

***In Human Deeds of Humans: Animal Brutalities
and legal remedies in India***

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INTRODUCTION:

“The greatness of a nation and its moral progress can be judged by the way its animals are treated”- Mahatma Gandhi.

The father of the nation had given a profound meaning of humanity, which we either lack, or neglect in contemporary time. When humans act with cruelty we characterize them as ‘animals’ yet most of the time the only animal that displays cruelty is humanity.¹ The last sentence aptly sums up the cases of animal brutalities that country has been witnessing lately. India has always been a pioneer of ‘Non-Violence’ (*Ahinsa*). Animals are essential part of the universe. Their existence on earth is evident even before the existence of mankind.

The first fossil that represents animal appears in 665 million year old rock of the Trezona Formation of South Australia. In India, although we have diversified religious views and beliefs, the notion for the protection of animal is provided under all the religious texts. The Vedas, the first scriptures of Hinduism teach ‘Non-Violence’ (*Ahinsa*) towards all the living beings. In fact killing of an animal is regarded as ‘*unpleasant karma*’ and is violation of rule of ‘Non-Violence’. The central idea of Jainism is based on the principle of ‘Non-Violence’. Even Buddhism, the third major religion to emerge in India follows the proposition of ‘Non-Violence’. The great Mauryan King Ashoka converted to Buddhism and spent the rest of his life promoting the concept of ‘Non-Violence’ and compassion for all the living beings. According to holly Islamic text Quran, it is believed that animals are conscious of God and God has assigned space to all its creation on earth and it belongs to all living creatures.

OCCURENCES OF ANIMAL BRUTALITIES IN INDIA:

¹ Anthony Douglas Williams, <https://veganposters.com/when-humans-act-cruelty-we-characterize>

Unseen they suffer, unheard they cry;
In agony they linger, in loneliness they die.²

Animal possesses the same right to live peacefully without any fear or pain as is possessed by human beings. Animal brutality or animal cruelty is an abuse towards animal without there being any fault of them or without there being any need for the human kind. Since inception Human and animals share a special harmonious bond and affection. Although most of the human beings have soft corner for animals, there recent years have witnessed the innumerable instances that have come to the foreground the lack of humanity. Most of the time the domestic animals are the easy targets for maltreatment, as it generally does not lead to any attention or affection of people at large. I would quote a few instances of animal brutalities in India by putting an open question to the reader that how would you feel if somebody does any one act of the followings with you?

In our National Capital Delhi, an ex army man was caught in camera allegedly strangling a street dog to death with his feet in Noida's sector 45 with his feet for standing about an hour on dog's neck. Even more disheartening to know that the incident took place during peak hours of Som Bazar in Noida but no one came forward to help save the poor dog.³ As per the report published by a Hindustan times, a man was held for allegedly having sex with cow (considers as mother and the symbolizes as god) at Pauri district's Satpuli town of Uttarakhand⁴. Financial Capital Mumbai reported a case wherein a man has beaten a stray dog with an iron rod that resulted in severe skull fracture. The whole incident was also captured in a CCTV camera of a residential building. Later the case under section 429 of Indian Penal Code was registered against the man who had beaten a dog.⁵ Another tragic incident was reported in the financial capital of the country Mumbai wherein a 19 year old was arrested for having unnatural sex with a stray dog in suburban Powai. The accused however was scared upon being caught by the witness and later on the witness filed a complaint for the same. People for the Ethical Treatment of Animals (PETA) urged for harsher and fullest extent of punishment provided by law. Complaint under section 377 of I.P.C. was registered against the accused.⁶

² PETA, India had tweeted these beautiful lined on twitter dated 4th May, 2013 The author is unknown but the poem is believed to be dedicated for the cruelty against animals.

³ News report published by Hindustan Times on 18th July, 2017, <https://www.hindustantimes.com/noida/noida-drunk-man-kills-stray-dog-by-standing-on-it-for-over-an-hour/story4Htp1qVEwRYgw14zcP8Q0N.html>

⁴ News report published by Hindustan Times on 3rd August, 2017, <https://www.hindustantimes.com/india-news/man-held-for-allegedly-having-sex-with-cow-tension-in-uttarakhand-town/storyCesjLRW8fzwMiJOqzcYymK.html>

⁵ News report published on 4th September, 2017 by India times, <https://www.indiatimes.com/news/india/mumbai-man-beats-stray-dog-with-an-iron-rod-so-badly-that-it-fractures-his-skull-329107.html>

⁶ News report published by The Asian on 14th October, 2017, <https://www.asianage.com/life/more-features/141017/man-arrested-in-mumbai-for-having-sex-with-dog.html>

In a heart-wrenching incident of raping three cows was reported in Vadodara, Gujarat. The complaint was registered against the accused and he was booked for several charges like unnatural sex, committing mischief by killing and injuring the cattle, outraging religious feeling amongst other.⁷ In a horrible incident of mass killing of strays was reported in Kalamna, Nagpur. Several dogs were given poisonous food to eat and were left mercilessly to die. It is to be noted that it is not the first case in the city, earlier also cases were reported about the mass killing of stray dogs in Mahal.⁸ Again in an afflictive incident in Agra, police has arrested four people for pouring bitumen on a sleeping street dog during construction of a stretch of Fatehbad road at Phool Syed crossing near Taj Mahal. However due to insufficient evidence against them, all of them were set free by court later on. Locals however alleged that police has not sent the carcass of the dog for postmortem.⁹ Further an agonizing incident was reported in National Capital Delhi. Three horses, one of them was severely wounded, were rescued by police officers with the help of animal right group, People for the Ethical Treatment of Animals (PETA). However no F.I.R. was filed as the owners have given the custody of horses on consent. Admittedly these horses were usually used for wedding celebrations and were malnourished, sick and wounded.¹⁰ According to reports, a pregnant goat on 29th July, 2018 went missing and was later found dead. The owner later on came to know that his goat was abused and raped. In fact one of the accused had admitted that he had raped his goat and had a nice time.¹¹

Recent deplorable incident of feeding a pregnant cow some explosive filled flour ball has shaken the country. The Himachal Pradesh Police had arrested a person in connection with the injury to a pregnant cow. The incident allegedly took place out of personal vengeance wherein the accused said he is not scared of anyone and will continue to do such acts. Even Sarpanch cannot harm him.¹² The accused was later booked under section 429 of I.P.C. and Section 11 of Prevention of Cruelty to Animals Act, 1960. In another gruesome incident the country has witnessed which again shook the country, as it appears to be the negligent and unfortunate incident. The primary news reveal that the pregnant elephant was fed the pineapple filled with crackers. The clarification however came later from an Indian Forest Service Officer that “No one would have fed the pineapple to the elephant. The animal must have found it lying somewhere and must have consumed it herself no knowing what

⁷News report published by Times of India on 17th January, 2018, <https://timesofindia.indiatimes.com/city/vadodara/man-arrested-for-unnatural-sex-with-three-cows/articleshow/62533041.cms>

⁸ News report published by Times of India on 29th March, 2018 <https://timesofindia.indiatimes.com/city/nagpur/several-strays-in-kalamna-poisoned-to-death/articleshow/63523237.cms>

⁹ News report published by Times of India on 15th June, 2018, <https://timesofindia.indiatimes.com/city/agra/4-arrested-for-pouring-hot-tar-on-dog/articleshow/64595819.cms>

¹⁰ News report published by Tribune India on 6th July, 2018, <https://www.tribuneindia.com/news/archive/nation/sick-wounded-horses-used-in-weddings-rescued-in-delhi-616164>

¹¹ News report published by NEWS18 on 28th July, 2018, <https://www.news18.com/news/india/pregnant-goat-dies-after-being-raped-by-8-men-in-haryanas-mewat-1826853.html>

¹² News report published by Indian Express News Service on 7th June, 2020, <https://indianexpress.com/article/india/himachal-pradesh-cow-injured-after-eating-explosive-filled-flour-ball-one-held-6446180/>

lies ahead of her”. The official said the pineapple was filled with crackers and explosive substance so as to keep the wild boars away from the farmlands and was not intentionally fed to the elephant. The officer also stated “some people actually do such insane things as they consider wild animals as threat to their property and life. Such incident do happen at places where wild animals create problems for human beings”.¹³

These are just a few examples of barbaric occurrences of animal cruelty. There are many such incidents happening day in and day out, some of them are not even reported due to lack of awareness pertaining to animal rights. Moreover Not only do these instances point towards a severe lack of humanity and respect for the life of other beings, but these people’s actions also point towards their psychopathic and callous natures. Citizens who are capable of inflicting such pain on the vulnerable and harmless deserve no place in society, so it is fitting that there should be some deterrent against such actions guaranteed by our Constitution.

NATURE OF PENALTY AND REMEDIES UNDER INDIAN LAWS:

India is a country wherein even animals are worshipped along with God. Vedas and other Hindu texts even provides an evidence that even the God while taking different Avatars and lived a life of a human being took great help from different species of animals. In fact Lord Vishnu himself has taken different avatars of Animals. Today, although we have a few legal remedies against animal brutalities, that too appears to be the toothless tigers. One of the oldest specific legislation is The Prevention of Cruelty to Animals Act, 1960. The main object of the act is to prevent the infliction of unnecessary pain or suffering on animals. The act extends to whole of India. It applies to all the living creatures. Central Government has established an Animal Welfare Board of India for promotion, welfare and protection of animals from being subjected to unnecessary pain or suffering. The important provision of the act is provided under section 11 of Part-III of the act. It states that any person who beats, overrides, kicks, tortures, inflict any unnecessary pain, employs any unfit animal to work, willfully and unreasonably administer any drug or injurious substance to any animal, carries any animal in a vehicle which causes unnecessary pain or confines in any cage not having sufficient height, length & breadth, carries in a vehicle not properly fit for animals, keeps an animal chained for an unreasonable time, if being an owner fails to provide sufficient food, drink, shelter, abandons the animal without any reason, without any reason permits the animal to

¹³ News report published by India.com on 2020, <https://www.india.com/viral/fact-check-pregnant-elephant-was-not-fed-cracker-stuffed-pineapple-in-keralas-malappuram-maneka-gandhi-called-out-for-communalising-animals-death-4048671/>

go at the place where other animals are affected with contagious diseases, mutilates the animal by cruel manner, confines animal for any entertainment purpose, uses or permits any place for animal fights, promotes shooting matches wherein animals are used.¹⁴ It is even more surprising to find that the punishment for the offences mentioned at the outset herein above is so petty that anybody can get away with that after committing of either of them. The punishment for the same that shall be imposed is fine of Rs. 10/- which may extend up to Rs. 50/-, for the subsequent conduct committed within three years of the first crime will be fine of Rs. 25/- which may go up to Rs. 100/- or imprisonment of three months or with both. It means for the first time if one commits any of the offence mentioned section 11 of the Act one can easily get away with it by just paying the petty of Rs. 10..!! One cannot even buy a cup of tea even on the roadside at this price point.¹⁵

The bear reading of the provision suggests that In India, one can get away with causing devilish torture on animals by paying a fine of anything between Rs 10 to Rs 50. For, “The Prevention of Cruelty To Animals Act, 1960” provides for a fine which shall not be less than ten rupees but which may extend to fifty rupees in case of a first offence, and in the case of a second or subsequent offence committed within three years of the previous offence, fine shall not be less than twenty-five rupees but which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both. Today we cannot even buy a good cup of coffee in Rs. 50/-.

Apart from the abovementioned special legislation, The Constitution of India provides under the heading of Article 48A, Part IV as under:

Protection and improvement of environment and safeguarding of forest and wild life- The state shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.¹⁶

The constitution of India also provides under the heading of Part IV-A, Article 51A(g) as one of the core fundamental duties as under:

It shall be the duty of every citizen of India, to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.¹⁷

¹⁴ The Prevention of Cruelty to Animals Act, 1960.

¹⁵ Ibid

¹⁶ Article 48A of Part IV of Constitution of India

¹⁷ Article 51A(g) of Part IV-A of Constitution of India

The constitution of India also provides under Entry 17, List-III - Concurrent List for the “Prevention of cruelty to animals”. Entry 17A and 17B also provides for Forests and Protection of wild animals and birds respectively under the same concurrent list. Besides Special legislation and Constitution of India, Indian Penal Code (I.P.C.), 1860 also provides for protective measures to animal under its largest Chapter, under the heading “of offences against the property”, sub heading “of mischief” under section 429 of Chapter-XVII as under:

429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.- Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.¹⁸

Apart from these provisions there are several guidelines issued by the Honorable Supreme Court of India pertaining to establishment of animal welfare board. Unfortunately, the recent report published by a news agency reveals that not a single state in India has a fully functioning animal welfare board.

Last year in May 2019, animal rights activist Gauri Maulekhi filed an application under the Right to Information Act, 2005 with every state government seeking details about the functioning & constitution of the boards, the budget allocated, and officers deployed for them. To the utmost shock and surprised, she received the reply in subsequent month which revealed that the State Animal Welfare Boards have been established in some states – like Rajasthan, Lakshadweep and Maharashtra – their boards are not in a functioning position with one or more issues, like no meeting were conducted by board, no appointment of officer to the board, no allocation of budget, no staff and other shortcomings. Furthermore, some states and Union Territories like Bihar, Karnataka and Pondicherry were yet to either reconstitute or form the board. Additionally, states like Goa, Punjab, Assam, Meghalaya and Tamil Nadu provided no details in replies to the Right to Information query. In order to implement the Prevention of Animal Cruelty Act, 1960 and its Rules, animal welfare boards at the state level are to be formed by state governments. The Honorable Supreme Court of India has issued multiple orders since 2001 to this effect. The environment ministry to establish the State Animal Welfare Boards issued several directives. Although the facts disclose that boards have not been formed uniformly in the majority of states. Notifications of such boards in the state which are neither functional nor has any manpower or budget been allocated to them keeping the implementation of the act oblivion.¹⁹

¹⁸ Section 429 of chapter XVII of Indian Penal Code, 1860

¹⁹ Article published by scroll.in on 17th March, 2020, <https://scroll.in/article/956247/despite-a-decade-old-supreme-court-order-nobody-is-really-looking-after-indias-stray-animals>

CONCLUSION:

"Until one has loved an animal, a part of one's soul remains unawakened."
- Anatole France

I would like to conclude by emphasizing that “animal empowerment”, irrespective of what most of the people think, does not actually mean turning vegan and adopting stray dogs or rescue animals. Animal empowerment often misinterpreted because lot of people find it unnecessarily extremist, because all apparent animal activist, such as social media influencers portray it as an uber-glam lifestyle built around taking care of puppies and having never tasted milk. The fact is if we make small changes in the way we act, react and interact with the animals, each one of us can contribute pragmatically towards building a better future for these helpless creatures.

As per the reports published based on Animal Protection Index (API) India is one of the healthier countries in the global Animal Protection Index 2020, created by international animal welfare charity, World Animal Protection. The Animal Protection Index (API) focuses on to showcase where countries are doing well and where they are lacking on animal welfare policy and legislation, so they can take steps to improve the same. The index ranks countries from A (being the highest score) to G (being the weakest score) according to their policy and legislation. India has attained a C ranking in the index, along with countries like Spain, France, New Zealand and Mexico. Although there is room for improvement in many domains related to animal welfare. For example, animals used in scientific research are exempt from cruelty considerations in the Prevention of Animal Cruelty Act 1960. Moreover, there is a lack of by-laws regarding the nurturing of farm animals, notably with deregulated urban dairy systems developing quickly with very poor welfare standards.²⁰

Infact Mr. Gajender Sharma, Country Director, World Animal Protection, India said that "India has strong legislation on the protection of animals; although, the welfare of dairy animals is yet to part of any such law.²¹ Cows are considered to be sacred in India but millions of cows and buffaloes continue to suffer in cruel conditions every day in dairies within our cities.²² This index is a good reminder of the work that still needs to done to protect every animal".²³ He added that New research reveals poor animal welfare practices, in the trade and

²⁰ Report published by business standard on 12th March, 2020, https://www.business-standard.com/article/news-ani/india-ranks-better-in-animal-protection-index-2020-but-still-needs-improvements-120031200558_1.html

²¹ Ibid

²² Ibid

²³ Ibid

farming of wild animals and livestock, which provides the perfect breeding ground for viruses to mutate and spread.²⁴ If animal welfare laws aren't improved, we are going to face the risk of disease outbreaks becoming more frequent. This is just one of the ways that governments are failing to protect animals and people, says the report.²⁵

Before concluding the article it is noteworthy to know that the Government of India is now evaluating the proposal to increase the fine amount from paltry sum of Rs. 50/- to Rs. 6000/-²⁶. However, it appears that this mainly to cope up with the inflation adjustment measures rather than intending to make the law stricter.

While giving the rest to my words, I would like to suggest a few of the remedial measures mentioned below:

- The reports of animal cruelty should be taken seriously.
- Consider the animals as part and parcel of the society, the fact remains that the existence of living creatures dates far back as compare to that of human beings.
- No harm to the animals except extremely required for the larger public interest.
- No divergent views while treating stray and pets.
- Impart proper education to the future generation pertaining to animal rights and occurrences of cruelty upon them. Teach children to have soft corner for animals.
- Furnish temporary accommodations to the abused animals.
- Strengthen the laws and its implementation to protect the animals.
- Animals certainly deserve the right to live without pain and fear and we must remember that it is not something we are granting them but we owe towards them.
- Try to check and buy cruelty free products. Spread awareness because awareness, implementation must go hand in hand.

In the end I would only like to add a line that;

If animal could speak, mankind would weep....!!!

²⁴ Ibid

²⁵ Report published by business standard on 12th March, 2020, https://www.business-standard.com/article/news-ani/india-ranks-better-in-animal-protection-index-2020-but-still-needs-improvements-120031200558_1.html

²⁶ News article published by ThePrint on 17th December, 2018, <https://theprint.in/india/governance/modi-govt-hikes-penalty-for-cruelty-to-animals-by-120-times/164044/> and also on 18th December, 2018 by <https://www.businessinsider.in/india-to-revise-fines-for-animal-cruelty-after-nearly-60-years-with-penalties-of-up-to-6000-report/articleshow/67143919.cms>