from keeping pets or feeding street animals.
Section 9 Wildlife Protection Act	Capturing, killing, poisoning, snaring, and trapping or any wild animal and every attempt to do so, Injuring or destroying or taking any part of the body of any such animal, or in the case of wild birds or reptiles, damaging the eggs of such birds or reptiles, or disturbing the eggs or nests of such birds or reptiles;
Section 38H Wildlife Protection Act	Running a zoo of any size without registration with the Central Zoo Authority

Section 38J Wildlife Protection Act	Teasing, molesting, injuring or feeding animals in a zoo.
Section 39 Wildlife Protection Act	Keeping any wild animal, wild animal article, ivory, any vehicle, vessel, weapon, trap or tool which has been used for trapping or hunting wild animals
Section 48A Wildlife Protection Act	Transporting any wild animal without permission from the Chief Wildlife Warden of the State.

CRUELTY TO ANIMALS IN GENERAL

Section 3 and 11 - Prevention of Cruelty to Animals Act
Section 429 - Indian Penal Code

No person shall beat, kick, injure, kill, torture, cause stress and discomfort to any animal or being the owner, allow such treatment to be inflicted upon any animal.

- Case to be duly registered.
- Photography and videography of the scene of crime to be made for purposes of prosecution.
- District Veterinary officer to be asked for a government veterinarian to attend to the animals
 - a) *If animal is dead – Post mortem to be done*
 - b) *If animal is alive – health certificate to be made*
 - c) *If animal is injured or diseased – Treatment to be ensured.*
- In case of suspected poisoning, viscera must be sent to a forensic laboratory once the veterinarian has sealed and stamped it. Signatures of complainants may be taken as witnesses.
- Statements of the accused and the complainant must be recorded.
- Any other article of evidentiary value such as a weapon(knife/rod/hammer/stone), heavy chains, cage in which animal was confined or any other must be taken into custody as well and produced before the magistrate along with photographs, health/forensic reports and statements.
- Carcass of the animal can be buried after post mortem examination.

Custody of live animals to be handed over to local infirmary, animal welfare organization, SPCA or registered gaushala, following due procedure.

ILLEGAL USE OF OXYTOCIN AND OTHER SUBSTANCE IN DAIRIES

Section 12 – Prevention of Cruelty to Animals Act 1960 Cognizable.
Two years imprisonment and/or fine of Rs

No person shall use any drug such as oxytocin to increase lactation in any animal or for any non-therapeutic purpose.

Any police officer not below the rank of a Sub Inspector can take cognizance.

- All containers of the drug, the syringe and any other evidence must be taken into custody immediately.
- The Drug Inspector and a veterinarian will be needed for sealing the sample.
- The veterinarian must write a prescription for purchase of oxytocin from the market.
- The veterinarian's sample and the confiscated drug must be sealed and stamped by Drug Inspector and sent to the lab for testing.
- The animals must be seized and sent to the shelter or SPCA following due procedure.
- FIR must be drawn carefully taking into account any other general cruelty issues or irregularities that may be reported at the event.
- Once the lab confirms presence of Oxytocin in the sample drug, charge sheet must be prepared.

1. Points to Note:

- Oxytocin cannot be openly sold in the market. It can only be sold with a prescription and records need to be maintained by chemist as per the Drugs and Cosmetics Act and Rules framed under the act.
- It can only be available in registered hospitals but is illegally made available to dairies across the country.
- An unlabelled, white or colorless drug in a glass or plastic vial reported in a dairy can be sent for testing for suspicion of oxytocin.
- Injecting any substance to an animal without veterinary prescription is an offence.

OFFENCES AGAINST PET ANIMALS AND COMMUNITY DOGS

Article 51A(G) of the Indian Constitution : to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
Section 11 – Prevention of Cruelty to Animals Act 1960
Animal Birth Control Rules 2001
Indian penal Code 1860

Banning pets from Societies/colonies/neighborhood

- Not allowed. Supreme Court Dated 7. 5.2014, AWBI Vs A.Nagaraja and others, no animal can be treated in a way that causes distress or physical harm.
- Supreme Court order dated 6.2.2013 SLP no 4453 of 2013 and order dated 10.5.2013 in SLP 17112 of 2013 picking up dogs from one place and leaving them in some other place have been disallowed.
- No person can be asked to abandon their pet by any Resident Welfare Association or such organizations or persons as that would mean making a rule contrary to the guidelines laid down in the Constitution and the Laws.

2. Intimidation and harassment of pet owners/dog feeders- Section 503 IPC

As per Guidelines issued by the Animal Welfare Board of India specifically for RWAs and any other recognized citizens' associations the following directions have been given:

- Recognized Associations/individuals may approach animal welfare organizations or SPCAs of their strict such for redressal of their grievances if any, with regard to stray animals.
- As per Section 11 of The Prevention of Cruelty to Animals Act,1960, beating, kicking over-riding, overloading, over-driving, torturing or otherwise treating any animals so as to subject it to unnecessary pain amounts to cruelty on animals. And whoever indulges in an act of cruelty to animals makes himself liable for action under Prevention of Cruelty to Animals Act.
- Recognized Associations/individuals may approach animal welfare organizations or SPCAs of their strict such for redressal of their grievances if any, with regard to stray animals.

All problems of stray animals have to be handled within the institutional framework available. No association, recognized or unrecognized, shall take recourse to any action regarding stray animals on their own, either themselves or through any person employed by them like security guards. Where there is no recognized association, residents may take up grievances through the SPCA/Office of the District Veterinar Officer.

While residents and Associations are free to address institutional agencies for redressal of grievances in this matter, no resident/association can interfere with the freedom of other residents in caring and attending animals.

3. In a complaint under Section 429 of the IPC in respect of a dog belonging to/looked after by the complainant, poisoned by a neighbor, this course of action needs to be followed:

- If the owner believes that a neighbor is responsible for poisoning their dog, the owner should immediately contact the nearest police officer.
- The police officer should visit the site and note the condition of the animal.
- The dog has to be taken to a vet, for a post-mortem examination to determine the cause and approximate time of death. In the meantime the police officer can collect any physical evidence that is available, indicating both the perpetrator and the method used.
- The police officer must record the statement of witnesses who have seen the poisoning or witnesses who can record the attitude or history of previous cruelty of the alleged perpetrator towards the deceased.
- Thereafter, the police officer must put up a challan before the court of the concerned magistrate.

There is no law to prevent an owner of a pet to freely use the lift, lobby, apartment, garden, streets etc for exercising and keeping his pet.

However, it may be advised to the owner to collect the droppings of the pet animal and dispose it responsibly.

It may also be required of the owner to keep the pet sterilized and vaccinated.

ILLEGAL USE OF ANIMALS FOR PERFORMANCE

Section 22 - Prevention of Cruelty to Animals Act 1960

Performing Animals Rules 1973

Performing Animals Registration Rules 2001

No animal can be trained for performance or made to perform without a valid Performing Animal Registration Certificate issued by the Animal Welfare Board of India

“Performing Animal” means an animal which is used for the purpose of any entertainment. Entertainment means films, circuses and any animal events into which public are admitted.

At any such event, the exhibitor/trainer MUST possess a Performing Animals Registration (PAR) Certificate from the Animal Welfare Board of India (AWBI) giving details of ALL animals to be used in the event.

Rule 3 of the said rule makes it mandatory for every person desirous of training or exhibiting a performing animal to apply for registration with the prescribed authority. It further prohibits exhibition and training of a performing animal unless it has been registered with the prescribed authority.

Rule 5 of the said Rules empowers the prescribed authority to satisfy itself about the proposed performance and the method to be adopted for the training of such animals. It empowers the prescribed authority while granting registration to impose such conditions, as it may deem appropriate.

Rule 7 of the said rules mandates that the person who hires out or lends a performing animal in the making of the film shall give prior information to the Prescribed Authority (Animal Welfare Board of India) specifying the kind, age and health of the animal, the nature, duration and method of the performance to be done by the animal, and above all the justification for the use of such animal in the film. It further mandates that every such application has to be accompanied by a fitness certificate along with the ownership certificate in case of animals covered under the Wildlife Protection Act, 1972.

Rule 14 provides that the prescribed authority may depute an officer or authorize any other person, to inspect the mode of transport, care and upkeep of the animals, or to be present at the time of training or exhibition of the performing animals or during making of a film to ensure that the conditions of registration are being complied with.

4. Performance of Wild Animals

Section 2(7A) of the Wild Life Protection Act, 1972, defines the term “circus” as an establishment – either stationary or mobile – where animals are kept or used wholly or mainly for the purpose of performing tricks and manoeuvres.

Section 2(39) of the Wild Life Protection Act, 1972, includes inter alia “circus” within the definition of the word “zoo”.

Section 38H of the Wild Life Protection Act, 1972, declares that no zoo – including circuses, per Section 2(39) – shall be operated without being recognized by the Central Zoo Authority.

When these provisions of the Wild Life Protection Act, 1972, are read and interpreted together, it is clear that these wild animals which are performed fall within the definition of circus animal, as defined in Section 2(7A) of the Wild Life Protection Act. Hence, such animals cannot be made to perform without recognition by the Central Zoo Authority and without having their housing and other needs met, as detailed in the Recognition of Zoo Rules and as applicable to circuses. This makes all Madaris, Kalandars, Snake Charmers, Fortune telling parakeets, etc completely illegal.

5. Additional Conditions for Performance of Animals laid down under Rule 5 of the Performing Animal (Registration) Rules:

- Every owner who has ten or more such performing animals shall have a veterinarian as a regular employee for their care treatment and transport.

- The owner shall not transport such animals by road continuously for more than 8 hours and except in cages admeasuring as specified in the Fifth Schedule of the Performing Animals (Registration) rules, 2001.
- The owner shall ensure proper watering and feeding halts during such transportation.
- The owner after transportation shall provide feeding and retiring enclosures in respect of the animals specified in the Sixth Schedule of Performing Animals (Registration) rules, 2001.
- The owner shall ensure that any animal is not inflicted unnecessary pain or suffering before or during or after its training or exhibition.
- The owner shall not deprive the animal of feed or water in order to compel the said animal to train or perform any trick.
- The owner shall train an animal as a performing animal to perform an act in accordance with its basic natural instinct.
- The owner shall not make a performing animal perform if it is sick or injured or pregnant.
- 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.
- 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.
- The owner shall not subject the animals to any action which may either kill or injure or use the animal in scenes which may cause injury to the animals.
- 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.
- The owner shall ensure that props such as spears, nails splinters, barbed wires and other such props shall not cause injury to the animals during the performance.
- The owner shall ensure that the equines are not made to walk on hard surfaces without being showed and shall further ensure that the animals are not used in downhill slides or rodeo slide stops without proper skid and hock boots.
- The owner of any equine shall not use any whip other than an air cushioned shock absorbing whip which has been scientifically tested to prove that it will not cause weals, bruising or other damage to the horse and subject to the conditions that
 - a. The whip shall not have raised binding, stitching, seam or flap.
 - b. The whip shall be used by licensed jockeys only.
 - c. The owner shall also ensure that the whip is not used other than either on the quarters in either the forehand or the backhand position or down the shoulder in the backhand position or use the whip with the arm above shoulder height.
 - d. The whip shall not be used more than 3 times in a race.
- The owner shall ensure that the animal is not used on floors that are very smooth without the use of non-skidding mats.
- The owner shall ensure that large gathering of animals is not allowed in such a way which may cause or result in stampede to the animals.

- The owner shall ensure that the animal is not made or incited to fight against other animals and shall further ensure that sedatives or tranquillizers or steroids or any other artificial enhancers are not administered to or inserted in any animal except the anesthesia by a veterinary doctor for the purpose of treatment of an injured or sick animal.
- The owner shall ensure that the animal shall not be transported or be kept or confined in cages and receptacles which do not measure in height, length or breadth as specified under the Transport of Animal Rules, 1978, the Recognition of Zoo Rules, 1992 or under any other Act, rule or order for this purpose.
- 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.
- 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.
- 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.

Any police officer not below the rank of a sub inspector is authorised under section 25 of the PCA act to inspect the premises and check for registration

- If owner does not have PAR certificate,
 - Seize animals and file NCR for violation of section 22, 26 of the Prevention of Cruelty to Animals Act 1960.
 - If any of the animals are injured or mutilated, an FIR under Section 429 of the IPC can be lodged.
- If owner has PAR certificate for a certain number of animals but more animals are being used for training/performance/exhibition; and there is visible cruelty to animals
 - Seize the animals not listed in the certificate and file FIR under section 22, 26 and section 11 of the PCA act.
 - Transfer seized animals to the nearest local animal shelter, for treatment and care.

Points to Note:

Dog shows, animal rides, animal races, animal sports etc. come under the definition of Performance and cannot be done without Registration with Animal Welfare Board of India.

OVERLOADING

Section 3, 11 - Prevention of Cruelty to Animals Act 1960 Draught
and Pack Animal Rules, 1965

No person shall cause any animal to carry or pull any load if the load is in excess to the prescribed norms or if the animal is injured, diseased, or unfit in any other way.

I. Load Limit for Transporting Goods on Cart

Type of Cart	Load Limit					
	Small bullock or small buffalo (up to 250 kg)	Medium bullock <u>or</u> medium buffalo (250-350kg)	Large bullock or large buffalo (350 kg and above)	Horse or mule	Pony	Camel
Two-wheeled vehicle						1000 kg
1. If fitted with ball bearing	1000 kg	1400 kg	1800 kg	-	-	
2. If fitted with pneumatic tyres	750 kg	1050 kg	1350 kg	750 kg	600 kg	
3. If not fitted with pneumatic tyres	500 kg	900	900 kg	500 kg	400 kg	

Note:

1. The weights specified are **inclusive of the weight of the vehicle.**
2. Where the vehicle to be drawn is a four-wheeled vehicle, weight specified in each case above, be read as being **one and a quarter times.**
3. If the four-wheeled vehicle is one fitted with pneumatic tyres, the weight specified in each case above, be read as **one and a half times.**
4. If the vehicle, whether two-wheeled or four-wheeled is to be drawn by two animals of either species, the weight specified shall be read as **twice**, and if the vehicle is one fitted with pneumatic tyres, the weight shall be read as **two and a half times of what is specified.**
5. Where the route by which a vehicle is to be drawn involves an ascent for not less than one kilometer and the gradient is more than three meters in a distance of thirty meters, the weight specified in each case, be read as **one-half of what is specified.**

II. Load Limit for Goods on Back (Pack) of the Animal

(Section 4 of The Prevention of Cruelty to Draught and Pack Animal Rules, 1965)

Sl no	Type of animal	Load limit
1	Small bullock or buffalo	100 kg
2	Medium bullock or buffalo	150 kg
3	Large bullock or buffalo	175 kg
4	Pony	70 kg
5	Mule	200 kg
6	Donkey	50 kg
7	Camel	250 kg

III. Load Limit for Passengers

(Section 5 of The Prevention of Cruelty to Draught and Pack Animal Rules, 1965) No person in charge of any vehicle drawn by any animal shall allow **more than four persons, excluding the driver and children below 6 years of age**, to ride on the vehicle.

IV. Other Common Offences

- Beating, kicking, over-riding, **over-loading**, torturing any animal *(Section 11 (1) (a) of Prevention of Cruelty to Animals Act, 1960)*
- Using animal for drawing any vehicle or carrying any load **for more than nine hours in a day** *(Section 6 of Draught and Pack Animal Rules, 1965)*
- Using any animal in any area where the **temperature exceeds 37°C (99°F) during the period between 12.00 noon and 3.00 p.m.** *(Section 6 of Draught and Pack Animal Rules, 1965)*
- Continue to **keep animal in harness even after it is no longer needed** for the work purpose. *(Section 7 of Draught and Pack Animal Rules, 1965).*
- **Use of spiked stick or bit, harness or yoke with spikes, knobs or -projections or any other sharp tackle or equipment** *((Section 8 of Draught and Pack Animal Rules, 1965)*

1. Any police officer above the rank of a constable shall ask the owner or other person in charge of the animal to take the animal and the vehicle to the nearest weigh bridge available to determine the weight of the load and the cart.
2. If weight is excessive, animal must be seized and an NCR report must be drawn up.
3. The custody of the animal must be given to SPCA or any registered organization following due procedure.

TRANSPORT OF ANIMALS

Prevention of Cruelty to Animals Act 1960
 Transport of Animals Rules 1978
 Transport of Animals Amendment Rules 2001
 Motor Vehicles Act
 Indian Penal Code 1860

GENERAL CONDITIONS FOR TRANSPORT OF ALL ANIMALS

Rule 96 Transport of Animals Amendment Rules 2001	Issue of certificate before transportation (1) A valid certificate issued by an officer or any person or Animal Welfare Organization duly recognized and authorised for this purpose by the Animal Welfare Board of India or the Central Government shall be procured by any person making transport of any animal before transportation of such animal verifying that all the relevant Central and State Acts, rules and orders pertaining to the said animals including the rules relating to transport of such animals have been duly complied with and that the animal is not being transported for any purpose contrary to the provision of any law. (2) In the absence of such certificate, the carrier shall refuse to accept the consignment for transport.
Rule 97 Transport of Animals Amendment Rules 2001	Cancellation of permit or authorization for transport - (1) In the event of contravention or non compliance of any of the rules contained in these rule for transport of animals, if it is pointed out in writing by any officer or persons or Animal Welfare Organizations authorized for this purpose by the Animal Welfare Board of India or the Central Government, then, any permit or authorization issued for such transport shall be immediately cancelled by the concerned authority and it shall be the duty of the police to stop the further transport even from the intermediary station and proceed against the said offenders and deal with the animal in accordance with law. (2) The custody of the animals immediately after unloading from the rail wagons, truck or any other vehicle shall be given to the authorized Animal Welfare Organization if available, till the competent authority or the magistrate having jurisdiction decides about their care and upkeep.
Rule 98 Transport of Animals Amendment Rules 2001	(1) Animals to be transported shall be healthy and in good condition and such animals shall 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 who are new born, diseased, blind emaciated, lame, 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 transport. (5) Diseased animals, whenever transported for treatment, shall not be mixed with other animals (6) Troublesome animals shall be given tranquilisers before loading during transport. Animals shall be transported in their on-farm social groups (established atleast one week prior to journey).
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General Conditions for Transport of Animals for Slaughter as per Food Safety and Standards Regulations 2011

1.1 Only healthy animals in good condition shall be transported unless they are meant for emergency slaughter. These animals should be certified by a qualified veterinary inspector for freedom from infectious diseases and ectoparasitic diseases and their fitness to undertake the journey.

1.2 When animals are to be transported from endemic areas of a disease to non-endemic areas, the animals should be given protective vaccination and kept in quarantine for 30 days, before transportation.

1.3 Female animals in advanced stages of pregnancy shall not be transported.

1.4 When transporting large animals particularly bears/bulls, special arrangements by providing suitable partitions should be made to protect the animals from infighting. Similar arrangements should also be made to protect the young ones from being crushed when they are transported.

1.5 To avoid exhaustion, the animals shall be given humane treatment and care during transportation. The animals shall not be bound or chained during transit and space provided for them shall be large enough to stand or lie.

1.6 An attendant along with first aid equipment shall accompany the animals in transit.

1.7 Before loading, the animals should not be fed heavily. Only light feed may be allowed. For journeys less than 12 hours no feed need be carried but for longer journeys sufficient feed shall be carried to last

during the journey. Watering facilities shall be provided at regular intervals.

1.8 Light and heavy animals shall be separated by providing partitions; animals from different pens/sheds shall not be mixed during transportation. Male stock shall not be transported with female stock (adults).

1.9 All vehicles should be inspected for safety, suitability and cleanliness before loading the animals. The floor and walls should be undamaged and there should be no nails or sharp projections which may injure the animals.

1.10 The Vehicles should be thoroughly sprayed with suitable disinfectant before loading the animals.

1.11 A layer of clean sand to cover the floor to a thickness of not less than 6 cm shall be provided. This layer of sand shall be moistened with water during the summer months. During hot months arrangements shall be made to sprinkle water on the animals at frequent intervals. In winter, a 2-cm layer of clean sand with another 6-cm layer of whole-straw shall be provided.

1.12 Animals when driven for loading or unloading shall never be struck with stick. Driving could best be done by soft-rubber pipe.

1.13 If animals are to be transported in extreme cold or hot climate, it is preferable to transport them in covered Lorries on road so that they may not die or get exhausted or suffer from acute respiratory disease. Journey under such adverse climate shall be minimized.

1.14 Each consignment should bear a label showing the following particulars:

- a) Number and kind of the animals loaded;*
- b) Name, address and telephone number, if any, of the consignor;*
- c) Name address and telephone number, if any, of the consignee;*
- d) Instructions regarding feeding and watering.*

2.0 Loading

2.1 Loading during extremes of temperatures shall be avoided.

2.2 Suitable ramp shall be provided for loading and unloading the animals. The floor of the ramp shall have cleats at intervals, so that animals do not slip as they climb or descend. The ramp shall be covered with straw to avoid slipping. At any time of loading and unloading the vehicle shall be kept clean to avoid slipping of animals.

2.3 In case of railway wagons when loading is done on the platform, the door of the wagon may be used as ramp. In such cases, bales or bags of hay, agricultural wastes etc. may be placed on the either side of the dropped door to prevent the animals from getting their legs between the sides of the wagons and platform.

3.0 Space Requirements

*3.1 Overcrowding shall be avoided. **Each animal shall have enough space to lie down.***

Transport of Dogs and Cats (Transport of Animals Rules 1978)

Rule 4	Health Certificate mandatory, both owner and carrier liable. Certificate must be as per the Schedule A of the Transport of Animals Rules 1979
Rule 5	Pregnant dog or cat cannot be transported
Rule 6	Unweaned pups/kittens can only be made to travel with their mother
Rule 8	Adequate care must be taken to ensure that animals are given food and water during the journey.
Rule 9	An attendant must be present to ensure well-being of animals during the journey.

Transport of Monkeys (Transport of Animals Rules 1978)

Rule 16	Health certificate for each monkey stating its fitness to travel, as specified in Schedule D of the Transport of Animals Rules 1979
Rule 17	Monkeys from different areas must not be mixed together. Adequate arrangement for food and water to be made during the journey. Precautions must be taken to protect the monkeys from extreme weather conditions.
Rule 18	Infant monkeys not to be transported unless permission from the Central Government is obtained.
Rule 19	Pregnant and nursing monkeys cannot to be transported unless permission from the Central Government is obtained.
Rule 21	Trapping cages should be sterilized or thoroughly disinfected to avoid cross infection.
Rule 23	Cage shall be made of wood or bamboo. The floor of the cage shall be made of bamboo reapers and the space between each reaper must be 20mm to 30mm. The weight of any one loaded cage shall not exceed 45 kilograms. The following two sizes of cages shall be used. (a) 910 x 760 x 510 mm – to contain not more than twelve monkeys, weighing between 1.8 and 3.00 kilograms each or ten monkeys weighing between 3.1 and 5.0 kilograms, each. (b) 710 x 710 x 510 mm – to contain not more than ten monkeys weighing between 1.8 and 3.00 kilograms each or eight monkeys weighing between 3.1 and 5.00 kilograms each.
Rule 25	Adequate ventilation must be provided during the journey.
Rule 28	Not more than one cage shall be placed over the other and gunny packing shall be placed between two cages, when one is placed over the other.

6. Transport of Cattle

Rule 47 (Transport of Animals Rules 1978)	A valid certificate by a qualified veterinary surgeon to the effect that the cattle are in a fit condition to travel by rail or road and are not suffering from any infectious or contagious or parasitic diseases and that they have been vaccinated against infectious or contagious or parasitic diseases, shall accompany each consignment.
Rule 56 (Transport of Animals Rules 1978)	When cattle are to be transported by goods vehicle, the following precautions are to be taken namely: (a) Specially fitted goods vehicles with a special type of tail board and padding around the sides should be used. (b) Ordinary goods vehicles shall be provided with anti-slipping material, such as coir matting or wooden board on the floor and the superstructure, if low, should be raised. (d) Each goods vehicle shall be provided with one attendant. (e) While transporting, the cattle, the goods, vehicles shall not be loaded with any other merchandise; and (f) to prevent cattle being frightened or injured, they should preferably, face the engine.

Rule 2 (Transport of Animals Amendment Rules 2009)

Vehicle Size Length X Width (square meter)	Floor area of the vehicle in square meter	Number of cattle permitted			
		Cattle weighing less than 200kg (1 sq mtr space per cattle)	Cattle weighing 200- 300kg (1.20 sq mtr space per cattle)	Cattle weighing 300- 400kg (1.40 sq mtr space per cattle)	Cattle weighing above 400kg (2 sq mtr space per cattle)
6.9 x 2.4	16.56	16	14	12	8
5.6 x 2.3	12.88	12	10	8	6
4.16 x 1.9	7.904	8	6	6	4
2.9 x 1.89	5.481	5	4	4	2

7. Transport of Equines

Rule 58 Transport of Animals Rules 1978	(a) A valid certificate by a qualified veterinary surgeon to the effect that the equines are in a fit condition to travel by rail; road or sea and are not suffering from any infectious or contagious disease or diseases shall accompany each consignment. (b) In the absence of such a certificate, the carrier shall refuse to accept the consignment for transport. (c) The certificate shall be in a form specified in Schedule – I.
Rule 59 Transport of	Each consignment shall bear a label showing in bold red letters the name address and telephone number (if any) of the consignor and consignee the number and

Animals Rules 1978	type of equines being transported and quantity of ratios and food provided.
Rule 60 Transport of Animals Rules 1978	(a) Pregnant and young equines shall not be mixed with other animals. (b) Different species of equines shall be kept separately. (c) Equines shall be loaded after being fed and given water adequately, watering arrangements shall be made enroute and sufficient food carried to last during the journey. (d) Veterinary first-aid equipment shall accompany all batches of equines. (e) Adequate ventilation shall be ensured. (f) Suitable ramps and platforms, improved where not available, shall be used for loading and unloading equines.
Rule 62 Transport of Animals Rules 1978	For the transport of equines by goods – Vehicles, the following precautions shall be taken, namely: (a) Specially fitted vehicles with a special type of tail – board and padding around the sides shall be used; (b) Ordinary goods vehicles shall; be provided with antislipping material on the floor and the super structure, if low, should be raised (c) Bamboo poles of at least 8 cm diameter between each animal and two stout batons at the back shall be provided to prevent the animal from falling; (d) To prevent horses from being frightened or injured their heads should face left away from the passing traffic; (e) Each vehicle shall not carry more than four to six equines; (f) Each vehicle shall be provided with one attendant; These vehicles shall be driven at a speed not more than 35 kilometers per hour.

Transport of Animals Amendment Rules 2009

Space requirement for transport of equines

Horses	Space in sq mtr
Stallion horses	2.25
Mares	2
Ponies	1.5
6 months to 12 months	1.4
12 months to 18 months	1.6
Over 18 months and upto 2 years	2
Mares with foal at foot (upto 6 months)	2.25

8. Transport of Goats and Sheep

Rule 65 Transport of Animals Rules 1978	(a) A valid health certificate by a qualified veterinary surgeon to the effect that the sheep and goats are in a fit condition to travel by rail or road and are not suffering from infectious or contagious or parasitic disease shall accompany each consignment. (b) In the absence of such a certificate, the carrier shall refuse to accept the consignment for transport. (c) The certificate shall be in a form specified in Schedule – J.
Rule 66 Transport of Animals Rules 1978	Each consignment shall bear a label showing in bold red letters the name, address and telephone number (if any) of the consignor and consignee the number and type of sheep or goats being transported and quantity of rations and food provided.
Rule 67 Transport of Animals Rules 1978	(a) First-aid equipment shall accompany the sheep or goats in transit. (b) Suitable ramps shall be provided for loading and unloading the sheep or goats.
Rule 68 Transport of Animals Rules 1978	Sheep and goats shall be transported separately; but if lots are small special partition shall be provided to separate them.
Rule 69 Transport of Animals Rules 1978	Rams and male young stock shall not be mixed with female stock in the same compartment.
Rule 70 Transport of Animals Rules 1978	Sufficient food and fodder shall be carried to last during the journey and watering facility shall be provided at regular intervals.
Rule 71 Transport of Animals Rules 1978	Material for padding, such as straw, shall be placed on the floor to avoid injury if an animal lies down, and this shall be not less than 5 cm thick.
Rule 72 Transport of Animals Rules 1978	The animals shall not be fettered unless there is a risk of their jumping out and their legs shall not be tied down.

Rule 4 Transport of Animals Amendment Rules 2009 Space requirement for transport of sheep and goats

Approx weight of animal in kg	Space required in Sq. mtr.	
	Wooled	Shorn
Not more than 20	0.17	0.16
More than 20 but not more than 25	0.19	0.18
More than 25 but not more than 30	0.23	0.22
More than 30 but not more than 40	0.27	0.25
More than 40	0.32	0.29

Transport of Poultry (Transport of Animals Amendment Rules 2001)

Rule 77	(a) the container shall be properly cleaned and sterilised before the poultry is placed in them (b) poultry shall not be exposed to the sunlight, rain and direct blast of air during transport. (c) poultry shall not be transported when the temperature exceeds 25 degree Celsius or when the temperature falls below 15 degree Celsius.
Rule 78	Day-old chicks and turkey poults (a) chicks and poults shall be packed and dispatched immediately after hatching and shall not be stored in boxes for any length of time before dispatch. (b) chicks or poults shall not be fed or watered before and during transportation. (c) every effort shall be made to ensure that chicks and poults arrive as quickly as possible at the dispatching site (d) personal attention shall be given by the consignor or the forwarding agent to ensure that all consignments are kept out of direct sunlight, rain and heat; (e) care shall be taken to carry the boxes in a level position so that chicks are not in danger of falling over on to their backs and 11 The putting up of other merchandise over and around chick boxes shall be avoided.
Rule 79	Poultry other than day-old chicks and turkey poults (a) the poultry to be transported shall be healthy and in good condition and shall be examined and certified by a veterinary doctor for freedom from infectious diseases and fitness to undertake the journey. (b) poultry transported in the same container shall be of the same species and of the same age group (c) poultry shall be properly fed and watered before it is placed in containers for transportation and extra feed and water shall be provided in suitable troughs fixed in the containers. (d) arrangements shall be made for watering and feeding during transportation and during hot weather, watering shall be ensured every six hours; (e) male stock shall not be transported with female stock in the same container
Rule 80	Road Travel - In transport of poultry by road the container shall not be placed one on the top of the other and shall be covered properly in order to provide light, ventilation and to protect from rain, heat and cold air.

Rule 83	Containers for transportation - In transport of poultry by rail, road or air - (a) containers used to transport poultry shall be made of such material which shall not collapse or crumble and they shall be well ventilated and designed to protect the health of poultry by giving it adequate space and safety. (b) the containers shall be so designed as to render impossible for birds to crowd into the corners during transportation, and to avoid the danger of boxes being stocked so close together as to interfere with ventilation. (c) all the containers shall be clearly labelled showing the name, address and telephone number of the consignor and the consignee. (d) the minimum floor space per bird and the dimension of the containers for transporting poultry shall be as specified in the Table
Rule 84	Special requirement of containers for chicks and poults - In transport of poultry (a) wire mesh or a net of any material shall not be used as a bottom for the containers. (b) the container shall be properly secured to avoid pilferage (c) the following instruction shall be printed on a label and fixed to the lid or printed directly on sides, namely "Care in Transit". (e) poultry shall not be transported continuously for more than 6 hours and whole batch shall be inspected at every 6 hours interval. (f) the transportation shall not remain stationary for more than 30 min and during this period, it shall be parked in shade and arrangements shall be made for feeding and watering (g) all precautions against fire shall be taken and provision of fire extinguishers in transport shall be provided.

9. Transport of Pigs

Rule 87 Transport of Animals Amendment Rules 2001	(1) A valid health certificate by a veterinary doctor to the effect that the pigs are in a fit condition to travel by rail or road and are not suffering from infectious or contagious or parasitic disease shall accompany each consignment in the transport of pigs by rail or road. (2) In the absence of a certificate under sub-rule (1), the carrier shall refuse to accept the consignment for transport. (3) The certificate under sub rule (1) shall be in a form specified in Schedule K
Rule 88 Transport of Animals Amendment Rules 2001	Each consignment shall bear a label showing in bold red letters the name, address and telephone number (if any) of the consignor and consignee, the number and type of pigs being transported, and quantity of rations and food provided to them.

Rule 89 Transport of Animals Amendment Rules 2001	First aid - In transport of pigs by rail or road. (a) first-aid equipment shall accompany the pigs; (b) suitable ramps shall be provided for loading and I unloading the pigs; (c) in the case of a railway wagon, when the loading or unloading is done on the platform the dropped door of the wagon shall be used as a ramp.
Rule 90 Transport of Animals Amendment Rules 2001	Group of pigs - In transport of pigs by rail or road, male young stock shall not be mixed with female stock in the same compartment.
Rule 91 Transport of Animals Amendment Rules 2001	Facility of food and water - In transport of pigs by rail or road, sufficient food and fodder shall be carried to last during the journey and watering facility shall be provided at regular intervals.
Rule 92 Transport of Animals Amendment Rules 2001	Padding of floor during travel - In transport of pigs by rail or road, material for padding, such as straw, shall be placed on the floor to avoid injury if an animal lies down, and this shall be not less than 5 cm thick.
Rule 93 Transport of Animals Amendment Rules 2001	Ban on fettering - In transport of pigs by rail or road, the animals shall not be fettered unless there is a risk of their jumping out and their legs shall not be tied down.

Rule 6 Transport of Animals Amendment Rules 2009

Type of animal	Maximum number of pigs (Road Vehicle)			
	Vehicle size 5.6m x 2.35m	Vehicle size 5.15m x 2.18m	Vehicle size 3.03m x 2.18m	Vehicle size 2.9m x 2.0m
Weaner	43	37	22	19
Adult	31	26	15	13
Young	21	18	10	9

OFFENCES AGAINST CAPTIVE ELEPHANTS

Prevention of Cruelty to Animals Act 1960
Wildlife Protection Act 1972
Indian Penal Code 1860 or

*No person shall house, transport or exhibit an elephant except under the provisions laid down in law.
Elephants are protected under Schedule I of the Wildlife Protection Act 1972*

1. Committing mischief by killing, poisoning, maiming or rendering useless any elephant is a cognizable offence under Section 429 of the Indian Penal Code.
2. Illegal possession - Not having ownership certificate (Section 42 Wildlife Protection Act, 1972)
3. Illegal transport - If the elephant is being transported from one state to another, not having the transport certificate issued by the Chief Wildlife Warden. (Section 40, 43 (3) and 48A of Wildlife Protection Act)
4. Offering an elephant for sale (Section 48 of WPA)
5. Forcing injured, diseased or unfit elephants to work (Section 3 and 11 of PCA Act)
6. Using iron ankus (Section 3 and 11 of PCA Act)
7. Beating, kicking, over-driving, over-loading, torturing or treating any elephant in a cruel manner (Section 3 and 11 of PCA Act)
8. Not providing adequate veterinary care to a sick, injured or pregnant elephant (Section 3 and 11 of PCA Act)
9. Willfully and unreasonably administering any injurious drug or substance to an elephant to control elephants particularly to suppress musth without proper veterinary advice (Section 3 and 11 of the PCA Act)
10. Keeping for unreasonable time, an elephant chained or tethered upon an unreasonable short or unreasonably heavy chain or cord (Section 3 and 11 of PCA Act)
11. Abandoning an elephant (Section 3 and 11 of PCA and Section 42 of WPA)
12. Training or exhibiting or forcing an elephant to perform any act such as elephant rides for tourism purposes without the permission of Animal Welfare Board of India. (Performing Animals Registration Rules, 2001).

1. Take photos and videos of cruelty/ offence.
2. Section 50 of WPA authorizes any police officer not below the rank of sub-inspector to arrest any person without warrant and detain him, if the arresting officer has reasonable grounds for believing that such person has committed an offence under the Act.
3. File a charge sheet before a judicial magistrate with evidence of cruelty in the form photographs and videos.
4. The police officer shall take a cognisance of the offence under PCA Act, WPA and Indian Penal Code confiscate the animal so as to provide necessary treatment and care to the elephant

10. OTHER COMMON OFFENCES AGAINST ANIMALS

Sr no	Offence	Action to be taken
1	Slaughter of Camels, rabbits, dogs, cats	Rule 3, Slaughterhouse Rules 2001 Camel is not listed as a food animal under the Food safety and Standards Act, hence cannot be slaughtered. Designated food inspector to be asked to destroy meat. Live animals to be seized. FIR to be drawn under Section 429 of IPC
2	Bull races	Sections 3, 11 and 22 of the Prevention of Cruelty to Animals Act Also banned by the Supreme Court of India
3	Animal Fights (buffaloes, dogs, cocks, bulbul etc)	Sections 3, 11 and 22 of the Prevention of Cruelty to Animals Act Also banned by the Supreme Court of India
4	Cow Slaughter	Provisions as per Special Acts made in each State
5	Breeding of dogs	Registration of each breeding dog must be done with the Animal Welfare Board of India. Rule 12, Animal Birth Control Rules 2001
6	Overcrowding of animals (e.g. in dairies, pet shops, poultry markets etc.)	Sections 3 and 11 of the Prevention of Cruelty to Animals Act 1960 If animals are injured or mutilated, Section 429 IPC may also be used
7	Selling Indian wild animals or body part of any Indian wild animal (tortoises, turtles, birds, frogs, parakeets, leopard, tiger, snakes etc.)	Section 9, Wildlife Protection Act 1972
8	Animal Sacrifice (in any religious place on any festival)	No animal is allowed to be killed in any place other than a

		registered slaughterhouse. Section 3 and 11 of the Prevention of Cruelty to Animals Act, Rule 3 of the Slaughterhouse Rules 2001, Food Safety and Standards Act 2006
9	Killing of stray dogs by local authority (municipal corporation/municipality/panchayat/cantonment or any other)	Section 11 of the Prevention of Cruelty to Animals Act 1960 Section 429 of Indian Penal Code
10	A person not holding a valid degree from a Veterinary College, pretending to be a Veterinarian	Sections 3 and 11 of Prevention of Cruelty to Animals Act Sections 415 and 425 of Indian Penal Code
11	Transport/Capture/Relocation of Monkeys	Section 9, Wildlife Protection Act 1972 Transport of Animals Rules 1978 Cage specifications are detailed in the Rules. Permission of the Central Government is compulsory before female and infant monkeys can be transported.
12	Cruelty during transport of animals	Transport of Animals Rules 1978 Transport of Animals on Foot Rules 2001 Transport of Animals (Amendment) Rules 2001 Transport of Animals (Amendment) Rules 2009
13	Cruelty during capture of animals	Rule 3, Prevention Of Cruelty (Capture Of Animals) Rules, 1979 No animal can be caught except with a sack and loop method. Tranquilizer guns may be used to capture large animals which may be difficult to catch.
14	A monkey being made to 'dance' and beg for money	The government of India has prohibited the performance of Bears, Monkeys, Tigers, Panthers, Lions and Bulls. Therefore, it is illegal to use these animals for performances on the streets. The Performing Animal (Registration)

		Rules, 2001 under the Prevention of Cruelty to Animals Act 1960, mandates that every animal who is used for performance needs to be registered with the Animal Welfare Board of India but as the performance of monkeys is prohibited, the Animal Welfare Board of India does not register these animals for performance. All species of monkeys are protected under the Wildlife Protection Act, 1972. This act declares that all Indian wildlife is government property and thus prohibits the capture and possession of monkeys.
15	Parakeet Fortune Tellers /Snake Charmers	The Prevention of Cruelty to Animals Act 1960 and the Rules thereunder. The Wildlife Protection Act of 1972 and the Rules thereunder.
16	Unrecognized/Illegal Zoos or Deer Parks	Recognition of Zoo Rules, 1992. The said Rules besides the requirement of registration of zoos extensively prescribed the standards and norms subject to which recognition under Section 38 H of the Act is to be granted.
17	Animal Experimentation	The Prevention of Cruelty to Animals Act, 1960 governs the animal experimentation in the country. The Committee for the Purpose of Control and Supervision of Experimentation on Animals (CPCSEA) has been constituted under the provisions of the Prevention of Cruelty to Animals Act, 1960 and the rules framed thereunder. It is mandatory that all institutions that breed, conduct experiments on animals register themselves with the CPCSEA.

14. COW SLAUGHTER LAWS

1	Andhra Pradesh Prohibition of Cow Slaughter and Animals Preservation Act, 1977	Section 5 – Total prohibition of slaughter of cow and buffalo calves or any buffalo that is likely to become economical (breeding or agricultural purposes) <i>Cognizable offence – Six months imprisonment or one thousand Rupees fine or both.</i>
2	Assam Cattle Preservation Act, 1950	Section 5 – Prohibition of slaughter of cows, calves, bulls, male and female buffaloes which are less than 14 years old, unless they are unfit for work or breeding. <i>Cognizable offence – Six months imprisonment or one thousand Rupees fine or both.</i>
3	Bihar Preservation and Improvement of Animals Act, 1955	Section 3 – Prohibition of slaughter of cows. Bulls and female buffaloes older than 25 years may be given written permission if they have become unfit for work or production. <i>Cognizable offence – Six months imprisonment or one thousand Rupees fine or both.</i>
4	The Chhattisgarh Agricultural Cattle Preservation Act, 2004	Section 4 – Prohibition of slaughter of cows, bulls, calves, male or female buffaloes. <i>Cognizable and Non Bailable Offence – Three years imprisonment or ten thousand rupees or both.</i>
5	The Delhi Agricultural Cattle Preservation Act, 1994	Section 4 – Prohibition of slaughter of cows, calves, bulls production. <i>Cognizable offence – Five years imprisonment and upto ten thousand Rupees fine.</i>
6	The Goa Animal Preservation Act 1995	Section 4 - Total prohibition of slaughter of cow and buffalo calves or any buffalo that is likely to become economical (breeding or agricultural purposes) <i>Cognizable offence – Three years imprisonment.</i>

7	The Bombay Animal Preservation Act 1954 (Applied to Gujarat)	Section 5 – Total Prohibition of the slaughter of cow, bull or calf. Prohibition on the slaughter of productive buffaloes (male and female) <i>Cognizable offence – Six months imprisonment or one thousand Rupees fine or both.</i>
8	The Jammu and Kashmir Ranbir Penal Code Samvat, 1989	Section 298 A - Total prohibition of the slaughter of cow, calf, bull. <i>Cognizable offence – Ten years imprisonment and fine</i>
9	The Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964	Section 4 – Prohibition of slaughter of cow, calf or she buffalo. (Section 5 provides for slaughter of unfit animals and those that are over 12 years of age after obtaining certificate from competent authority) <i>Cognizable offence – Six months imprisonment or one thousand Rupees fine or both</i>
10	The Madhya Pradesh Agricultural Cattle Preservation Act, 1959	Section 4 – Prohibition of slaughter of cow, calf, bull and calf of she buffalo. Prohibition of slaughter of any other cattle unless its 15 years of age or is unfit for production or use. <i>Cognizable offence – One year imprisonment or one thousand Rupees fine or both.</i>
11	The Maharashtra Animal Preservation Act, 1976	Section 5 – Prohibition on the slaughter of cows. Prohibition of slaughter of any other cattle unless its 15 years of age or is unfit for production or use. <i>Cognizable offence – Six months imprisonment or one thousand Rupees fine or both.</i>
12	Proclamation on the Prohibition of Cow Killing in Manipur Memo no 915 P, 15.10.1936	Cow slaughter prohibited.
13	The Orissa Prevention of Cow Slaughter Act, 1960	Section 3 - Prohibition on the slaughter of cows and calves. Prohibition of slaughter of any other cattle unless its 14 years of age or is unfit for production or use. <i>Cognizable offence – Two years imprisonment or one thousand Rupees fine or both.</i>

14	The Pondicherry Prevention of Cow Slaughter Act, 1968	Section 3 - Prohibition of the slaughter of cows and calves. Prohibition of slaughter of any other cattle unless its 15 years of age or is unfit for production or use. <i>Cognizable offence – Two years imprisonment or one thousand Rupees fine or both.</i>
15	The Punjab Prohibition of Cow Slaughter Act, 1955 (Applicable in Haryana and Himachal Pradesh as well)	Section 3 – Prohibition of the slaughter of cows, bulls, and calves. <i>Cognizable offence – Two years imprisonment or one thousand Rupees fine or both.</i>
16	The Rajasthan Bovine Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995	Section 3 – Prohibition of the slaughter of cows, bulls, and calves. <i>Cognizable offence – Upto ten years imprisonment or ten thousand Rupees fine or both.</i>
17	The Madras Livestock Improvement Act, 1940	Section 4 - Prohibition of slaughter of any other cattle unless its 10 years of age or is unfit for production or use. <i>Cognizable offence –Upto three years imprisonment or one thousand Rupees fine or both.</i>
18	The Uttar Pradesh Prevention of Cow Slaughter Act, 1955	Section 3 – Prohibition of the slaughter of cows, bulls, and calves. <i>Cognizable offence – Seven years imprisonment or ten thousand Rupees fine or both.</i>
19	The Uttarakhand Cow and Its Progeny Protection Act, 2007	Section 3 – Prohibition of the slaughter of cows, bulls, and calves. <i>Cognizable offence – Ten years imprisonment or ten thousand Rupees fine or both.</i>

SELF-ASSESSMENT QUESTIONS

1. Which are the animals that have been banned from being used as performing animals?
2. List down the steps in the registration of an animal as a performing animal.

Pet Shop- Licensing and Registration Norms

The Prevention of Cruelty to Animals (Pet Shop) Rules, 2018 have been enacted to ensure humane handling of pets and regulate pet trade. Pet animals, as defined under Rule 2(j), include dog, cat, rabbit, guinea pig, hamster, rodents, of the rat or mice category etc. Pet shop covers any shop or place where pet animals are sold or used, kept or exhibited for sale. This also includes online platforms through which the sale and purchase of a pet animal happens. Pet shop owner is any person who owns or has control over a pet shop. A person is required to obtain a certificate of registration in Form II to carry on or continue the business of sale or trade in pet animals or establish a pet shop engaged in exchange or purchase of pet animals. The person operating a pet shop needs to get the said registration certificate within sixty days of commencement of the rules. Every pet shop owner, under these rules, is required to display the said Certificate in the pet shop. The owner is required to keep the pet shop open for inspection by an Inspector authorised by the State Board or SPCA.

Only a major or a person of sound mind is eligible for registration. If the person is a corporation, company or other association, of persons, such an entity needs to be duly registered in accordance with law. The procedure for registration begins with the owner requiring to make an application for registration of pet shop as in Form I appended to the Rules. The owner is required to provide all the information required along with depositing a fee of Rupees five thousand which is non-refundable. If the same owner opens a new pet shop elsewhere, he will have to do the registration for the same again. The owner is all required to produce an affidavit along with the registration application saying that he has fulfilled all the requirements stated in the application. The State Board may register the pet shop and grant a Certificate of Registration. This is followed by the board causing the shop to be inspected by an authorised veterinarian within a period of three months. The said Veterinarian is required to submit an Inspection report to the State Board which may, on being satisfied that the pet shop follows all the requirements as per the Rules, continue the registration. When the State Board does not permit the registration of pet shop due to one of the reasons mentioned Rule 4(9), the Board needs to inform the applicant about the same within thirty days of obtaining the Inspection Report. With respect to renewal, an application for the same has to be made thirty days before the existing license expires and the same procedure (as the first fresh registration) needs to be followed.

The Rules also provide specifications as to how the arrangements with respect to accommodation, infrastructure and housing need to be like in a pet shop so as to ensure the well-being of pet animals. It lays down conditions relating to ventilation, temperature, etc. It also outlines the mode of general as well as veterinary care that need to be given to these animals at pet shops under Rule 7. The Pet Shop Rules also contain provisions for non-compliance, inspections, complaints etc. A few interesting rules include the cancellation of license in the event of non-compliance to the rules after registration, maintaining of ‘mortality register’ and ‘health register’ by the pet shops, submission of annual report by the pet owner to the State Board etc.

SELF-ASSESSMENT QUESTIONS

1. What are the things that the RWAs cannot do to pet owners and pets? What facilities are accessible to pets?
2. What do you think could be the other reasons, than those mentioned above, for getting dog licenses?
3. What innovative ways can be devised to control dog population?

Animals in Slaughterhouses

Furthermore, the following Acts and Rules also regulate Slaughterhouses and Meat Shops.

- Prevention of Cruelty to Animals Act, 1960 [Relevant sections: Sections 3, 11 and 38.
- Prevention of Cruelty to Animals (Slaughterhouse) Rules 2001
- Performa for Ante and Post Mortem Fitness Certificates to be issued by the Veterinary Doctor after examining the animal before and after slaughter of animals as per Rule 4 (3) of the Prevention of Cruelty to Animals (Slaughter House) Rules 2001 [Relevant documents: Letter from FSSAI to All Central Licencing Authorities and Commissioners of food safety of all States /UT's]
- Food Safety and Standards Act 2006 [Relevant sections- Section 63, 92]
- Food Safety and Standards (Licensing and Registration of Food Business) Regulations 2011 [Relevant regulations- Part IV]
- Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 [Relevant regulations- Regulation 2.5]
- Agriculture and Processed Food Product Export Development Authority (Amendment) Act 2009 [Relevant sections- Section 4 and section 12]
- Environment Protection Act 1986 [Relevant Sections- 6 & 25]
- The Environment (Protection) Rules, 1986 [Relevant Rules- Effluent Discharge Standards, S.No. 50]
- The Water (Preservation and Control of Pollution) Act, 1974 [Relevant Section 24, 25, 26, 27, 28 & 362-387 33B]
- The Municipal Solid Wastes (Management & Handling) Rules 2000 [Relevant Rules- 7, Schedule II- S.No.1(iii), 4, 5, 6, Form II Clause 6(ii)]

Also, most meat shops employ young children in the garb of training which can be prevented using Section 3 of the Child Labor Act 1986.

Illegal slaughter and trade of meat is a public nuisance under Section 268 of IPC and may also be covered under Section 269 of IPC for spreading infectious diseases. Roadside meat shops also flout the The Water (Prevention and Control of Pollution) Act 1974.

The slaughterhouses and meat shops are given licenses by the Food Safety and Standards Department. The FSS Designated Officer of every District is authorised to take action against unregistered slaughterhouses and meat shops and to regulate registered ones.

Salient provisions of the Food Safety and Standards (Licensing and Registration of Food Business) Regulations 2011

- Municipal Corporations are NOT licensing authorities anymore and all meat shops and slaughterhouses must have FSS license. (Section 89 of the Food Safety and Standards Act 2006)
- A separate license must be obtained for Slaughterhouse and a separate one for Meat Shops. Hence no animal can be slaughtered in a meat shop, not even poultry.

- Penalties for operating an unlicensed meat shop or a slaughterhouse are in Sections 63, 55, 56, 58 and 59 of the Food Safety and Standards Act 2006.
- Transport and slaughter of animals for slaughter (even poultry) has to be as per FSSAI Regulations (licensing and Registration) 2011.
- No animal other than sheep, goat, bovines, pigs, poultry, fish are allowed to be slaughtered for food. It is illegal to slaughter rabbits, dogs, cats, camels etc.
- Ante Mortem and Post mortem examinations to be done by registered veterinary officers is mandatory as per the Slaughterhouse Rules 2001 and also the Food Safety and Standards (Licensing and Registration of Food Businesses) Regulations 2011. The format for such examination has been provided by the Animal welfare Board of India, and approved by the Supreme Court of India. The prescribed form is attached and must be followed by all registered slaughterhouses.
- Licensed slaughterhouses and meat shops are required to follow stringent norms listed in the Regulations 2011 and display the Registration Certificate prominently in the premises.
- Periodic inspections need to be conducted to ensure compliance. In case of non compliance, an Improvement Notice needs to be issued by the Food Safety Inspector and a re-inspection can be done. If the suggested improvement has not been made, then the license can be revoked.

The Prevention of Cruelty to Animals Act 1960 and Slaughterhouse Rules 2011 thereunder are implemented in the District by the Society for Prevention of Cruelty to Animals, the Chairman of which is the District Magistrate. Role of the District Magistrate are as follows:

- To instruct the Food Safety and Standards Designated Officer of the District to provide a list of registered and unregistered slaughterhouse and meat shop in the District.
- To form a Slaughterhouse Task Force, with the Food Safety Inspectors, District Police and representative of the Local authority.
- To instruct the Slaughterhouse Task Force to take the following action on unregistered slaughterhouses
 - Penalise the owner of the premises or any person/persons who are using the premises for running a Food Business without registration under the Food Safety and Standards Act 2006 and Regulations 2011
 - Seal the facility/building under Section 133 CrPC.
 - Lodge an FIR under Sections 429, 268 and 269 of the Indian Penal Code.
 - Seize any live animals/weapons that may be present at the unregistered slaughterhouse.

Please note: Any meat shop where poultry/goats/bovines are being slaughtered shall be deemed to be an unregistered slaughterhouse as per the Food Safety and Standards (licensing and Registration) 2011.
- To instruct the Slaughterhouse Task Force to take the following action on unregistered meat shops:

- Penalise the owner of the meat shop for running a Food Business without registration under the Food Safety and Standards Act 2006 and Regulations 2011
- Seal the facility/building under Section 133 CrPC.
- Lodge an FIR under Sections 429, 268 and 269 of the Indian Penal Code.
- Seize any live animals/weapons that may be present at the unregistered slaughterhouse.
- If the meat shop is functioning from any facility constructed in an unauthorised manner, the shop may be demolished under Section 133 CrPC and under the Municipal Corporation Act if the area falls under a Municipal Corporation.

Please note: No license can be given by any Local Authority to run a meat shop or slaughterhouse.

- To regulate the licensed Slaughterhouses and meat shops through the Designated Food Safety Officer of the District must conduct an inspection and issue an improvement notice for all non-compliant actions. Thereafter, upon no improvement, the license may be withdrawn.
- To advertise in prominent regional newspapers for the public to inform the nearest police station if any meat shop fails to follow the rules.

Role of the Secretary, Urban Development, State Government

In compliance of the order dated 23.08.2012 of the Supreme Court in WP 309 of 2003, the Slaughterhouse Monitoring Committee has been created in every under the Chairmanship of the Secretary, Urban Development. The following are the functions of the Slaughterhouse Monitoring Committee:

- To identify and prepare a list of all the Slaughter Houses located within the local self Govt (Municipal Corporations, Panchayats etc.)
- To call for reports from the District Magistrate or the Dy. Commissioner and District Food Safety Inspector as the case may be on the condition/functioning of the Slaughterhouses and also on the compliance of the relevant applicable laws.
- To recommend modernization of old slaughter houses (S.H.s) and to relocate S.H.s which are located within or in close proximity of a residential area.
- To recommend appropriate measures for dealing with solid waste, water/air pollution and for preventing cruelty to the animals meant for slaughter.
- To carry out surprise & random inspections of S.H.s regularly and to issue directions for compliance of the recommendations that may be made by it.
- To send bi-annual reports on the state S.H.s to the Central Committee and to refer issues that may require Central Committee recommendations or Central Govt. assistance.
- To accord final approval for licensing of Slaughterhouses to Local Self Govt.

- To identify on an ongoing basis, the unlicensed slaughter houses in the region, and other unlicensed, unlawful establishments where animals are being slaughtered, on howsoever a small scale, and take the help of the District Magistrate and other law enforcement agencies to crack down on the same.
- To check for child labour.

SELF-ASSESSMENT QUESTIONS

1. What is lairage? What are the different rules associated with it?
2. What are the steps, as provided in the Prevention of Cruelty to Animals (Slaughter House) Rules, 2001, that ensure the cleanliness of the slaughter process?

Society for Prevention of Cruelty to Animals (SPCA)

Society for Prevention of Cruelty to Animals (SPCA), generally speaking, is a name for various non-profit animal welfare organisations all over the world. Operating independent of each other, these organisations indulge in campaigning for animal welfare, help in cases of prevention of animal cruelty and assist in rehabilitation of animals. Each SPCA has its own set of policies with respect to how they function and what their principles are with respect to animals.

The Central Government brought out a notification in 2001 requiring every state to open up a SCPA in each district of a state and the land for the same is to be given by the state government. These SPCAs were supposed to be established under the Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001. The state government under this organisation would appoint a managing committee for the implementation of the provisions of PCA. These SPCAs were to come in every district within six months of the date of the commencement of the above said rule. However, this never materialised. Even to this day, only a few districts have SCPAs. For example, an SPCA was formed in Nagpur only in the year 2013 by the Nagpur Municipal Corporation (NMC).

SELF-ASSESSMENT QUESTIONS

1. What are SPCAs? How are they established?

Care and Maintenance of Case Property Animals

The Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 frames rules with respect to the care and maintenance of those animals which are subject to cases whose litigation is ongoing. Rule 3 states that when an animal has been seized as per the Act, the animal may be kept at an SPCA, Animal Welfare Organisation, Gaushala or Pinjrapole as directed by the Magistrate. The authority seizing the animal needs to ensure that health inspection, identification and marking of such animal is done through the veterinary officer at the Government Veterinary Hospital of the concerned jurisdiction. The marking has to be

done by ear tagging or any other less harmful advance technology. Marking by hot branding, cold branding or other injurious methods is prohibited under these rules.

As per Rule 5, the Magistrate needs to find out from the organisation to which it gives the animal for custody as to the cost incurred in transport, maintenance and treatment of the said animal. The owner and the accused need to execute a bond along with sureties in this regard within three days. When a vehicle is known to have been involved in the offence, the vehicle will have to be given as security as directed by the Magistrate. In the case of a body corporate owning the case property animal, the CEO, President or highest-ranking employee of the Body Corporate, the body corporate and the accused shall be jointly and severally liable for the treatment, cost of transport and care of the animal. When it is the Government that owns the animal, the Head of the Department and the accused will be jointly and severally liable for the aforementioned aspects.

As per Rule 6, when the Investigating Officer knows that an offence under the Act has been committed but is unable to find out who the accused or the owner is, the local authority will take up the costs involved and it is considered that the owner has given up on the ownership of the said animal. Such a relinquishment of ownership does not take away the effect of any criminal charges against the owner or the unknown offender. According to Rule 8, if the accused is convicted or he pleads guilty, he will be deprived of the ownership by the Magistrate. The seized animal will be forfeited to the infirmary, pinjarpole, SPCA, Animal Welfare Organisation or Gaushala. If he is not guilty of any charges, the seized animal will be returned to him. Further, the unused portion of the bond amount that he had executed will be returned to him. Rule 9 provides a detailed process for adoption of such animals. The animal shall be put up for adoption under this Rule once the animal has been forfeited to Animal Welfare Organisation, SPCA or the like. Each variety of animal has a different rule with respect to the undertakings and affidavits that need to be produced. The person adopting the animal can neither sell nor abandon the animal. The adopter is required to follow the State cattle protection and preservation law. The adoption will not be to the effect of creating an irrevocable right to the adopter. The Animal Welfare Organisation or the SPCA or the like can still inspect the animals given in adoption. If it finds that the adopter is not providing sufficient care, the organisation can take back the possession. The adopter will only be a lawful guardian of the animal. So, he will not have any rights that is usually vested in the owner. But he has the duty to take all responsible measures to ensure the well-being of such adopted animals. The adopter will endeavour to prevent the infliction of any unnecessary pain or suffering upon the animal.

SELF-ASSESSMENT QUESTIONS

1. What are case property animals?
2. In whose custody does the animal stay when the litigation is going on?
3. Who will get the custody of the animal when the case is decided against the owner?

Dog Breeding and Marketing

The Prevention of Cruelty to Animals (Dog Breeding and Marketing) Rules, 2017 puts out the requirements that are to be met by the breeders and the establishments used for breeding with respect to health, housing facilities and conditions for sales.

A breeder is prohibited from breeding and selling dogs unless he has a certificate of registration for establishment being used for breeding and housing dogs. This establishment is open to inspection by any person authorised by the State Animal Welfare Board [hereinafter, State Board]. The breeder is required to make an application for registration to the State Board providing all the information and a fee of Rupees five thousand. Once the Board receives the application, it sends a team of representatives along with a veterinary practitioner to inspect the establishment. This team will submit a report to the Board which it will go through to check if the establishment complies with all requirements and then, issue the Certificate of Registration. The Second Schedule provides a list of all the standards and requirements that the breeder should follow. Along with this, the Board will also fix the maximum holding capacity of the establishment based on factors like available space, facilities etc. This Certificate will be valid for two years and has to be renewed after that period.

SELF-ASSESSMENT QUESTIONS

1. For how long is the certificate of registration for breeding valid?
2. What is the fee for registration?

Chapter 8- Case Laws

MAJOR ANIMAL LAW CASES DECIDED BY INDIAN COURTS

1. People for Ethical Treatment of Animals Vs. Union of India	36
2. Shri. Ajay Madhusudan Marathe Vs. New Sarvodaya Cooperative Housing Society Ltd. 38	
3. Ozair Hussain Vs. Union of India.....	39
4. State of U.P Vs. Mustakeem and Ors.	43
5. Gauri Maulekhi Vs. Union of India and Ors.....	43
6. Nair, N.R. and Ors. Vs. Union of India and Ors.....	45
7. Animal Welfare Board of India Vs. A Nagaraja and Ors	47
8. Narayan Dutt Bhatt Vs. Union of India & Ors	57
9. Shri Mata Vaishno Devi Shrine Vs. Gauri Maulekhi	58
10. Compassion Unlimited Plus Action Vs. Union of India & Ors.....	59
11. Society for Prevention of Cruelty to Animals (SPCA) Vs State of Kerala & Ors.....	61
12. Animal Welfare Board of India Vs. People for the Elimination of Stray Dogs & Ors. 62	
13. Animal and Birds Charitable Trust and Ors Vs. Municipal Corporation of Greater Mumbai and Ors,	69
14. People for Animals Vs. Mohazzim and Ors.	72
15. Laxmi Narain Modi Vs. Union of India (UOI) and Ors.,	73
16. Ramesh Sharma vs. State of Himachal Pradesh	74
17. People for Animals through Mrs. Norma Alvares and Anr Vs. The state of Goa through its Chief Secretary and Ors.	80
18. Karnail Singh & Ors. V/s State of Haryana.....	83

1. People for Ethical Treatment of Animals Vs. Union of India

(Bombay High Court; decided on 22nd August, 2005)

Open Source Link:

SUMMARY: The Bombay High Court that was reported with a similar title, where it was held that:

"The Central Board of Film Certification shall hereafter in all cases where an applicant for certification of a film for public exhibition states that an animal has been used in the shooting of a film, require the production of a certificate from the Animal Welfare Board of India certifying that the provisions of the Performing Animals (Registration) Rules, 2001, have been complied with. Such a certificate shall be filed with the application for certification of a film for public exhibition and, in any event, before the film is certified for public exhibition."

Therefore, a film wishing to use an animal, needs to obtain a No Objection Certificate from the Animal Welfare Board of India as pre-requisite for certification from the Central Board for Film Certification.

Pursuant to this judgment, the Ministry of Information and Broadcasting (through its Committee of Experts)¹ explains the current process as follows:

In consonance with the Prevention of Cruelty to Animals Act, 1960 and Performing Animals (Registration) Rules, 2001 and also Bombay High Court Judgement in WP No. 2490/2004, PETA Vs. UoI & Ors. Dated 22.08.2005, CBFC Section 5 B of the Cinematograph Act, 1952 prescribes principles for guidance in certifying films. The guidelines issued thereunder, stipulates among other things, the following in respect of use of animals in films – requires the applicants to furnish a No Objection Certificate (NOC) from the AWBI for certification of films in which performing animals have been used. AWBI is a statutory and advisory body under the Ministry of Environment & Forests.

Sub Rule 3 (bb) of Rule 21 (3) introduced in 1997 of the Cinematograph (Certification) Rules, 1983 stipulates:

"Every such application shall be accompanied by

A declaration made in writing by the producer of the film declaring that no cruelty was caused to the animals used during shooting of the films produced in India "

¹ https://mib.gov.in/sites/default/files/REPORT_OF_COMMITTEE_OF_EXPERTS_-_Phase_II.pdf

“Scenes showing cruelty to or abuse of, animals are not presented needlessly ” . For issuing a NOC, AWBI screens the submitted application in two stages under “Performing Animal (Registration) Rules, 2001

Stage 1- Pre-shooting Permission: -

The applicant has to apply in a prescribed format, giving details of the story line, sequences where animals are to be used, complete justification for using animals, fitness certificate and relevance of using animal for obtaining pre-shoot permission.

Stage 2 - No Objection Certificate (NOC): -

After obtaining the pre-shoot permission, the applicant has to adhere to the conditions/guidelines and after completion of the shooting of the film, the producer has to send two CDs of the film to AWBI for viewing.

Based upon the screening report, AWBI either issues or denies a NOC to the applicant.

The AWBI has at present an office only at Chennai which puts the producers from other parts of the country to hardship and difficulty in getting the NOC. The Committee was of the view that there is a need to bring about further clarity and simplification of the process to allow film producers the operational flexibility that is critically required in any film project. Besides, a better and comprehensive definition of “performing animals” is needed.

2. Shri. Ajay Madhusudan Marathe Vs. New Sarvodaya Cooperative Housing Society Ltd.

(Maharashtra State Consumer Disputes Redressal Commission; decided on 25 November, 2008)

Open Source Link:

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=2ahUKEWjuivuJlc3iAhUS4HMBHaoJA0kQFjABegQIAxAC&url=https%3A%2F%2Fjaagrutiindia.files.wordpress.com%2F2010%2F08%2Fshimu-consumer-court.doc&usg=AOvVaw2Wx341EIGN6Nr5KTqas7kW>

SUMMARY:

The Consumer Court ruled in favour of a resident who complained that the cooperative housing society in which he resided had passed a resolution preventing dogs from making use of the building's lifts. The society passed this resolution on the basis that the dog was not a consumer and his usage of the lift could result in the spread of diseases and hence could be disallowed from using the society's facilities. To this, the Court declared that the owner, being a member of the cooperative housing society, was a consumer and hence, was well within his rights to bring his complaint to the Consumer Court. In addition, the dog bore a valid Kennel Club of India licence, was registered with the Municipal Corporation and had been issued a Health Certificate by the Bombay Veterinary College. This ruling reiterated that residents couldn't be prevented from having pets and those pets were not to be banned from using lifts.

On the point of whether or not the dog can be said to be a "consumer" within the definition provided under the Consumer Protection Act 1986, the Consumer Court noted in the negative as follows:

"It is pertinent to address the objections raised by the Society. As per society, it is out of purview of this forum as Dog is not a consumer of the society, as no separate charges are levied by society. Complainant is defaulter. The forum is of the view that society is registered co op housing society, and that complainant is member of the society. He pays the Maintenance charges to society. If the complainant is defaulter, the society is free and has recourse to act so as to recover the amount. But as a member of the co op society, the complainant is definitely eligible to lodge a complaint with this forum regarding deficiency in service & he is consumer of the society as per section 2 (1) (d) of the consumer protection act. In this matter, whether the dog is a consumer of the society is not a pertinent point, and only the point to be checked is whether the complainant is consumer of the society. Hence the arguments put forward by the society are being rejected since the forum does not find any substance in it."

However, it nonetheless noted the characteristics of the particular dog in question as follows:

“On merits, forum has observed that the complainant is a resident of the building for a long time. The society is registered in 1982. Complainant has valid license for the dog issued by the Navi Mumbai Municipal Corporation. The dog is staying in this building with the complainant for the last 11 years. The dog is now old & is suffering with osteoarthritis. Complainant stays on top floor of the society & hence it is very difficult for the dog to use the stair case. Complainant has attached a certificate from the Bombay veterinary college dated 16/6 /2008 along with his complaint. This certificate states the following very clearly “...on clinical examination he is apparently healthy except he has acrylic dermatitis at the right metatarsal region (hind limb) wound at the left elbow. However he has no infections or contagious disease and is fit to keep at home. Since the dog is aged 11 years and having osteoarthritis he should be allowed to use lift of society. He has already been vaccinated against Antirabies, DHLPPi Corona which are valid upto May 2009 ...”

Further, the Consumer Court adopted a sympathetic view of the dog in question with the following observations and directions to the housing society:

“Taking into consideration the age & health of the dog, the complainant must be allowed to use the lift for the dog. But the society without any justifiable reasons prevented the complainant from using the lift for his dog. Even after getting the certificate about dog ’ s health from the authorities the society refused to allow the lift to be used for the movement of the dog. The forum feels this is deficiency in service by the society as per section 2(1) (g) of the consumer protection act. Society must allow the lift to be used for the movement of dog henceforth. Complainant should use the lift of the society for the movement his dog when no other person other than his family member is present in the lift. In case the dog urinates and/or dirties the premises of the society in any manner the responsibility of cleaning up will be with the complainant.”

It also ordered the payment of compensation as follows:

“An old dog could not use the lift of the society. Complainant & his family went thru mental agony & suffered. Since the deficiency in service by the society is responsible for this suffering , complainant is entitled to get Rs. 3,000/- compensation from the society. Not only that but since the society did not look into the complaint of the complainant properly, the complainant had to approach the forum. He had to take help of a lawyer. The forum feels the complainant is entitled to get Rs. 2,000/- towards legal expenses from the society.”

3. Ozair Hussain Vs. Union of India

(High Court of Delhi; decided on 13 November, 2002)

Open Source Link: <https://indiankanoon.org/doc/295123/>

Citations: AIR 2003 Delhi 103, 101 (2002) DLT 229

SUMMARY: Taking cognizance of the freedom of expression as enshrined in Article 19(1) of the Constitution of India as well as Article 10(2) of the International Covenant on Civil and Political Rights (ICCPR), the Delhi High Court declared that the packaging of products including food, drugs (except those that are life-saving) and cosmetics must contain information regarding the items' vegetarian or non-vegetarian origins. Any article of food that contains whole or part of an animal, but not including milk or milk products as an ingredient, must be identified by a brown circle within a square outline. Likewise, all vegetarian food is to be identified by the presence of a green circle within a green square outline. The rationale behind this judgement was that a citizen's freedom of expression also extended to his/her food choices and hence, this ruling would enable citizens to make informed choices about the products they consume.

From the standpoint of *locus standi* (a technical doctrine employed to determine who can approach a court to avail a legal remedy) in a Public Interest Litigation, the following observations of the Court about the petitioner are relevant:

"The petitioner claims to be an animal welfare volunteer and a member of several animal welfare organisations. He is also stated to be a conscientious objector to be consumption and use of animals and their derivatives for food, cosmetics and drugs. It has been highlighted in the petition that more than 60% of the people of this country are vegetarians and over 50% of them are illiterate and large number of them cannot read or write English. It is urged by the learned counsel for the petitioner that there should be complete disclosure of constituents of cosmetics and food products and that such products should bear an easily recognisable symbol conveying the origin or ingredients of the products, whether vegetarian or non-vegetarian, so that both literate or illiterate consumers can make an informed choice before selecting the products. He pleads that Articles 19(1)(a), 21, 25 of the Constitution as also the Preamble to the Constitution mandates disclosure of information."

The Court ruled as follows:

"In so far as food products are concerned, adequate provisions have been made for informing the consumers as to whether or not the article of food is vegetarian or non-vegetarian. As regards drugs and cosmetics, necessary amendments have not been

made in the relevant statutes. In so far as a life saving drug is concerned, there is a view point that the information: whether or not it is derived or manufactured, wholly or partly, from an animal, should not be disclosed since it is meant to fight disease and save life. In other words, a patient, who is suffering from serious ailment, which can be fatal if a life saving drug is not administered to him, need not be informed in his own interest as to whether or not the drug contains part of any animal as it is conducive to preservation of life and, therefore, in tune with Article 21 of the Constitution. this also means that he should not have a choice in the matter of administering life saving drug to him. In many cases patients are unconscious and they have to be put on life saving drugs. In any event they cannot exercise an informed choice in the matter of selection of such drugs. In the circumstances, therefore, the aforesaid view must prevail in case of life saving drugs. This limited exception will apply only to life saving drugs. It needs to be clarified that all drugs do not qualify for being treated as life saving drugs. Drugs which are not life saving drugs must stand at par with the food products and in case they are derived from animals, whether in whole or in part, the consumers must be informed. ”

After this judgment,² the Food Safety and Standards Authority of India (FSSAI) provides for separate packaging and labeling regulations known as Food Safety and Standards (Packaging and Labeling) Regulations, 2011 (hereinafter referred to as the "**Packaging and Labeling Regulations**") which lay down the statutory and regulatory requirements for packaging and labeling of products. A plain reading of the Packaging and Labeling Regulations, show that there are different kinds of products: Pre-packaged, Proprietary and other specific products as mentioned in the regulations.

Regulation 2.12 of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 defines "*proprietary food*" as food that has not been standardized under these regulations. Regulation 1 (8) of the Packaging and Labeling Regulations defines "*prepackaged*" or "*pre-packed food*", as food, which is placed in a package of any nature, in such a manner that the contents cannot be changed without tampering it and which is ready for sale to the consumer.

The **Packaging and Labelling Regulations** provide the general requirements for labeling of food products prescribed under the FSSA, as follows:

- i. The particulars of declaration required under these Regulations to be specified on the label shall be in English or Hindi in Devnagri script: Provided that nothing herein

² See India: Laws Governing The Food Industry In India - Revisited

Last Updated: 13 June 2013

Article by Vinay Vaish, Partner, Vaish Associates Advocates and Urmi Chudgar, Associate, Vaish Associates

Advocates <http://www.mondaq.com/india/x/244880/food+drugs+law/Laws+Governing+The+Food+Industry+In+India+Revisited>

- contained shall prevent the use of any other language in addition to the language required under this regulation.
- ii. Pre-packaged food shall not be described or presented on any label or in any manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character in any respect;
 - iii. Label in pre-packaged foods shall be applied in such a manner that they will not become separated from the container;
 - iv. Contents on the label shall be clear, prominent, indelible and readily legible by the consumer under normal conditions of purchase and use;
 - v. Where the container is covered by a wrapper, the wrapper shall carry the necessary information or the label on the container shall be readily legible through the outer wrapper and not obscured by it.

In addition to these general requirements specified above, every package of food shall also carry the following information on the label: (i) name of the food; (ii) list of ingredients; (iii) nutritional information; (iv) **declaration regarding veg. and non-veg**; (v) declaration regarding food additives; (vi) name and complete address of the manufacturer; (vii) net quantity; (viii) lot/code/batch identification; (ix) date of manufacturing or packing; (x) best before and use by date; (xi) country of origin for imported food; and (xii) instructions for use.

4. State of U.P Vs. Mustakeem and Ors.

SUMMARY:

In the state of Uttar Pradesh, in a case where goats were found to be transported for slaughter in a cruel manner (they were tightly bound to each other, which was against the provisions of the Prevention of Cruelty to Animals Act, 1960), an FIR was filed against the owner. However, the UP High Court returned custody of the animals to the owner while the matter was under litigation. On appeal, the Hon' ble Supreme Court declared that the animals were supposed to be confiscated from the owner and housed in a *gaushala*, under the care of the state government who was given their charge for the duration of the case. With this ruling, the Court made it amply clear that once an animal was removed from a person's care on grounds of cruelty to his/her charge, the animal would not be returned until the case was resolved.

5. Gauri Maulekhi Vs. Union of India and Ors

(Supreme Court of India; order dated 13th July 2015)
[W.P. (Civil) No. 881 of 2014]

Gauri Maulekhi approached Supreme Court in 2014 for banning illegal Trans boundary smuggling of cattle to Gadhimai Temple in Nepal for animal sacrifice. Senior Advocate Anand Grover, who appeared for Gauri Maulekhi brought the court's attention to India's Export – Import policy under the Foreign Trade (Development and Regulation) Act, 1992 which categorically place live cattle and buffalos in the restricted category of exports requiring a licence to legally export them. He further stated that this was being totally flouted as most of the animals were transported illegally through porous border without an export license. Bench consisting of Justice Jagdish Khehar and Justice Arun Misra passed the following interim order on 17/10/ 2014:

“Our attention has been drawn to Section 5 of the Foreign Trade (Development and Regulation) Act, 1992, which authorises the Central Government to formulate the export/import policy. It is submitted that such an export policy has indeed been formulated by the Government whereunder in Schedule-2 at serial no.10 of Table-B insofar as live cattle and buffaloes are concerned, their export is restricted. Only export of live cattle and buffaloes are permitted under licence. In view of the above, we direct the respondents to ensure that no live cattle and buffaloes are exported out of India into Nepal, but under licence.”

In 2015 and 2016, the Supreme Court issued further directions asking the government to frame guidelines to prevent animals from the being smuggled out of India. The government obliged and brought out the The Draft Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017 were finally notified on 23rd May, 2017, with the Ministry noting as follows:

“It may be recalled that in the case before the Hon'ble Supreme Court of India in W.P. (Civil) No. 881 of 2014 filed by Gauri Maulekhi versus Union of India and others, the Apex Court passed an order dated 13th July, 2015 to frame guidelines to prevent animals from the being smuggled out of India for the Gadhimai Festival held in Nepal where large scale animals sacrifices took place. The Supreme Court had constituted a Committee under the Chairmanship of DG, Sahastra Seema Bal (SSB) and some suggestions were made by them, including measures to curb trans-boundary smuggling of cattle. The Supreme Court also inter alia directed that rules with regard to Livestock Market and Case Property animals also be notified. On 12th July, 2016 the Hon'ble Supreme Court by the way of a final order directed this Ministry to frame rules under Section 38 of the Prevention of Cruelty to Animals, 1960.”

Of this issue, Dr. B Balagopal notes as follows:

“The joint settlement proposal which was accepted by the Supreme Court on 13th July 2015 was formulated only in consultation with respondents in W.P. (Civil) No. 881 of 2014. Most of those respondents are states bordering to Nepal and Bangladesh. It is

strange that joint proposals formulated to curb trans-boundary smuggling of cattle is used for regulating the animal markets in the country. The Supreme Court has issued no directions to take steps to prevent ban of cattle sale for slaughter. That issue was not at all considered by Court. The directions of the Apex Court were to take steps to curb trans border smuggling of cattle. It is unfortunate that such directions are misinterpreted to justify the provisions in the Rules which impose ban of cattle sale in animal markets for slaughter.”³

6. Nair, N.R. and Ors. Vs. Union of India and Ors

(Supreme Court of India; decided on 1 May, 2001)

Open Source Link: <https://indiankanoon.org/doc/462988/>

Citation: 2001 (3) SCR 353

SUMMARY: The Kerala High Court upheld a notification by the Ministry of Environment and Forests stating that bears, monkeys, tigers, panthers and lions shall not be exhibited or trained as performing animals. When the notification was challenged in the Supreme Court, the court declared that animals suffer cruelty as they are abused and caged to make them perform, and therefore, this contravenes the PCA Act, 1960. It also dismissed the argument that the petitioners' right to carry out any trade or business under article 19(g) of the Indian Constitution was violated as those activities that caused pain and suffering to the aforementioned animals would not be allowed.

The main challenge in these appeals by special leave from the judgment of the Kerala High Court is to the validity of Section 22 of the Prevention of Cruelty to Animals Act, 1960 (for short "the Act") and the Notification issued under Section 22 to the effect that no person shall train or exhibit any animals specified therein, namely, bears, monkeys, tigers, panthers and lions. Briefly stated the facts are that on 2nd March, 1991 a Notification under Section 22 was issued banning training and exhibition of bears, monkeys, tigers, panthers and dogs. This Notification was challenged by the Indian Circus Federation before the High Court of Delhi. After the issuance of the Notification, a corrigendum was issued whereby dogs were excluded from the said Notification. Thereafter by an order dated 21st August, 1997, a Division Bench of the Delhi High Court required the Government of India to have a fresh look into the Notification after taking into account materials placed before it by the petitioners therein and other authorities.

A Committee was constituted by the Government of India consisting of Additional Inspector General (Wildlife), Director, Wildlife Institute of India, Member Secretary, Central Zoo Authority, Additional IGF (Retd.) and Director, Animal Welfare. The said Committee gave a detailed Report and in pursuance thereto the impugned Notification dated 14th October, 1998 was issued under Section 22 whereby exhibition and training of bears, monkeys, tigers, panthers and lions was prohibited.

The said Notification was challenged by filing a writ petition in the Kerala High Court and by the impugned judgment dated 6th June, 2000, the High Court has upheld the validity of the said Notification.

HELD: We agree with the decision of the High Court that in exercise of judicial review neither the High Court nor this Court can go into the correctness of the decision of the Government in issuing the impugned Notification. We are not satisfied that the Government acted irresponsibly or did not take into consideration the relevant materials which were available to it. A High Powered Committee had been constituted under the directions of the High Court, that Committee looked into all the evidence which was placed before it and the High Court has referred

to extracts thereof which shows the manner in which the animals are trained or ill-trained. We need not make any further observations in respect thereof except to hold that we are satisfied that the impugned Notification is within the parameters of the Prevention of Cruelty to Animals Act, 1960.

7. Animal Welfare Board of India Vs. A Nagaraja and Ors

(Supreme Court of India; decided on 7 May, 2014)

Open Source Link: <https://indiankanoon.org/doc/39696860/>

SUMMARY: When the Supreme Court banned the practice of *Jallikattu* in 2014, it alluded to various sections of the PCA Act, 1960, which addresses unnecessary suffering of animals. Alluding to Section 3 and Section 11, the Hon' ble Court declared that all animal fights incited by humans are illegal, even those carried out under the guise of tradition and culture. The Court also listed various recommendations, among them an overhaul of the penalties and punishments in the PCA Act, 1960, so as to allow it to function effectively as a deterrent in cases related to animal cruelty.

The Supreme Court here was concerned with an issue of seminal importance with regard to the Rights of Animals under our Constitution, laws, culture, tradition, religion and ethology, which we have to examine, in connection with the conduct of Jallikattu, Bullock-cart races etc. in the States of Tamil Nadu and Maharashtra, with particular reference to the provisions of the Prevention of Cruelty to Animals Act, 1960 (for short 'the PCA Act'), the Tamil Nadu Regulation of Jallikattu Act, 2009 (for short "TNRJ Act") and the notification dated 11.7.2011 issued by the Central Government under Section 22(ii) of the PCA Act.

ABWI, a statutory Board, established under Section 4 of the PCA Act for the promotion of animal welfare and for the purpose of protecting the animals from being subjected to unnecessary pain or suffering has taken up a specific stand that Jallikattu, Bull/Bullock-cart races etc., as such, conducted in the States of Tamil Nadu and Maharashtra respectively, inherently violate the provisions of the PCA Act, particularly, Section 3, Sections 11(1)(a) & (m) and Section 22 of the PCA Act. ABWI, through its reports, affidavits and photographs, high-lighted the manner in which Jallikattu is being conducted, especially in the Southern Part of the State of Tamil Nadu, and how the bulls involved are physically and mentally tortured for human pleasure and enjoyment. ABWI has taken up the stand that, by no stretch of imagination, it can be gainsaid that Jallikattu or Bullock-cart race conducted, as such, has any

historical, cultural or religious significance, either in the State of Tamil Nadu or in the State of Maharashtra and, even assuming so, the welfare legislation like PCA Act would supersede the same, being a Parliamentary legislation. ABWI has also taken up the specific stand that the bulls involved in Jallikattu, Bullock-cart race etc. are not “performing animals” within the meaning of Sections 21 and 22 of the PCA Act and that the MoEF, in any view, was justified in issuing the notification dated 11.7.2011 banning the exhibition of Bulls or training them as performing animals on accepting the stand taken by it before this Court. Further, it has also taken up the stand that the TNRJ Act is repugnant to the provisions of the PCA Act and the rules made thereunder and State cannot give effect to it in the absence of the assent of the President under Article 254 of the Constitution of India. Further, ABWI also submits that the Bulls which are forced to participate in the race are subjected to considerable pain and suffering, which clearly violates Section 3 and Sections 11(1)(a) & (m) of the PCA Act read with Article 51A(g) and Article 21 of the Constitution of India and hence exhibition or training them as performing animals be completely banned.

On the other hand, organizers of Jallikattu and Bullock-cart races, individually and collectively, took up the stand that these events take place at the end of harvest season (January and February) and sometimes during temple festivals which is traditionally and closely associated with village life, especially in the Southern Districts of the State of Tamil Nadu. Organizers of Bullock-cart races in the State of Maharashtra also took the stand that the same is going on for the last more than three hundred years by way of custom and tradition and that extreme care and protection are being taken not to cause any injury or pain to the bullocks which participate in the event. Organizers also submitted that such sport events attract large number of persons which generates revenue for the State as well as enjoyment to the participants. Further, it was also stated that no cruelty is meted out to the performing bulls in Bullock-cart races so as to violate Section 11(1)(a) of the PCA Act and the District Collector, Police Officials etc. are always on duty to prevent cruelty on animals. Further, it is also their stand that the sport events can only be regulated and not completely prohibited and the State of Tamil Nadu has already enacted the TNRJ Act, which takes care of the apprehensions expressed by the Board.

The Court observed that it had to examine the various issues raised in this case, primarily keeping in mind the welfare and the well-being of the animals and not from the stand point of the Organizers, Bull tamers, Bull Racers, spectators, participants or the respective States or the Central Government, since we are dealing with a welfare legislation of a sentient- being, over which human-beings have domination and the standard we have to apply in deciding the issue on hand is the “Species Best Interest” , subject to just exceptions, out of human necessity.

On the legislative history of animal laws, the Court observed as follows:

“The PCA Act, 1960 was enacted even before the introduction of Part IV-A dealing with the fundamental duties, by the Constitutional 47th Amendment Act, 1956. Earlier, the then British in India enacted the Prevention of Cruelty Act, 1890 for the human beings to reap maximum gains by exploiting them with coercive methods with an idea that the very existence of the animals is for the benefit of the human beings. During the course of administering the above mentioned Act, many deficiencies were noticed by

the Government of India and a Committee was constituted to investigate and suggest measures for prevention of cruelty to animals. Following that, a Bill was introduced in the Parliament and, ultimately, the PCA Act, 1960 was enacted so as to prevent the infliction of unnecessary pain or suffering on animals and to amend the law relating to prevention of cruelty to animals...PCA Act is a welfare legislation which has to be construed bearing in mind the purpose and object of the Act and the Directive Principles of State Policy. It is trite law that, in the matters of welfare legislation, the provisions of law should be liberally construed in favour of the weak and infirm. Court also should be vigilant to see that benefits conferred by such remedial and welfare legislation are not defeated by subtle devices. Court has got the duty that, in every case, where ingenuity is expanded to avoid welfare legislations, to get behind the smoke-screen and discover the true state of affairs. Court can go behind the form and see the substance of the devise for which it has to pierce the veil and examine whether the guidelines or the regulations are framed so as to achieve some other purpose than the welfare of the animals. Regulations or guidelines, whether statutory or otherwise, if they purport to dilute or defeat the welfare legislation and the constitutional principles, Court should not hesitate to strike them down so as to achieve the ultimate object and purpose of the welfare legislation. Court has also a duty under the doctrine of parents patriae to take care of the rights of animals, since they are unable to take care of themselves as against human beings."

The Court also recognised the peculiarity of the physiology of bulls and observed as follows:

"All animals are not anatomically designed to be performing animals. Bulls are basically Draught and Pack animals. they are live-stock used for farming and agriculture purposes, like ploughing, transportation etc. Bulls, it may be noted, have been recognized as Draught and Pack animals in the Prevention of Cruelty to Draught and Pack Animals Rules, 1965. Draught means an animal used for pulling heavy loads. Rules define large bullock to mean a bullock the weight of which exceeds 350 Kgs. Bullocks have a large abdomen and thorax and the entire body has a resemblance to a barrel shape, which limits ability to run. Bulls have also limitations on flexing joints and the rigid heavily built body and limited flexion of joints do not favour running faster. Due to that body constitution, the Prevention of Cruelty to Animals (Transportation of Animals on Foot) Rules, 2001, especially Rule 11 says that no person shall use a whip or a stick in order to force the animal to walk or to hasten the pace of their walk. Bulls, it may be noted, are cloven footed (two digits) animals and two digits in each leg can comfortably bear weight only when they are walking, not running. Horse, on the other hand, is a solid hoofed plant-eating quadruped with a flowing mane and tail, domesticated for riding and as a draught animal. Horse power, we call it as an imperial unit of power, equal to 550 foot-pounds per second. Horse's anatomy enables it to make use of speed and can be usefully used for horse racing etc., unlike Bulls."

The Court also took note of international approach to animal welfare (paragraphs 47-64 as follows):

“47. We may, at the outset, indicate unfortunately, there is no international agreement that ensures the welfare and protection of animals. United Nations, all these years, safeguarded only the rights of human beings, not the rights of other species like animals, ignoring the fact that many of them, including Bulls, are sacrificing their lives to alleviate human suffering, combating diseases and as food for human consumption. International community should hang their head in shame, for not recognizing their rights all these ages, a species which served the humanity from the time of Adam and Eve. Of course, there has been a slow but observable shift from the anthropocentric approach to a more nature’ s right centric approach in International Environmental Law, Animal Welfare Laws etc. Environmentalist noticed three stages in the development of international environmental law instrument, which are as under:

(a) The First Stage: Human self-interest reason for environmental protection

- The instruments in this stage were fuelled by the recognition that the conservation of nature was in the common interest of all mankind.

- Some the instruments executed during this time included the Declaration of the Protection of Birds Useful to Agriculture (1875), Convention Designed to Ensure the Protection of Various Species of Wild Animals which are Useful to Man or Inoffensive (1900), Convention for the Regulation of Whaling (1931) which had the objective of ensuring the health of the whaling industry rather than conserving or protecting the whale species.

- The attitude behind these treaties was the assertion of an unlimited right to exploit natural resources - which derived from their right as sovereign nations.

(b) The Second Stage: International Equity

- This stage saw the extension of treaties beyond the requirements of the present generation to also meet the needs to future generations of human beings. This shift signalled a departure from the pure tenets of anthropocentrism.

- For example, the 1946 Whaling Convention which built upon the 1931 treaty mentioned in the preamble that “it is in the interest of the nations of the world to safeguard for future generations the great natural resource represented by the whale stocks” . Similarly, the Stockholm Declaration of the UN embodied this shift in thinking, stating that “man bears a solemn responsibility to protect and improve the environment for present and future generations” and subsequently asserts that “the natural resources of the earth must be safeguarded for the benefit of present and future generations through careful planning and management” . Other documents expressed this shift in terms of sustainability and sustainable development.

(c) The Third Stage: Nature' s own rights

- Recent Multinational instruments have asserted the intrinsic value of nature.

- UNEP Biodiversity Convention (1992) "Conscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, educational, cultural, recreational and aesthetic values of biological diversity and its components [we have] agreed as follows:....." . The World Charter for Nature proclaims that "every form of life is unique, warranting respect regardless of its worth to man." The Charter uses the term "nature" in preference to "environment" with a view to shifting to non-anthropocentric human-independent terminology."

48. We have accepted and applied the eco-centric principles in T. N. Godavarman Thirumulpad v. Union of India and Others (2012) 3 SCC 277, T. N. Godavarman Thirumulpad v. Union of India and Others (2012) 4 SCC 362 and in Centre for Environmental Law World Wide Fund - India v. Union of India and Others (2013) 8 SCC 234.

49. Based on eco-centric principles, rights of animals have been recognized in various countries. Protection of animals has been guaranteed by the Constitution of Germany by way of an amendment in 2002 when the words "and the animals" were added to the constitutional clauses that obliges 'state' to respect 'animal dignity' . Therefore, the dignity of the animals is constitutionally recognised in that country. German Animal Welfare Law, especially Article 3 provides far-reaching protections to animals including inter alia from animals fight and other activities which may result in the pain, suffering and harm for the animals. Countries like Switzerland, Austria, Slovenia have enacted legislations to include animal welfare in their national Constitutions so as to balance the animal owners' fundamental rights to property and the animals' interest in freedom from unnecessary suffering or pain, damage and fear.

50. Animals Welfare Act of 2006 (U.K.) also confers considerable protection to the animals from pain and suffering. The Austrian Federal Animal Protection Act also recognises man' s responsibilities towards his fellow creatures and the subject "Federal Act" aims at the protection of life and well being of the animals. The Animal Welfare Act, 2010 (Norway) states "animals have an intrinsic value which is irrespective of the usable value they may have for man. Animals shall be treated well and be protected from the danger of unnecessary stress and strain. Section 26 of the Legislation prohibits training an animal to fight with people, the operative portion of the same reads as follows :

"Any person who trains animals and who uses animals which are used for showing, entertainment and competitions, including those who organise such activities, shall ensure that the animals:

a) xxx xxx xxx

b) xxx xxx xxx

c) xxx xxx xxx

(d) are not trained for or used in fights with other animals or people.”

51. When we look at the rights of animals from the national and international perspective, what emerges is that every species has an inherent right to live and shall be protected by law, subject to the exception provided out of necessity. Animal has also honour and dignity which cannot be arbitrarily deprived of and its rights and privacy have to be respected and protected from unlawful attacks.

52. Universal Declaration of Animal Welfare (UDAW) is a campaign led by World Society for the Protection of Animals (WSPA) in an attempt to secure international recognition for the principles of animal welfare. UDAW has had considerable support from various countries, including India. WSPA believes that the world should look to the success of the Universal Declaration of Human Rights (UDHR) to set out what UDAW can achieve for animals. Five freedoms referred to in UDAW, which we will deal with in latter part of the judgment, find support in PCA Act and the rules framed thereunder to a great extent.

53. World Health Organization of Animal Health (OIE), of which India is a member, acts as the international reference organisation for animal health and animal welfare. OIE has been recognised as a reference organisation by the World Trade Organisation (WTO) and, in the year 2013, it has a total of 178 member countries. On animal welfare, OIE says that an animal is in good state of welfare if (as indicated by Scientific evidence) it is healthy, comfortable, well nourished, safe, able to express innate behaviour and if it is not suffering from unpleasant states such as pain, fear and distress.

FREEDOM:

54. Chapter 7.1.2 of the guidelines of OIE, recognizes five internationally recognized freedoms for animals, such as:

- i) freedom from hunger, thirst and malnutrition;
- ii) freedom from fear and distress;
- iii) freedom from physical and thermal discomfort;
- iv) freedom from pain, injury and disease; and
- v) freedom to express normal patterns of behaviour.

Food and Agricultural Organisation (FAO) in its “Legislative and Regulatory Options for Animal Welfare” indicated that these five freedoms found their place in Farm Welfare Council 2009 U.K. and is also called Brambell’ s Five Freedoms. These five freedoms, as

already indicated, are considered to be the fundamental principles of animal welfare and we can say that these freedoms find a place in Sections 3 and 11 of PCA Act and they are for animals like the rights guaranteed to the citizens of this country under Part III of the Constitution of India.

55. Animals are world-wide legally recognised as ‘property’ that can be possessed by humans. On deletion of Article 19(1)(f) from the Indian Constitution, right to property is more a fundamental right in India, this gives the Parliament more a leeway to pass laws protecting the rights of animals. Right to hold on to a property which includes animals also, is now only a legal right not a fundamental right. We have also to see the rights of animals in that perspective as well.

56. Rights guaranteed to the animals under Sections 3, 11, etc. are only statutory rights. The same have to be elevated to the status of fundamental rights, as has been done by few countries around the world, so as to secure their honour and dignity. Rights and freedoms guaranteed to the animals under Sections 3 and 11 have to be read along with Article 51A(g)(h) of the Constitution, which is the magna carta of animal rights.

COMPASSION:

57. Article 51A(g) states that it shall be the duty of citizens to have compassion for living creatures. In *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat and Others* (2005) 8 SCC 534, this Court held that by enacting Article 51A(g) and giving it the status of a fundamental duty, one of the objects sought to be achieved by Parliament is to ensure that the spirit and message of Articles 48 and 48-A are honoured as a fundamental duty of every citizen. Article 51A(g), therefore, enjoins that it was a fundamental duty of every citizen “to have compassion for living creatures”, which means concern for suffering, sympathy, kindness etc., which has to be read along with Sections 3, 11(1)(a) & (m), 22 etc. of PCA Act.

HUMANISM:

58. Article 51A(h) says that it shall be the duty of every citizen to develop the scientific temper, humanism and the spirit of inquiry and reform. Particular emphasis has been made to the expression “humanism” which has a number of meanings, but increasingly designates as an inclusive sensibility for our species. Humanism also means, understand benevolence, compassion, mercy etc. Citizens should, therefore, develop a spirit of compassion and humanism which is reflected in the Preamble of PCA Act as well as in Sections 3 and 11 of the Act. To look after the welfare and well-being of the animals and the duty to prevent the infliction of pain or suffering on animals highlights the principles of humanism in Article 51A(h). Both Articles 51A(g) and (h) have to be read into the PCA Act, especially into Section 3 and Section 11 of the PCA Act and be applied and enforced.

SPECIESISM:

59. Speciesism as a concept coined by Richard Ryder in his various works on the attitude to animals, like *Animal Revolution*, *Changing Attitudes towards Speciesism* (Oxford: Basil Blackwell, 1989), *Animal Welfare and the Environment* (London: Gerald Duckworth, 1992) etc. Oxford English Dictionary defines the term as “the assumption of human superiority over other creatures, leading to the exploitation of animals”. Speciesism is also described as the widespread discrimination that is practised by man against the other species, that is a prejudice or attitude of bias towards the interest of members of one’s own species and against those of members of other species. Speciesism as a concept used to be compared with Racism and Sexism on the ground that all those refer to discrimination that tend to promote or encourage domination and exploitation of members of one group by another. One school of thought is that Castism, Racism and Sexism are biological classification, since they are concerned with physical characteristics, such as, discrimination on the ground of caste, creed, religion, colour of the skin, reproductive role etc. rather than with physical properties, such as the capacity for being harmed or benefited.

60. We have got over those inequalities like Castism, Racism, Sexism etc. through Constitutional and Statutory amendments, like Articles 14 to 17, 19, 29 and so on. So far as animals are concerned, Section 3 of the Act confers right on animals so also rights under Section 11 not to be subjected to cruelty. When such statutory rights have been conferred on animals, we can always judge as to whether they are being exploited by human-beings. As already indicated, an enlightened society, of late, condemned slavery, racism, castism, sexism etc. through constitutional amendments, laws etc. but, though late, through PCA Act, Parliament has recognized the rights of animals, of course, without not sacrificing the interest of human beings under the Doctrine of necessity, like experiments on animals for the purpose of advancement by new discovery of physiological knowledge or of knowledge which will be useful for saving or for prolonging life or alleviating suffering or for combating any disease, whether of human beings, animals or plants and also destruction of animals for food under Section 11(3) of the PCA Act. Legislature through Section 28 also saved the manner of killing of animals in the manner prescribed by religions, those are, in our view, reasonable restrictions on the rights enjoyed by the animals under Section 3 read with Section 11(1). Evidently, those restrictions are the direct inevitable consequences or the effects which could be said to have been in the contemplation of the legislature for human benefit, since they are unavoidable. Further, animals like Cows, Bulls etc. are all freely used for farming, transporting loads etc., that too, for the benefit of human beings, thereby subjecting them to some pain and suffering which is also unavoidable, but permitted by the Rules framed under the PCA Act.

NON-ESSENTIAL ACTIVITIES:

61. We have, however, lot of avoidable non-essential human activities like Bullock-cart race, Jallikattu etc. Bulls, thinking that they have only instrumental value are intentionally used though avoidable, ignoring welfare of the Bulls solely for human pleasure. Such avoidable human activities violate rights guaranteed to them under Sections 3 and 11 of PCA Act. AWBI,

the expert statutory body has taken up the stand that events like Jallikattu, Bullock-cart race etc. inherently involve pain and suffering, which involves both physical and mental components, including fear and distress. Temple Grandin and Catherine Johnson, in their work on “Animals in Translation” say:

“The single worst thing you can do to an animal emotionally is to make it feel afraid. Fear is so bad for animals I think it is worse than pain. I always get surprised looks when I say this. If you gave most people a choice between intense pain and intense fear, they’ d probably pick fear.” Both anxiety and fear, therefore, play an important role in animal suffering, which is part and parcel of the events like Jallikattu, Bullock-cart Race etc..

RIGHT TO LIFE:

62. Every species has a right to life and security, subject to the law of the land, which includes depriving its life, out of human necessity. Article 21 of the Constitution, while safeguarding the rights of humans, protects life and the word “life” has been given an expanded definition and any disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, fall within the meaning of Article 21 of the Constitution. So far as animals are concerned, in our view, “life” means something more than mere survival or existence or instrumental value for human-beings, but to lead a life with some intrinsic worth, honour and dignity. Animals’ well-being and welfare have been statutorily recognised under Sections 3 and 11 of the Act and the rights framed under the Act. Right to live in a healthy and clean atmosphere and right to get protection from human beings against inflicting unnecessary pain or suffering is a right guaranteed to the animals under Sections 3 and 11 of the PCA Act read with Article 51A(g) of the Constitution. Right to get food, shelter is also a guaranteed right under Sections 3 and 11 of the PCA Act and the Rules framed thereunder, especially when they are domesticated. Right to dignity and fair treatment is, therefore, not confined to human beings alone, but to animals as well. Right, not to be beaten, kicked, over-ridder, over-loading is also a right recognized by Section 11 read with Section 3 of the PCA Act. Animals have also a right against the human beings not to be tortured and against infliction of unnecessary pain or suffering. Penalty for violation of those rights are insignificant, since laws are made by humans. Punishment prescribed in Section 11(1) is not commensurate with the gravity of the offence, hence being violated with impunity defeating the very object and purpose of the Act, hence the necessity of taking disciplinary action against those officers who fail to discharge their duties to safeguard the statutory rights of animals under the PCA Act.

63. Jallikattu and other forms of Bulls race, as the various reports indicate, causes considerable pain, stress and strain on the bulls. Bulls, in such events, not only do move their head showing that they do not want to go to the arena but, as pain is being inflicted in the vadivasal is so much, they have no other go but to flee to a situation which is adverse to them. Bulls, in that situation, are stressed, exhausted, injured and humiliated. Frustration of the Bulls is noticeable

in their vocalization and, looking at the facial expression of the bulls, ethologist or an ordinary man can easily sense their suffering. Bulls, otherwise are very peaceful animals dedicating their life for human use and requirement, but are subjected to such an ordeal that not only inflicts serious suffering on them but also forces them to behave in ways, namely, they do not behave, force them into the event which does not like and, in that process, they are being tortured to the hilt. Bulls cannot carry the so-called performance without being exhausted, injured, tortured or humiliated. Bulls are also intentionally subjected to fear, injury - both mentally and physically - and put to unnecessary stress and strain for human pleasure and enjoyment, that too, a species totally dedicated its life for human benefit, out of necessity.

64. We are, therefore, of the view that Sections 21, 22 of the PCA Act and the relevant provisions have to be understood in the light of the rights conferred on animals under Section 3, read with Sections 11(1)(a) & (o) and Articles 51A(g) and (h) of the Constitution, and if so read, in our view, Bulls cannot be used as a Performing Animals for Jallikattu and Bullock-cart Race, since they are basically draught and pack animals, not anatomically designed for such performances.”

DECISION: TNRJ Act, in its Objects and Reasons, speaks of ancient culture and tradition and also safety of animals, participants and spectators. PCA Act was enacted at a time when it was noticed that in order to reap maximum gains, the animals were being exploited by human beings, by using coercive methods and by inflicting unnecessary pain. PCA Act was, therefore, passed to prevent infliction of unnecessary pain or suffering and for the well-being and welfare of the animals and to preserve the natural instinct of the animal. Over-powering the performing animal was never in the contemplation of the PCA Act and, in fact, under Section 3 of the PCA Act, a statutory duty has been cast on the person who is in-charge or care of the animal to ensure the well-being of such animal and to prevent infliction on the animal of unnecessary pain or suffering. PCA Act, therefore, cast not only duties on human beings, but also confer corresponding rights on animals, which is being taken away by the State Act (TNRJ Act) by conferring rights on the organizers and Bull tamers, to conduct Jallikattu, which is inconsistent and in direct collision with Section 3, Section 11(1)(a), 11(1)(m)(ii) and Section 22 of the PCA Act read with Articles 51A(g) & (h) of the Constitution and hence repugnant to the PCA Act, which is a welfare legislation and hence declared unconstitutional and void, being violative of Article 254(1) of the Constitution of India.

The Court, therefore, held that AWBI was right in its stand that Jallikattu, Bullock-cart Race and such events were per se violate Sections 3, 11(1)(a) and 11(1)(m)(ii) of PCA Act and hence we uphold the notification dated 11.7.2011 issued by the Central Government, consequently, Bulls cannot be used as performing animals, either for the Jallikattu events or Bullock- cart Races in the State of Tamil Nadu, Maharashtra or elsewhere in the country. We, therefore, make the following declarations and directions:

- 1) We declare that the rights guaranteed to the Bulls under Sections 3 and 11 of PCA Act read with Articles 51A(g) & (h) are cannot be taken away or curtailed, except under Sections 11(3) and 28 of PCA Act.

- 2) We declare that the five freedoms, referred to earlier be read into Sections 3 and 11 of PCA Act, be protected and safeguarded by the States, Central Government, Union Territories (in short "Governments"), MoEF and AWBI.
 - 3) AWBI and Governments are directed to take appropriate steps to see that the persons-in-charge or care of animals, take reasonable measures to ensure the well-being of animals.
 - 4) AWBI and Governments are directed to take steps to prevent the infliction of unnecessary pain or suffering on the animals, since their rights have been statutorily protected under Sections 3 and 11 of PCA Act.
 - 5) AWBI is also directed to ensure that the provisions of Section 11(1)(m)(ii) scrupulously followed, meaning thereby, that the person-in-charge or care of the animal shall not incite any animal to fight against a human being or another animal.
 - 6) AWBI and the Governments would also see that even in cases where Section 11(3) is involved, the animals be not put to unnecessary pain and suffering and adequate and scientific methods be adopted to achieve the same.
 - 7) AWBI and the Governments should take steps to impart education in relation to human treatment of animals in accordance with Section 9(k) inculcating the spirit of Articles 51A(g) & (h) of the Constitution.
 - 8) Parliament is expected to make proper amendment of the PCA Act to provide an effective deterrent to achieve the object and purpose of the Act and for violation of Section 11, adequate penalties and punishments should be imposed.
 - 9) Parliament, it is expected, would elevate rights of animals to that of constitutional rights, as done by many of the countries around the world, so as to protect their dignity and honour.
 - 10) The Governments would see that if the provisions of the PCA Act and the declarations and the directions issued by this Court are not properly and effectively complied with, disciplinary action be taken against the erring officials so that the purpose and object of PCA Act could be achieved.
 - 11) TNRJ Act is found repugnant to PCA Act, which is a welfare legislation, hence held constitutionally void, being violative of Article 254(1) of the Constitution of India.
 - 12) AWBI is directed to take effective and speedy steps to implement the provisions of PCA Act in consultation with SPCA and make periodical reports to the Governments and if any violation is noticed, the Governments should take steps to remedy the same, including appropriate follow-up action.
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8. Narayan Dutt Bhatt Vs. Union of India & Ors

(High Court of Uttarakhand; decided on July 4, 2018)

Open Source Link: <http://lobis.nic.in/ddir/uhc/RS/judgement/07-07-2018/RS04072018WPPIL432014.pdf>

Citation: Writ Petition (PIL) No. 43 of 2014

Suggested Reading Material: <https://www.downtoearth.org.in/news/wildlife-biodiversity/uttarakhand-hc-order-declaring-animals-as-legal-entities-reflects-cultural-progress-experts-61036>

Judgement is regarding protection and welfare of animals. The petitioner had sought directions to the respondents to restrict the movement of horse carts/tongas from Nepal to India and from India to Nepal through Banbasa, District Champawat, Uttarakhand in India. Petitioner had prayed that there should be provisions for vaccination, medical check-up of the horses for suspected infections before entering into the Indian territory from Nepal and for regulating the traffic on the border areas.

Some of the major highlights of the Judgement of the Uttarakhand High Court are the following:

- a. The entire animal kingdom including avian and aquatic are declared as legal entities having a distinct persona with corresponding rights, duties and liabilities of a living person. All the citizens throughout the State of Uttarakhand are hereby declared persons in loco parentis as the human face for the welfare/protection of animals.
 - b. The State Government is directed to ensure the medical examination of all the animals including horses entering from Nepal to India as well as horses moving from Indian border to Nepal to check infectious and contagious diseases by setting the veterinary check-posts on the border.
 - c. The State Government is directed to ensure that throughout the State of Uttarakhand, that no person in charge of any vehicle drawn by any animal allows more than four persons, excluding the driver and children below 6 years of age to ride the vehicle.
 - d. The use of spike stick or bit, harness or yoke with spikes, knobs or projections or any other sharp tackle or equipment is banned throughout the State of Uttarakhand to avoid bruises, swelling, abrasions or severe pain to the animal.
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9. Shri Mata Vaishno Devi Shrine Vs. Gauri Maulekhi

(Supreme Court of India, decided on May 3, 2018)

Open Source Link: <https://indiankanoon.org/doc/89215464/>

An environment activist had moved the National Green Tribunal seeking directions to stop the use of horses and ponies in Vaishno Devi shrine premises in Jammu, prompting the green panel to seek response from the government on the issue. The green panel was hearing a plea by Gauri Maulekhi, who expressed concern over the “pollution and danger to public health” caused by indiscriminate use of horses, ponies, mules and donkeys, used to carry pilgrims and goods from Katra to the Vaishno Devi temple. The plea, filed through advocate Aditya Singla, sought directions to ensure that no equines (horses, ponies, mules and donkeys) are used in the region of the Vaishno Devi shrine. “The large number of growing pilgrims has a direct correlation to the increase in the use of equines employed to carry pilgrims and their luggage to and from the shrine during peak seasons such as Navratras and the holiday season... “ Consequently, large amounts of untreated solid and liquid waste generated by pilgrims are disposed directly into Banganga river. A large proportion of this waste is generated by the 15,000–20,000 horses, mules and ponies deployed to carry the pilgrims on the 14 km trail to the Mata Vaishno Devi temple,” the plea said. Maulekhi alleged that despite the local authorities’ knowledge that these animals are being used in very large numbers, “They have failed to make arrangements in and around the shrine for maintenance of these animals and ensuring that they are free of disease.”

After the NGT had ruled against the Jammu and Kashmir Government over the issue, the Vaishno Devi Shrine Board had appealed NGT’ s decision before the Supreme Court. In 2018, the Supreme Court had expressed its opinion in favour of rehabilitating ponies and suggesting the Shrine Board to levy nominal fee from pilgrims to be devoted to the care of ponies (which would entail an estimated cost of about two crore rupees).

10. Compassion Unlimited Plus Action Vs. Union of India & Ors

(Supreme Court of India; decided on January 12, 2016)

As early as 1500-600 BC in Isha-Upanishads, it is professed as follows:

“The universe along with its creatures belongs to the land. No creature is superior to any other. Human beings should not be above nature. Let no one species encroach over the rights and privileges of other species.”

In our view, this is the culture and tradition of the country, particularly the States of Tamil Nadu and Maharashtra.

The PCA Act has been enacted with an object to safeguard the welfare of the animals and evidently to cure some mischief and age old practices, so as to bring into effect some type of reform, based on eco-centric principles, recognizing the intrinsic value and worth of animals. All the same, the Act has taken care of the religious practices of the community, while killing an animal vide Section 28 of the Act.

When we look at the rights of animals from the national and international perspective, what emerges is that every species has an inherent right to live and shall be protected by law, subject to the exception provided out of necessity. Animal has also honour and dignity which cannot be arbitrarily deprived of and its rights and privacy have to be respected and protected from unlawful attacks.

The Universal Declaration of Animal Welfare (UDAW) is a campaign led by World Society for the Protection of Animals (WSPA) in an attempt to secure international recognition for the principles of animal welfare. UDAW has had considerable support from various countries, including India. WSPA believes that the world should look to the success of the Universal Declaration of Human Rights (UDHR) to set out what UDAW can achieve for animals. Five freedoms referred to in UDAW, which we will deal with in latter part of the judgment, find support in PCA Act and the rules framed thereunder to a great extent.

Article 51A(g) states that it shall be the duty of citizens to have compassion for living creatures. In *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat and Others* (2005) 8 SCC 534, this Court held that by enacting Article 51A(g) and giving it the status of a fundamental duty, one of the objects sought to be achieved by Parliament is to ensure that the spirit and message of Articles 48 and 48-A are honoured as a fundamental duty of every citizen. Article 51A(g), therefore, enjoins that it was a fundamental duty of every citizen “to have compassion for living creatures”, which means concern for suffering, sympathy, kindness etc., which has to be read along with Sections 3, 11(1)(a) & (m), 22 etc. of PCA Act. XXXXXXXX

Jallikattu and other forms of Bulls race, as the various reports indicate, causes considerable pain, stress and strain on the bulls. Bulls, in such events, not only do move their head showing that they do not want to go to the arena but, as pain is being inflicted in the vadivasal is so much, they have no other go but to flee to a situation which is adverse to them. Bulls, in that

situation, are stressed, exhausted, injured and humiliated. Frustration of the Bulls is noticeable in their vocalization and, looking at the facial expression of the bulls, ethologist or an ordinary man can easily sense their suffering. Bulls, otherwise are very peaceful animals dedicating their life for human use and requirement, but are subjected to such an ordeal that not only inflicts serious suffering on them but also forces them to behave in ways, namely, they do not behave, force them into the event which does not like and, in that process, they are being tortured to the hilt. Bulls cannot carry the so-called performance without being exhausted, injured, tortured or humiliated. Bulls are also intentionally subjected to fear, injury - both mentally and physically - and put to unnecessary stress and strain for human pleasure and enjoyment, that too, a species totally dedicated its life for human benefit, out of necessity.

Order dated 13.01.2016:

An application for intervention was allowed by the Court where there was a prayer seeking vacation of the order of stay dated 12.01.2016 passed in the writ petition. It is contended in the application that the Jallikattu is not a fight between bulls and humans but a game where the participants are required to embrace the running bulls by hanging on to their hump as long as possible; and they are unarmed. It is also put forth that the bulls are trained not to let the village youth clamber on to their humps and in no case they are led away by the owners afterwards. It is urged that Jallikattu is a socio-religious festival and not an entertainment and the people at various places in the State of Tamil Nadu have immense faith in the said festival for many a reason. Emphasis is laid on the culture of the State and the belief of the pastoral communities. In essence, it is urged that there is no cruelty meted out to the bulls in such a festival or game.

11. Society for Prevention of Cruelty to Animals (SPCA) Vs State of Kerala & Ors.
(Kerala High Court; decided on December 09, 2014)

The Society, established for prevention of cruelty to animals approached the Court seeking direction to respondents to ensure that the provisions of the Performing Animals (Registration) Rules, 2001 are enforced and implemented with regard to Captive Elephants used for rides. The petitioner also sought declaration that the action of the respondents in permitting Elephant Rides using Captive Elephants without taking registration under the Performing Animals

(Registration) Rules 2001 was arbitrary and illegal. It is submitted that the authorities failed to observe the above rules.

The Principal Chief Conservator of Forests for the Government of Kerala responded to the petitioner society's claims with an affidavit that the Court found to be satisfactory:

"With reference to the averments contained in paragraph 4 of the writ petition, it is submitted that the Captive Elephants are managed under the Kerala Captive Elephants (Management and Maintenance) Rules 2012. The 4th respondent, the Deputy Director, Periyar Tiger Reserve, Idukki does not maintain any departmental elephant. Ext.P1 was erected to avoid cheating of tourists by private owners of elephants. The rate fixed for elephant ride in G.O. (Rt) No.31/2013/F&WLD dt. 16/1/2013 (Ext.P2) is kept in abeyance till the departmental elephants are registered under the Performing Animals (Registration) Rules 2001 with the Animal Welfare Board of India. By letter dated 22/4/2014, the 2nd respondent directed the concerned officers to stop using of elephants under their jurisdiction as performing animals till the elephants are registered under the Performing animals (Registration) Rules, 2001. A true copy of the above letter dated 22/4/2014 of the 1st respondent is produced herewith and marked as Exhibit R2(e).

Noting that in paragraph 7 of the counter affidavit that the Kerala Forest and Wildlife Department has registered 160 cases relating to cruelty to elephants under the Kerala Captive Elephants (Management and Maintenance) Rules the Court found that the authorities seem to have been vigilant in the matter.

12. Animal Welfare Board of India Vs. People for the Elimination of Stray Dogs & Ors.

(Supreme Court of India; ordered on November 16, 2018)

About: <https://www.livelaw.in/sc-issues-notice-on-contempt-petition-against-ktaka-civic-body-killing-350-stray-dogs-read-petition/>

The Supreme Court issued notice on a contempt petition moved by an animal rights activist against the killing of 350 dogs by the municipal council in Sakaleshapura Town, Karnataka, in violation of a November, 2015 order of the apex court which expressly directed all municipal bodies to strictly follow the Prevention of Cruelty to Animals Act and the Animal Birth Control Rules providing against catching or dislocating stray dogs.

Broadly, the Supreme Court observed as follows:

“There can be no trace of doubt that there has to be compassion for dogs and they should not be killed in an indiscriminate manner, but indubitably the lives of the human beings are to be saved and one should not suffer due to dog bite because of administrative lapse...In course of hearing, learned counsel appearing for the petitioners, except the Animal Welfare Board, would pyramid their case on the plinth and foundation that the dogs, who have various uses for human society and have served the society for centuries and also have constitutional protection under Article 51A of the Constitution of India and the laws made, have to be taken care of. The resistance from the other side is that a bite by a stray dog creates menace in the society and in the name of compassion for dogs, the lives of human beings cannot be sacrificed.”

On 09.03.2016, after referring to the earlier order dated 18.11.2015 and various other aspects, the Supreme Court had expressed the following view:

“We will be failing in our duty if we do not make a note of the submissions of both the sides which are extreme in nature, for example, emphasis and stress have been laid that due to stray dogs, there has been threat to life, health, movement and sometimes security of the human beings. On the other hand, it has been highlighted that the stray dogs are being annihilated without any justifiable reason. As advised at present, we do not intend to say anything on the said counts today.”

The Court directed that the dogs which are required to be sterilized or vaccinated, the procedure shall be carried out in accordance with the Act and Rules and no organization shall create any kind of obstacle or impediment in the same. It shall be the obligation of the Board to oversee that this is being carried out and no obstructions are created in this regard from any quarter.

In pursuance of the aforesaid order dated 09.03.2016, the Animal Welfare Board has filed a module which takes note of various aspects. One aspect pertains to *"Implementation Framework for street dog population management, rabies eradication and reducing man-dog conflict"*. We think it appropriate to reproduce the same for the sake of completeness and so also to have future assistance. Therefore, it is reproduced hereunder:

The **Animal Birth Control (Dogs) Rules, 2001** prescribe the methodology for street dog population management, ensuring rabies eradication, and reduction in man-dog conflict based on scientific studies and recommendations of the World Health Organisation. However, the implementation of the Rules in most states has been observed to be inadequate, haphazard, and

poorly planned. The desired results have therefore not been achieved in such cases. The reasons for poor implementation have been cited to be, lack of required coordination between the centre and the state governments, and between local authorities, implementation agencies, and other stake-holders within the states. Most states have not created any budget head for animal birth control of street dogs. The grant given by the central government has always been inadequate, and has reduced even further in the past few years, to become negligible. Successfully conducting a viable animal birth control programme throughout the country is not possible in these circumstances. The shortage of resources has also led to huge cruelties being inflicted on the animals, and in increased conflict. In order to implement the Animal Birth Control (Dogs) Rules in letter and spirit, a water-tight implementation framework needs to be laid down and monitored by the Central Government and the Hon'ble Supreme Court of India from time to time.

STEP I: Creation of a Central Coordination Committee

It is recommended that a Central Coordination Committee for Street Dog Population control be set up to ensure seamless coordination between different stakeholders at the centre, and between the centre and the state governments. This will also help in clarifying the role that each stake-holder must play to ensure the successful conduct of the programme. Proposed structure of the Central Coordination Committee:

a) Chairperson: The Secretary, Ministry of Environment Forest and Climate Change, Government of India may be the Chairperson of the Central Coordination Committee.

b) Member Secretary: An officer of a rank equivalent to the Additional Secretary, Ministry of Health and Family Welfare, Government of India, may be the Member-Secretary as well as the nodal officer for coordinating the fund allocation to each state and union territory.

c) The following officials should be appointed as members of this committee: Additional Secretary, Department of Animal Husbandry Dairying and Fisheries, Ministry of Agriculture, Government of India

- Additional Secretary, Urban Development Ministry, Government of India
 - Additional Secretary, Ministry of Rural Development, Government of India
 - Chairperson, Animal Welfare Board of India
 - Chairperson, Veterinary Council of India
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- Representative of a prominent state animal welfare board actively engaged in animal birth control coordination in the state
 - Representative of a prominent animal welfare organization duly registered with the AWBI and actively engaged in the animal birth control programme in at least three states.

The Central Co-ordination Committee shall meet at least once in a quarter and as often as required to execute its functions. Functions of the Central Coordination Committee:

i) To create a consolidated pooled in fund sourced from the Ministry of Environment Forest and Climate Change, Ministry of Health and Family Welfare, Ministry of Agriculture, Ministry of Urban Development, and Ministry of Rural Development.

ii) To invite proposals in the form of detailed project reports from the state governments based on state-wide high throughput ABC programmes, where infrastructure is to be created by the state governments, and the fund for implementation of the programme will thereafter be provided by the central government on a per dog basis.

iii) To ensure that each state government creates a budget head for setting up infrastructure (i.e. ABC facilities/campuses and provisioning for ambulances for transportation of dogs) in the state.

iv) To set up a protocol for disbursement of funds to state governments whereby the programme can be implemented in a phase-wise seamless manner in each state, keeping in mind that rotating funds/buffer funds must also be provisioned for so that there is no hitch in the conduct of the programme on account of interrupted funding.

v) To determine the rate at which the ABC Implementing Agencies will be reimbursed for expenses incurred for ABC surgeries in each state, and to set mutually agreed upon targets for infrastructure creation, and the number of surgeries to be conducted in each state in a detailed phasewise manner. This rate shall be revised annually.

vi) To ensure that each state sets up a State Monitoring and Implementation Committee for animal birth control and review the performance and processes of each such committee, and give recommendations for effective implementation of the Animal Birth Control (Dogs) Rules, 2001.

vii) To submit annual progress reports to the Hon'ble Supreme Court regarding the progress of the ABC programme in each state.

STEP II: Creation of the State Monitoring and Implementation Committees

It is recommended that a State Monitoring and Implementation Committee be set up at the State/Union Territory level in all states and union territories across the country. Proposed Constitution of the State Monitoring and Implementation Committees:

a) Chairperson: The Secretary in-charge of the Urban Local Bodies (or equivalent in that state/union territory) may be the Chairperson of the State Monitoring and Implementation Committee.

b) Member Secretary: An officer holding the rank of a Director in the Department of Animal Husbandry (or equivalent) may be the Member Secretary as well as the nodal officer for implementing the program in each state and union territory.

c) The following officials should be appointed as members of this committee:

- Principal Secretary, Health Department
- Principal Secretary, Panchayat Raj
- Director, Urban Development Department (or equivalent)
- Representative of the Animal Welfare Board of India
- Representative of the State Animal Welfare Board
- Administrative heads of at least 2 municipal corporations, and representatives of at least 2 panchayats, and at least 2 municipal councils in that state or union territory
- Representative of an animal welfare organization registered with the AWBI that has conducted more than 5000 animal birth control surgeries per year and has been in existence for a minimum of 3 years
- One full time Program Manager to be deputed by the Animal Husbandry Department, not below the rank of Deputy Director, for coordination of the program between various stakeholders.

The State Monitoring and Implementation Committees shall meet at least once in a quarter and as often as required to execute their functions.

Functions of the State Monitoring and Implementation Committee:

i) The setting up of Animal Birth Control Monitoring Committees at the local authority levels as required by the Animal Birth Control (Dogs) Rules. (Please see Step III below for greater detail in this regard).

ii) Developing a comprehensive district wise plan (including but not limited to infrastructure, budget, etc, for dog population management in urban and rural areas throughout the state.)

iii) Enlisting ABC Implementing Agencies that can implement the comprehensive local authority/district-wise plan as per the Animal Birth Control (Dogs) Rules, are possessed of the requisite training and experience, and are duly recognized by the Animal Welfare Board of India. This may include the animal husbandry department of the State working in consultation with and the under the technical guidance of the AWBI, or animal welfare organisations recognized by the AWBI

iv) Where adequate ABC Implementing Agencies are not available, the State Monitoring and Implementation Committee shall set up a Special Purpose Vehicle (SPV) within the state animal husbandry department to act as the ABC Implementing Agency. In each such case the

ABC Implementing Agency will undergo training at an AWBI designated training establishment, and embark upon the program only once the training has been completed.

v) Ensuring that the requisite infrastructure is set up, and other capital costs (including but not limited to fully furnished ABC facilities/campuses with ambulances and equipment), and all other expenses for successfully running an animal birth control program, including manpower costs, are made available to the ABC Implementing Agencies from the local authorities, and reimbursed in a timely manner as required by Rule 6 of the Animal Birth Control (Dogs) Rules.

STEP III: Establishment of Animal Birth Control Monitoring Committees

The establishment of Animal Birth Control Monitoring Committees at local authority levels in accordance with Animal Birth Control (Dogs) Rules is indispensable for the success of the Animal Birth Control program. The constitution of the Monitoring Committee is provided for in Rule 4 of the Rules, and the functions that it is required to perform are provided for in Rule 5. Additionally, to implement the Rules in letter and spirit it is also necessary that the Monitoring Committees do the following:

i) Arrive at an estimate of the number of dogs within its territorial limits by conducting a census in the manner advised by the AWBI.

ii) Ensure development of the infrastructure required to execute the ABC program for the estimated number of dogs. In order to do this, detailed project reports shall have to be prepared and submitted to the State Monitoring and Implementation Committee and coordination established with the state government through the said Committee. The infrastructure shall be designed to conduct area-wise ABC, and in a phased way ensure that at least 70% dogs in the targeted area are sterilized and vaccinated against rabies before a new area is taken up. The infrastructure shall include, but not be limited to pre-operation preparation areas, Operation Theaters, post-op care, kennels, kitchen, store rooms for rations and medicines, parking area, residential rooms for veterinarians and attendants, quarantine wards, ambulances, etc.

STEP IV: Identification of ABC Implementing Agencies

The practice of tendering, i.e. inviting bids from interested ABC 'contractors', and awarding ABC 'contracts' to the lowest bidder being followed by many local authorities, has more often than not led to violations of the Rules and the Act. For instance, the lowest bidder may not be an organisation recognised by the AWBI, which is a mandatory requirement under the Animal Birth Control (Dogs) Rules. Furthermore, it has been widely observed that many competitive lowest bidders disregard best practices necessary to ensure the welfare of animals in their care, and fail to adhere to other essential requirements under the Rules in order to find profit margins within the lowest price. This in turn leads to significant pain and suffering being caused to the animals, and the success of the program being adversely impacted and jeopardized.

This module prescribes that the rate of sterilization per dog shall be fixed and reviewed annually by the Central Coordination Committee, thereby ensuring uniformity. Once this is done, an expression of interest may be sought with technical bid as sole criterion for selection of ABC Implementing Agencies for execution of the animal birth control program. Needless to state, the agency short-listed for implementation, must be thoroughly trained and recognized by the AWBI. The local authorities, whilst calling for an expression of interest, will ensure that the ABC Implementing Agencies entrusted with execution of the animal birth control program have an adequate number of trained veterinarians, para-vets, catchers and drivers. The staff of the ABC Implementing Agency should have obtained training from an AWBI recognised training establishment.

The ABC Implementing Agency must have been in existence for a minimum of 3 years. A Memorandum of Understanding shall be executed between the ABC Implementing Agency and either the local authority or the state government or both, as the State Monitoring and Implementation Committee decides.

Responsibilities of the local authorities in collaboration with ABC Implementing Agencies:

The ABC Implementing Agency shall be responsible for catching, transport, surgery, post-op care and release of the dogs. The local authority too may be involved in this process, but not without personnel deputed by the Implementing Agency to oversee the same, or participate in the concerned process. Additionally the ABC Implementing Agency shall devise a mechanism to deal with complaints received regarding man-dog conflict in a scientific, rational and humane manner. Additional expenses incurred for this purpose shall also be reimbursed by the local authority.

STEP V: Monitoring and Evaluation The process of monitoring shall include the following key aspects:

i) Keeping the estimated number of dogs as the baseline, the State Monitoring and Implementation Committee shall set targets for the required number dog sterilizations within specified periods, in each district comprised in the state. These targets shall be spelt out in the Memorandums of Understanding executed with the ABC Implementing Agencies. The State Monitoring and Implementation Committee shall then monitor the collaboration between local authorities and ABC Implementing Agencies to ensure that the targets are met, and any challenges to the same are smoothly overcome.

ii) The targets specified shall be binding on the local authority and the ABC Implementing Agency. The Animal Birth Control Monitoring Committee of the local authority shall ensure timely release of funds, and oversee that adequate infrastructure is created by the local authority so that targets are met. The expenses incurred by the ABC Implementing Agencies must be reimbursed every fortnight.

iii) The Animal Birth Control Monitoring Committee shall, through a team comprising of at least 3 (three) persons who may be its representatives or any other person/s authorized by it, conduct a weekly organ count of the operated dogs (ovaries and testes), and shall also scrutinize the records being maintained by the ABC Implementing Agency to assess compliance with the Animal Birth Control (Dogs) Rules, 2001, and adherence with provisions contained in this module.

iv) The Animal Birth Control Monitoring Committee shall meet at least once every month, to evaluate progress of the ABC program, and assess its impact. Impediments to the smooth conduct of the ABC program shall be discussed, and steps taken to remove the same.

To assess the impact of the ABC program in each targeted area, the Animal Birth Control Monitoring Committee may either undertake such assessment by itself, or through an independent agency. The following parameters shall be the guiding factors to assess impact:

- i. Lesser number of pups seen than previous years,
 - ii. Reduction in number of lactating females seen,
 - iii. Decrease in number of complaint calls,
 - iv. Decrease in number of dog bites cases reported,
 - v. Decrease in incidence of rabies.
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**13. Animal and Birds Charitable Trust and Ors Vs. Municipal Corporation of
Greater Mumbai and Ors,**

2015 (4) ABR 242, 2015 (4) Bom CRI

In this Public Interest Litigation, the attention of the Court is invited to the plight of the horses and ponies used for victorias and horse carriages in the City of Mumbai. It is pointed out that the victorias/horse carriages are being used in the City of Mumbai only for joyrides and not as

a mode of public conveyance. The attention of the Court is also invited to the conditions of horse stables in the City of Mumbai.

The First Petitioner made an Application under the Right to Information Act, 2005 seeking information about the licences granted to the stables of horses and ponies used for pulling the carriages and joyrides in the City of Mumbai. The information was furnished by the First Respondent Mumbai Municipal Corporation. The Municipal Corporation stated that a licence under Section 394 of the Mumbai Municipal Corporation Act of 1888 is issued for horses' stables. It was, however, contended that the subject of granting permission to keep the horses for entertainment/horse rides/joy carts does not come within the purview of the Public Health Department of the said Corporation. It was stated that the prosecutions have been lodged against the four horse stables from "D" Ward Office. there were four horse stables existing in the city of Mumbai which are unlicensed for which the prosecutions have been lodged. The Municipal Corporation forwarded to the Petitioners special conditions which are incorporated in the licenses granted for keeping the horses. In the said stables, the horses are consistently standing in their own dung for hours. The dung is thrown into dustbins and is allowed to flow into the drains. The stables are maintained in a very unhygienic condition. The dung of the horses and ponies can cause tetanus on coming in contact with a human wound. Majority of the horses and ponies used for carriages in the City of Mumbai do not have proper stables or a shelters to live in.

Various instances of cruelty to horses and ponies used for victorias and joyrides have been set out in the Petition. The horses are forced to overwork and they regularly suffer from various injuries. The instances of accidents suffered by the horse carriages/victorias used for joyrides are pointed out in which the horses have suffered injuries. The provisions of the Prevention of Cruelty to Animals (Licensing of Farriers) Rules, 1965 have been violated. No horse or pony is registered under the Performing Animals (Registration) Rules, 2001

The high court relied upon the law laid down by the Apex Court in the case of *Animal Welfare Board of India*. The law laid down in Paragraph 72 of the said judgment reads thus:

"72. Every species has a right to life and security, subject to the law of the land, which includes depriving its life, out of human necessity. Article 21 of the Constitution, while safeguarding the rights of humans, protects life and the word "life" has been given an expanded definition and any disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, fall within the meaning of Article 21 of the Constitution. So far as animals are concerned, in our view, "life" means something more than mere survival or existence or instrumental value for human beings, but to lead a life with some intrinsic worth, honour and dignity. Animals' well-being and welfare have been statutorily recognised under Sections 3 and 11 of the Act and the rights framed under the Act. Right to live in a healthy and clean atmosphere and right to get protection from human beings against inflicting unnecessary pain or suffering is a right guaranteed to the animals under Sections 3 and 11 of the PCA Act read with Article 51-A(g) of the Constitution. Right to get food, shelter is also a

guaranteed right under Sections 3 and 11 of the PCA Act and the Rules framed thereunder, especially when they are domesticated. The right to dignity and fair treatment is, therefore, not confined to human beings alone, but to animals as well. The right, not to be beaten, kicked, overridden, overloaded is also a right recognised by Section 11 read with Section 3 of the PCA Act. Animals also have a right against human beings not to be tortured and against infliction of unnecessary pain or suffering.

Penalty for violation of those rights are insignificant, since laws are made by humans. Punishment prescribed in Section 11(1) is not commensurate with the gravity of the offence, hence being violated with impunity defeating the very object and purpose of the Act, hence the necessity of taking disciplinary action against those officers who fail to discharge their duties to safeguard the statutory rights of animals under the PCA Act."

The law laid down by the Apex Court in the said decision can be summarized as under:

- (a) Under Clause (g) of Article 51A of the Constitution of India, it is the fundamental duty of every citizen to have compassion for living creatures which means concern for their suffering, sympathy, kindness, etc.;
- (b) Clause (h) of Article 51A of the Constitution of India provides that it shall be the duty of every citizen to develop humanism which includes sensibility for our species;
- (c) Clauses (g) and (h) of Article 51A of the Constitution of India will have to be read into the PCA Act and especially into Sections 3 and 11 thereof;
- (d) Article 21 of the Constitution of India protects any disturbance from the basic environment which includes animal life which is necessary for human life;
- (e) So far as the animals are concerned, life means something more than mere survival or existence or instrumental value for human beings, but to lead a life with some intrinsic worth, honour and dignity;
- (f) Right to live in a healthy and clean atmosphere and right to get protection from human beings against inflicting unnecessary pain or suffering is a right guaranteed to the animals under Sections 3 and 11 of the PCA Act read with Clause (g) of Article 51A of the Constitution of India;
- (g) Right to dignity and fair treatment is not confined to human beings alone, but it applies to animals as well;
- (h) Right not to be beaten, kicked or overridden is also a right recognized by Sections 3 and 11 of the PCA Act;

High Court's decision was as follows:

- a) The use of horse driven carriages/victorias in the city of Mumbai for joy rides is completely illegal
- b) All the Authorities of the States shall ensure that use of such horse driven carriages and/or victorias in the city of Mumbai shall be completely stopped on expiry of a period of one year from today.

- c) The State Government shall also formulate a scheme for rehabilitation of the horses used for plying victorias in the city of Mumbai. If any Animal Welfare Organization comes forward to take care of the horses, the State Government shall be free to consider the said option.
 - d) All the concerned Authorities of the State to take action in accordance with the provisions of the PCA Act in case of violation of the provisions of the PCA Act by use of horses and ponies for joyrides in the city of Mumbai. The Petitioners and the interveners are free to point out the instances of violations to the Concerned Authorities who shall be under an obligation to take action in accordance with law.
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14. People for Animals Vs. Mohazzim and Ors.

2015 (3) RCR (Criminal) 94 [High Court of Delhi]

An intimation was given to SHO PS Lajpat Nagar, New Delhi for violation of various provisions of Prevention of Cruelty (Capture of Animals) Rules, 1979. Police on 13th October, 2004 seized birds and animals and registered FIR against the owner. The same was shifted to recognized body of the Ministry of Environment and Forest, Govt, of India. The owner moved the application for release of the birds on superdari. The same was allowed by releasing the

birds on superdari. The complainant, i.e., People for Animal filed the revision petition. The revision petition was dismissed despite of arriving at a finding that the respondent is not the owner of the birds as they are not exotic and the respondent/alleged owner has not committed any cruelty and therefore, the respondent cannot be deprived of his property if he is otherwise entitled for the same. The order at present is only confined to birds. Coloured photographs have been filed on behalf of NGO people for animals which would show that the birds were kept in small cages though it is not sure whether their wings and tails were cut or not. No order was passed to be released them in the open sky. I have been informed by the learned counsel for the petitioner i.e. NGO People for Animals that more than thousands of birds are subjected to pain as the so called owner put them in small cages and sell them in the commercial market for his vested rights, despite of statutory and constitutional right to live with dignity.

The Supreme Court has recently recognized the five fundamental rights of the animals including the right to live with dignity and announced twelve stringent measures/directives for the Govt. and other implementing authorities to stop cruelty on animals in the case of A. Nagaraja & Ors. v. Animal Welfare Board of India on 7th May, 2014.

It is argued that the so-called owners were given superdari of birds without hearing the petitioner.

Held:

After hearing both sides, this Court is of the view that running the trade of birds is in violation of the rights of the birds. They deserve sympathy. Nobody is caring as to whether they have been inflicting cruelty or not despite of settled law that birds have a fundamental right to fly and cannot be caged and will have to be set free in the sky. Actually, they are meant for the same. But on the other hand, they are exported illegally in foreign countries without availability of proper food, water, medical aid and other basic amenities required as per law. Birds have fundamental rights including the right to live with dignity and they cannot be subjected to cruelty by anyone including claim made by the respondent. Therefore, I am clear in mind that all the birds have fundamental rights to fly in the sky and all human beings have no right to keep them in small cages for the purposes of their business or otherwise. The petition requires consideration.

15. Laxmi Narain Modi Vs. Union of India (UOI) and Ors.,

(2014) 3SCC 143

The Court highlighted the extreme necessity of constituting State Committees for the purpose of supervising and monitoring the implementation of the provisions of the Prevention of Cruelty to Animals (Establishment and Registration of Societies for Prevention of Cruelty to Animals) Rules, 2000, the Environment Protection Act, 1986, the Solid Waste (Management and Handling) Rules, 2000, the Prevention of Cruelty to Animals (Slaughter House) Rules,

2000 etc. The Court also directed the various State Committees to file an Action Taken Report. Few Committees have filed their Action Taken Reports.

Now the Court noticed that there was no periodical supervision or inspection of the various slaughter houses functioning in various parts of the country. Action Taken Reports would indicate that, in many States, slaughter houses are functioning without any licence and even the licenced slaughter houses are also not following the various provisions as well as the guidelines issued by the MoEF, which we have already referred to in our earlier orders. The Court felt that the presence of an experienced Judicial Officer in the State Committees would give more life and light to the Committees, who can function as its Convener. The Convener, so appointed, would see that the Committees meet quite often and follow and implement the provisions of the Act as well as the guidelines issued by the MoEF, which has been made a part of our order dated 27.8.2013.

In such circumstances, the Supreme Court requested the Chief Justices of the various High Courts in the country to nominate the name of a retired District Judge for a period of two years as a Convener of the Committee so as to enable him to send the quarterly reports to this Court. First report be sent within two months. Communicate this order to the Chief Justices of the various High Courts in the country, along with a copy of this Court's orders dated 23.8.2012, 10.10.2012 and 27.8.2013. The Court fix a consolidated remuneration of Rs. 20,000/- per month as honorarium to be paid to the District Judge (Retd.), which will be borne by the respective State Governments/Union Territories, as the case may be. Union of India and various State Governments have raised no objection in adopting such course, so that the Committees could function efficiently and the provisions of the Act and the framework prepared by the MoEF could be given effect to in its letter and spirit.

16. Ramesh Sharma vs. State of Himachal Pradesh

CWP No. 9257 of 2011 and CWO Nos. 4499 and 5076/2012 , MANU/HP/0934/2014
[High Court of Himachal Pradesh]

This petition was about the slaughtering of thousands of animals in the name of religious sacrifice held by devotees throughout the State of Himachal Pradesh. Petitioner had placed on record photographs of the animal sacrifice being performed. The State of Himachal Pradesh had not taken any effective steps to prevent the sacrifice of innocent animals. According to the petitioner, this practice is not in conformity with Article 51-A(h) of the Constitution of India. Animals are beaten up mercilessly and dragged up to mountain slopes to meet their death. The scenic beauty of the religious places is not maintained. According to the petitioner, it takes 25 minutes to kill a buffalo bull. At times, buffalo runs amuck to save itself. The animals are mercilessly beaten up and chilies are thrown into their eyes. Petitioner has laid great stress for improved scientific and rational thinking by the people, who are indulged in this practice. Petitioner has also filed representation before the Deputy Commissioner, Kullu requesting to prevent sacrifice of animals at Dhalpur Maidan, Kullu. The larger beneficiaries of this practice are priests and the Mandir Committee, animal breeders and designated butchers community of the temples. Petitioner has sought direction to the State to stop illegal animal slaughtering in the temples and public places. She has also sought direction to the Deputy Commissioners of all the District of Himachal Pradesh to ensure complete ban on animal sacrifices in temples and public places. An action is also sought to be taken against the persons, who are indulging in this practice.

Held:

The core issue involved in these petitions is whether animal sacrifice is an essential/central theme and integral part of Hindu religion or not? The Apex Court, in the case of *The Commissioner, Hindu Religious Endowments, Madras vrs. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, reported in AIR 1954 SC 282,, have held that a religion may not only lay down a code of ethical rules for its followers to accept, it might prescribe rituals and observances, ceremonies and modes of worship which are regarded as integral part of religion and the forms and observances might expand even to matters of food and dress. What constitutes the essential/integral part of Hindu religion is primarily to be ascertained in respect of the doctrine of that religion itself. The High Court could not find it from the material placed on record that animal sacrifice is an essential part of the religion by making reference to the doctrines of Hindu religion itself. The overt act of sacrificing animals in the temples or its premises is not obligatory overt act to reflect religious belief and idea. Their lordships of the Hon'ble Supreme Court in the case of *Durgah Committee, Ajmer (supra)*, have held that even practices though religious, may have sprung from merely superstitious beliefs and may in that sense be extraneous and unessential accretions to religion itself. Unless such practices are bound to constitute an essential and integral part of a religion, the protection under Article 26 of the Constitution of India is not available.

As regards the contention that the scope of judicial review in these matters is very limited is concerned, is no more res integra in view of the law laid down by the Hon'ble Supreme Court in the case of *Tilkayat Shri Govindlalji Maharaj etc. vs. State of Rajasthan and others*, reported in AIR 1963 SC 1638. Their lordships of the Hon'ble Supreme Court have held that the question will always have to be decided by the Court whether a given religious practice is an integral

part of religion or not and the Court may have to enquire whether the practice in question is religious in character and if it is, whether it can be regarded as an integral or essential part of the religion and the finding of the Court on such an issue will always depend upon the evidence adduced before it as to the conscience of the community and the tenets of its religion.

In the case of A.S. Narayana Deekshitulu vs. State of A.P. and others, reported in (1996) 9 SCC 548, their lordships of the Hon'ble Supreme Court held that the integral or essential part of religion is to be ascertained from the doctrine of that religion itself according to its tenets, historical background and change in evolved process. Their lordships have further held that whether the practice in question is religious in character and whether it could be regarded as an integral and essential part of the religion and if the Court finds upon evidence adduced before it that it is an integral or essential part of the religion, Article 25 accords protection to it. In the case of N. Adithayan vs. Travancore Devaswom Board and others, reported in (2002) 8 SCC 106, their lordships of the Hon'ble Supreme Court have held that custom or usage, even if proved to have existed in pre-Constitutional period, cannot be accepted as a source of law, if such custom violates human rights, human dignity, concept of social equality and the specific mandate of the Constitution and law made by the parliament. Their lordships have also highlighted that the vision of the founding fathers of the Constitution was to liberate society from blind adherence to traditional superstitious beliefs sans reason or rational basis. The animal sacrifice can not be treated as fundamental to follow a religious belief and practice. It is only if taking away of that part of practice can result in a fundamental change in the character of that religion or belief that could be treated as essential or integral part. We reiterate that if animal sacrifice is taken out, it will not result in fundamental change in the character of the Hindu religion or in its belief. Their lordships of the Hon'ble Supreme Court in the case of State of Karnataka and another vs. Dr. Praveen Bhai Thogadia, reported in (2004) 4 SCC 684 have held that the core of religion is based upon spiritual values which the Vedas, Upanishads and Puranas were said to reveal to mankind, seem to be "love others, serve others, help ever, hurt never."

The hymn of Rig Veda were much occupied with some ritual and animal sacrifices are indicated by the Apri Suktas. However, these practices were prevalent only in pre-historic times. Now, in this era, these practices have no social sanction but merely based on superstition and ignorance.

What can be gathered from the facts enumerated, hereinabove, is that the practice of animal sacrifice is prevalent in some areas of the State. There is ample material placed on record by the petitioners and the persons who have filed individual affidavits that the animals are put to a lot of suffering, pain and agony at the time of their sacrifice. The methods adopted to kill these innocent animals are barbaric. It is stated in the affidavits by various individuals that at times it takes about 15 blows to kill the animal. The animal runs amok to save his life. The animals are sacrificed in the presence of other animals, which must be an agonizing experience for those animals.

Articles 25 and 26 of the Constitution of India protects, of course, the religious beliefs, opinions and practices but not superstitions. A religion has to be seen as a whole and thereafter it can be seen whether a particular practice is core/central to the religion. It can be a hybrid also. In the instant case, offerings in the temples can be made by offering flowers, fruits, coconut etc. According to us, there are compelling reasons and grounds to prohibit this practice. A democratic polity is required to be preferred to a system in which each one's conscience is a law and to itself. The State has also the obligation under constitutional mandate to promote the health, safety and general welfare of the citizens and animals.

The Vedas were composed in 1500 B.C. There is reference to sacrifices made in Upanishads and Puranas. The Vedas are eternal, Puranas are the governing of mythological beliefs and the manner in which the 'pooja/archana' is to be offered to the Gods. The Bhagwat Gita does not deal with this aspect of sacrifices as contained in the Puranas. The Vedas, Upanishads and Puranas were composed during the earliest phase of civilization. The devotees in these days were put to fear and were also afraid of the wrath of natural calamities. The society has advanced. We are in a modern era. The rituals, which may be prevalent in the early period of civilization have lost their relevance and the old rituals are required to be substituted by new rituals which are based on reasoning and scientific temper. Superstitions have no faith in the modern era of reasoning.

As far as Puranas are concerned, they only refer to the manner in which the sacrifices are to be performed. There is reference of "tradition of human sacrifice". The devotees are made to believe that the deity would be happy for a number of years as per the sacrifices of each species of animals/birds. The deity, as per this Purana, would be much happier if a man is sacrificed. These practices have outlived and have no place in the 21st century. The animal sacrifice of any species may be a goat or sheep or a buffalo, can not be, in our considered view, treated as integral/central theme and essential part of religion. It may be religion's practice but definitely not an essential and integral part of religion. Hindu Religion, in no manner, would be affected if the animal sacrifice is taken out from it. We have to progress. A society should look forward, of course, by following values of all religions. The essentials of any religion are eternal. The non-essentials are relevant for some time. The animal/bird sacrifice cannot be treated as eternal. We should experience religion. We have to stand up against the social evils, with which the society at times is beset with. Social reforms are required to be made. We are required to build up a new social order. We have

to take a pragmatic approach. The new Mantra is salvation of the people, by the people. The Hindus have to fulfill the Vedantic ideas but by substituting old rituals by new rituals based on reasoning.

The animals have basic rights and we have to recognize and protect them. The animals and birds breathe like us. They are also a creation of God. They have also a right to live in harmony with human beings and the nature. No deity and Devta would ever ask for the blood. All Devtas and deities are kind hearted and bless the humanity to prosper and live in harmony with each other. The practice of animal/bird sacrifice is abhorrent and dastardly.

The welfare of animals and birds is a part of moral development of humanity. Animals/birds also require suitable environment, diet and protection from pain, sufferings, injury and disease. It is the man's special responsibility towards the animals and birds being fellow creatures. We must respect the animals. They should be protected from the danger of unnecessary stress and strains.

Article 48 of the Constitution of India provides for organization of agriculture and animal husbandry. Article 48-A talks of protection and improvement of environment and safeguarding of forests and wild life. It is the fundamental duty of every citizen as per Article 51-A(g) of the Constitution of India to protect and improve natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures. Article 51-A(h) stresses to develop the scientific temper, humanism and the spirit of inquiry and reform. Article 51-A(i) talks of safeguarding public property and to abjure violence. 'Ahimsa' is also the central theme of the Hindu Philosophy though later on expounded by Buddha. The State's affidavit talking of vegetarian and non-vegetarian food is wholly misplaced. The core issue has never been addressed in the reply filed by the State government to the issues. The Court can always see whether a particular practice is essential or non-essential by taking into evidence, including by going through the religious scriptures. It is not a forbidden territory but the Court has to tread cautiously. The Court has to necessarily go into the entire gamut of Articles 25 and 26 the statutes pertaining to religion. Every citizen has a freedom of conscience including right to freely profess, practise and propagate religion and also to manage its own affairs in the matter of religion. The right to freedom of conscience and right to profess, practise and propagate religion and manage its own affairs in the matter of religion would not be affected if the practice of animal sacrifice is discontinued. It may strengthen the religion. The discontinuation of animal sacrifice would not in any manner violate

Articles 25 and 26 of the Constitution of India. Articles 25 and 26 of the Constitution of India are to be read with Articles 48, 48-A and 51-A of the Constitution of India.

Section 11 and Section 28 of the Prevention of Cruelty to Animals Act, 1960 are to be interpreted as per Articles 48, 48-A, 51-A(g), 51-A(h) and 51-A(i). The underlying principle of Section 28 is that it would not be an offence to kill any animal in the manner required by the religion of any community. It does not permit, in any manner, to sacrifice an animal in temple. Mostly the temples are open to public and the conscience of all the devotees are to be taken into consideration. It has come on record that the killing of animals in a brutal manner causes immense pain, strain, agony and suffering to the animals. The animals are left to bleed after inflicting injuries on their parts. The blood is strewn all over. The Apex Court, as we have already noted above has held that killing of cows on Bakrid is not an integral part of Muslim religion.

The Hon'ble Supreme Court, in the case of Sardar Syedna Taher Saifuddin Sahib vs. State of Bombay, AIR 1962 SC 853, have already held human and animal sacrifice to be deleterious. We have advanced by another half century but till date, the practice of animal sacrifice is still prevalent in this part of the country. The killing of various species of animals/birds is not an

integral/central and essential part of Hindu religion. According to rule 3 of the Prevention of Cruelty to Animals (Slaughter House) Rules, 2001, no person is authorized to slaughter any animal within a municipal area except in a slaughter house recognized or licensed by the concerned authority. No animal, which is pregnant, or has an offspring less than three months old, or is under the age of three months or has not been certified by a veterinary doctor that it is in a fit condition can be slaughtered. According to sub-rule (1) of rule 6, no animal can be slaughtered in a slaughter house in sight of other animals and according to sub-rule (3) of rule 6, slaughter house shall provide separate sections of adequate dimensions sufficient for slaughter of individual animals to ensure that the animal to be slaughtered is not within the sight of other animals. Sub-rule (5) of rule 6 provides that knocking section in slaughter house is so planned as to suit the animal and particularly the ritual slaughter, if any, and such knocking section and dry landing area associated with it is so built that escape from this section can be easily carried out by an operator without allowing the animal to pass the escape barrier. If the animal cannot be slaughtered in a slaughter house in sight of other animals, how human can see sacrifice of animal, that too, in a holy and pious places like temples.

The prominence of values enshrined in the Constitution is above any religious values or values enshrined in any personal or religious law. They have no right, whatsoever, to issue any mandate/dictate in violation of basic human rights of the human beings as well as animal rights. The animals have emotions and feelings like us. Religion cannot be allowed to become a tool for perpetuating untold miseries on animals. If any person or body tries to impose its directions on the followers in violation of the Constitution or validly enacted law, it would be an illegal act (see: *Visha Lochan Madan vs. Union of India and ors.*, reported in (2014) 7 SCC 707).

The Court invoked the '*doctrine of parens patriae*' alongwith other constitutional provisions, as discussed hereinabove, to protect the basic rights of animals. we allow the writ petition CWP No. 5076/2012 and issue the following mandatory directions, prohibiting/banning animal/bird sacrifice in the temples and public places as under:

1. No person throughout the State of Himachal Pradesh shall sacrifice any animal or bird in any place of religious worship, adoration or precincts or any congregation or procession connected with religious worship, on any public street, way or place, whether a thoroughfare or not, to which the public are granted access to or over which they have a right to pass;
2. No person shall officiate or offer to officiate at, or perform or offer to perform, or serve, assist or participate, or offer to serve, assist, or participate, in any sacrifice in any place of public religious worship or adoration or its precincts or in any congregation or procession, including all lands, buildings near such places which are ordinarily used for the purposes connected with religious or adoration, or in any congregation or procession connected with any religious worship in a public street;
3. No person shall knowingly allow any sacrifice to be performed at any place which is situated within any place of public religious worship, or adoration, or is in his possession or under his control;

4. The State Government is directed to publish and circulate pamphlets henceforth to create awareness among the people, to exhibit boards, placards in and around places of worship banning the sacrifice of animals and birds;
 5. The State Government is further directed to give due publicity about the prohibition and sacrifice in media both audio and visual, electronic and in all the newspapers; and
 6. All the duty holders in the State of Himachal Pradesh are directed to punctually and faithfully comply with the judgment. It is made clear that the Deputy Commissioners and Superintendents of Police of all the Districts shall personally be responsible to prevent, prohibit the animal/bird sacrifices throughout the State of Himachal Pradesh.
 7. The expression 'temple' would mean a place by whatever designation known, used as a place of public worship and dedicated to, and for the benefit of, or used as a right by the Hindu community or any section thereof, as a place of public religious worship. The temple premises shall also include building attached to the temple, land attached to the temple, which is generally used for the purposes of worship in the temple, whether such land is in the property of temple area or place attached to the temple or procession is performed.
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17. People for Animals through Mrs. Norma Alvares and Anr Vs. The state of Goa through its Chief Secretary and Ors.

1998 (100(1)) BOMLR 226, 1997 (4) Bom CR271

The petitioners approached the Court with the complaint that the statutory authorities are either hesitant or negligent in taking appropriate steps to prevent the cruelty to the animals that is being inflicted in the course of the game of bull fights taking place in the State of Goa. According to the petitioners, bull fights are in contravention of section 11(1) of the Prevention of Cruelty to Animals Act, 1968, hereinafter called as "the said Act". It is the contention of the petitioners that inspite of their efforts to bring this fact to the notice of the authorities concerned,

such illegalities are being committed in the State of Goa and further that inspite of requests to such authorities to take appropriate steps in the matter to prevent the same, no action is being taken by the respondents and the bull fights are continuing to take place in Goa. It is further contended by the petitioners that the immediate occasion for the petitioners to approach this Court is the incident of killing of a person in a most brutal fashion by a violent bull at one of such bull fights organized at Fatorda near Margao on 17th September 1996 and that further bull fight which was scheduled to take place on 2nd October 1996.

The petitioners claimed that the bull fights are recent introduction in the State of Goa and though initially, no money or gambling was associated with it, in the recent times, due to the patronage of local politicians, the frequency of bull fights have increased enormously and they have become completely commercialised. Besides the fact that they prove fatal to some animals, even spectators have occasionally fallen victims. Such bull fights are locally known as 'dhirio' and they are in direct contravention of the provisions contained in section 11(1)(m) and section 11(1)(n) of the Prevention of Cruelty to Animals Act, 1960 and that the authorities are duty-bound to take action against the said offenders.

Issue involved:

1. Whether organizing bull fights or 'dhirio', by itself amounts to commission of an offence under section 11 of the Prevention of Cruelty to Animals Act, 1960?
2. Whether the state agencies should enforce law prohibiting such activities?

HELD: The petition succeeds. The bull fights or 'dhirios' are in contravention of the provisions of the said Act &, therefore, illegal & cannot be permitted to be organized. The respondents are, therefore, directed to take immediate steps to ban all types of animal fights including bull fights and 'dhirios' in the State of Goa and to see to it that the direction is fully complied with in letter and spirit which the Act seeks to achieve. Rule made absolute accordingly in aforesaid terms.

The Bombay High Court also made the following significant observations:

“The enactment of the law to prevent cruelty to the animals is not an end in itself. What is more important is the implementation of that Act and to see to it that the activities which are prohibited under the said Act do not take place in the State & in case of infringement of the provisions of the said Act, to take strict action against the offenders. It cannot be disputed that all animals are born with an equal claim for life without any cruelty to them. Perhaps if this right was given proper recognition by the human-beings, there would have been no necessity to bring on the statute book the said Act. Unfortunately, even though the said Act has been brought in force in the State, still there appears to be either lack of courage or wilful negligence on the part of the respondents to implement the provisions of the said Act and, therefore, in our considered opinion, the petitioners are justified in making grievance about the same. In fact, to prevent such cruelty to animals it is obligatory upon the state agencies to take action under the various provisions contained in the said

Act. Tolerance of infringement of the provisions of the Act is worse than not enacting the law itself. Merely because infringement of the provisions of the said Act was tolerated for some time, that cannot create any right on the intervenors to insist upon the continuation of tolerance of infringement of the provisions of the said Act.

Before we conclude we must say that considering the materials brought on record regarding the cruelty sought to be inflicted on the animals in the process of such bull fights, we are reminded of the words of Justice Krishna Iyer in his Lectures on Human Rights. While expressing deep anguish and sigh of great displeasure over torture inflicted on innocent animals in this country & that too despite the Vedas, the Bible, the Koran, the Buddha and Mahavire and the Supreme miracle and revolutionary apostle of Ahimsa, Mahatmaji, Justice Krishna Iyer has warned us that we have forfeited the right to be heirs of a culture of Karuna, Samata and Dharma. Justice Krishna Iyer further reminds us that humanism cannot be halved by denying it to pre human brethren and compassion is beyond division by refusing it to the Darwinian species; all life is too divinely integral to admit of unnatural dichotomy as man and animal in the wholeness of ecology. Justice Krishna Iyer, therefore, reminds us the message of kindness found in Koran which reads as under:

"There is not an animal on the earth, nor a flying creature on two wings, but they are people like unto you."

18. Karnail Singh & Ors. V/s State of Haryana

Discussion on: <https://www.theweek.in/news/india/2019/06/02/all-animals-in-haryana-to-be-legal-persons-orders-high-court.html>

(Date of Decision: 31st May, 2019 by High Court of Punjab and Haryana)

The Punjab and Haryana High Court has ruled that animals in Haryana will be accorded the status of “legal person or entity” and declared all citizens ‘persons in loco parentis’ (in place of a parent or guardian) to promote welfare of animals. The order grants animals in Haryana “corresponding rights, duties and liabilities of a living person”. The verdict comes nearly a year after Uttarakhand High Court passed a similar order “to protect and promote greater welfare of animals”. The order was passed by Justice Rajiv Sharma, who was transferred from Uttarakhand to the Punjab and Haryana High Court at Chandigarh last year.

“Live and let live,” Justice Sharma said in the 104-page order. Justice Sharma was also part of the Bench in Uttarakhand that had declared rivers Ganga and Yamuna as living entities in 2017. The verdict, however, was stayed by the Supreme Court.

Justice Sharma ruled that animals had a right to life and bodily integrity, honour and dignity, and could not be treated merely as property. “The corporations, Hindu idols, holy scriptures, rivers have been declared legal entities and thus, in order to protect and promote greater welfare of animals including avian and aquatic, animals are required to be conferred with the status of legal entity/legal person,” he stated.

Justice Sharma said that animals might be mute but “we as a society have to speak on their behalf”.

“The animals should be healthy, comfortable, well nourished, safe, able to express innate behavior without pain, fear and distress. They are entitled to justice. The animals cannot be treated as objects or property,” the verdict reads. The single Bench of Justice Sharma also fixed load to be carried by animals and banned their deployment for pulling vehicles in extreme weather conditions. The Haryana government must ensure that no person was permitted to keep in harness any animal to draw vehicles between 11 am and 4 pm in summers when temperature exceeded 37 degrees Celsius, and between 10 pm and 7 am when the temperature fell below 5 degrees Celsius in winter. The use of spike sticks, harness, knobs and other sharp instruments were also banned. Animals carrying load are to be covered with reflectors for identification at night.

Extracts from the JUDGMENT:

The prosecution examined three witnesses in support of its case. Statements of accused were recorded under Section 313 Cr.P.C. They denied the case of prosecution. The petitioners were convicted and sentenced by the learned trial Court to undergo imprisonment for a period of two years and to pay a fine of Rs.1500/- each for the offence under Section 4-b/8 of the Punjab Prohibition of Cow Slaughter Act and in default of payment of fine, to further undergo

imprisonment for a period of 15 days. The Punjab Prohibition of Cow Slaughter Act, 1955 is applicable to the State of Haryana as amended by the Haryana Adaptation of Laws (State and Concurrent Subjects) Order, 1968, also amended by Haryana Act 17 of 1971, again amended by Haryana Act 6 of 1980 and Haryana Act 13 of 1981. The Act has been made to prohibit the slaughter of cow and its progeny in Haryana. Section 2 defines “cow” including bull, bullock, ox, heifer, or calf. Section 2(cc) defines “export” to take out from the State of Haryana to any place outside the State of Haryana. Section 2(e) defines “slaughter” . It means killing by any method whatsoever and includes maiming and inflicting of physical injury which in the ordinary course will cause death. Section 3 provides that notwithstanding anything contained in any other law for the time being in force or any usage or custom to the contrary, no person shall slaughter or cause to be slaughtered.

Their Lordships of the Hon’ ble Supreme Court in 2010 (1) SCC 234, in the case of “**Bharat Amratlal Kothari & another vs. Dosukhan Samadkhan Sindhi & others**” , have held that animals filled in trucks in a cruel manner and being transported, seized by police on complainant’ s report and sent to pinjrapole and the owner of animals claiming custody of animals. In these circumstances, normal cost of maintenance and treatment of animals under Section 35(4) would be payable by the persons claiming custody and not by the complainant.

Their Lordships of the Hon’ ble Supreme Court in 2014 (7) SCC 547, in the case of “**Animal Welfare Board of India vs. A. Nagaraja & others**” , have held that animal welfare laws have to be interpreted keeping in mind the welfare of animals and species best interest subject to just exceptions out of human necessity. Their Lordships have further held that there are internationally recognized freedoms of animals as under:- (i) freedom from hunger, thirst and malnutrition; (ii) freedom from fear and distress; (iii) freedom from physical and thermal discomfort; (iv) freedom from pain, injury and disease; and (v) freedom to express normal patterns of behavior. These five freedoms have to be read into Sections 3 and 11 of PCA Act and have to be protected and safeguarded by the States, Central Government, Union Territories, MoEF and AWBI. Though no international agreement ensures protection of animals’ welfare, campaigns like UDAW and WSPA’ s and OIE’ s effort in this regard, taken judicial note off. It is the duty to protect welfare of animals and not to put them to avoidable pain and suffering. Their Lordships have also explained the meaning of “pain and suffering” . Pain informs an animal which stimuli it needs to avoid and suffering informs it about a situation to avoid. Their Lordships have held that every species has a right to life and security, subject to the law of the land, which includes depriving its life, out of human necessity.

Author Albert Schweitzer has said:

*“Until we extend the circle of compassion to all living things, we will not find peace.
” The first American law prohibiting cruelty to animals was passed by the Puritans of the Massachusetts Bay Colony in 1641: “No man shall exercise any tirranny or crueltie towards any brute creatures which are usuallie kept for man’ s use.”*

“On the frontiers of legal change, there is a growing global movement to recognize non-human animals as legal persons, a radical change that would endow them with the variety of legal rights. Animal rights advocates are not saying primates, cetaceans, or elephants are people. A ‘legal person’ is not necessarily a human being, but rather an entity to which the law grants specific rights. A corporation is considered a legal person, as are ships, churches and municipalities. The rights and responsibilities of a legal person vary according to the nature of the entity. Corporations and human beings have different sets of legal rights and duties. For example, corporations may assert freedom of expression, but are not protected by the right to life.”

The obligations of human species towards animals are discussed in **Corpus Juris Secundum**, as under:-

“In Corpus Juris Secundum, Volume III, page 1087, it is stated “that the wild animals at large within its borders are owned by the State in its sovereign as distinguished from its proprietary capacity and neither such animals nor any part thereof are subject to private ownership except insofar as the State may choose to make them so.”

In American Jurisprudence, Volume II, page 694, the following passage occurs “in the United States the ownership of wild animals and fish not reduced to actual possession by private person is in the People of the State in their collective sovereign capacity, or in the State as representing all the people.”

HELD: The State of Haryana is directed to enforce the provisions of Prevention of Cruelty to Animals (Aquarium and Fish Tank Animals Shop) Rules, 2017; Prevention of Cruelty to Animals (Dog Breeding and Marketing) Rules 2017; and the Prevention of Cruelty to Animals (Pet Shop) Rules, 2018, in letter and spirit. The entire animal kingdom including avian and aquatic are declared as legal entities having a distinct persona with corresponding rights, duties and liabilities of a living person. All the citizens throughout the State of Haryana are hereby declared persons in loco parentis as the human face for the welfare/protection of animals.