



Towards Humane Justice: A Critical Appraisal of India's Animal Welfare Laws

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Abstract

In recent decades, the evolving discourse on animal rights and welfare has prompted a re-evaluation of how legal systems across the globe address cruelty, exploitation, and protection of non-human species. In India, where religious, ethical and environmental considerations influence attitudes toward animals, the legal framework has gradually developed to safeguard animal welfare. However, despite several legislative measures and judicial pronouncements, instances of cruelty, neglect, and exploitation continue to raise serious concerns. This research article seeks to examine the effectiveness, adequacy, and implementation of animal welfare laws in India and propose reforms to strengthen humane justice. A major focus of the research is the gap between law and enforcement. The research also considers emerging areas of concern, such as the treatment of animals in industrial farming, laboratories, entertainment, and street environments, and how current laws fail to adequately address these issues. The study concludes by proposing a set of legal and policy recommendations aimed at strengthening animal welfare governance to move towards a more humane and justice-oriented legal framework.

Keywords: Animal Welfare, Laws, Constitutional Provisions, Wildlife Protection Act, Prevention of Cruelty to Animals Act, Bharatiya Nyaya Sanhita.

1. Introduction

Across the world, animals are frequently subjected to various forms of cruelty. Each day, countless animals suffer from beating, starvation, neglect, and abuse. There are many forms of animal cruelty; some of the most common conditions are scientific research, abandonment, and mistreatment ^[1]. Every year, about ten million animals get killed during experiments ^[2]. Animals are used for variety of purposes such as animal farming ^[3] which is a common practice now days. When a large number of animals are captivated on a small piece of land they involve into fights with each other ^[4], to prevent this beaks of hens are trimmed off. There are number of instances of abuse of animals like pigs ^[5], abuse of farm grown cows ^[6], sheep, animal experimentation ^[7], animal used for entertainment such as in circus for animal fights etc. ^[8], religious and cultural practices ^[9], animal smuggling etc. ^[10]. Recently, a pregnant wild elephant in Kerala's Silent Valley Forest fell victim to an act of human cruelty after a pineapple filled with powerful crackers offered by a man exploded in her mouth when she chomped on it ^[11]. Animal welfare is a global concern that transcends borders, demanding our collective attention and action. India, with its rich biodiversity and cultural & religious reverence for animals, presents a unique factor for the study of animal rights and welfare ^[12]. The cases of animal abuse and cruelty are alarmingly

frequent. There exist two types of organisms in an environment namely *Autotrophs*, who use light energy to make their own food, the other are *Heterotrophs*, they are dependent upon autotrophs for consumption of food. Among the organisms there are links created among themselves through food chains whereby one organism is dependent upon the other for energy. One lost link among the food web can lead to extinction of species, which can have dangerous impacts on the ecosystem and may even make it difficult for the ecosystem to survive at all. Thus, from the environmental point of view it is so significant necessity that all the floral and faunal species survive and keep performing their functions as a part of the ecosystem ^[13].

Accordingly, the paper intended to investigate the issues of animal cruelty in India, an area that has significant consequences for legal studies, animal rights advocacy, and societal ethics. The scope of this paper is to study various forms of animal abuse, ranging from neglect and abandonment to physical harm and exploitation for commercial purposes. The legal perspective forms a crucial part of this research, with a focus on the Prevention of Cruelty to Animals Act, 1960, the Wildlife Protection Act, 1972, and Bharatiya Nyaya Sanhita. The primary focus of this study is on domestic legislations mentioned above and judicial decisions aimed at ensuring the well-being of animals, as well

as their critical analysis. The researcher through this paper tries to observe carefully the flaws that are exist in the legislations which are enacted for the welfare of the animals. Further, several suggestions have been provided which could be incorporated in the Indian Legal System to Uplift the status of the “Voiceless Victims Animals”.

2. Legal Framework for Animal Welfare in India

The legal framework for animal welfare in India comprises a combination of constitutional provisions, statutory enactments, judicial interpretations, and administrative mechanisms aimed at preventing cruelty and promoting humane treatment.

2.1. Constitutional Provisions for Animal Welfare

The Constitution is known as the “basic law of the land” from which all others laws derive their validity. Therefore, it must be a living and growing law-means it must be able to cope with newer development and situations. That is why, as and when it is felt that a special situation has arisen and the present constitutional provisions are not adequate and cannot deal with new development effectively, they amended by parliament from time to time [14]. As a part of this, the Indian Parliament passed a 42nd Constitution (Amendment) Act, 1976 [15]. This amendment incorporated two significant articles-Articles 48-A and 51-A (g). Further it also introduced certain things in the Seventh Schedule of the Constitution. These changes are:

Protection and improvement of environment and safeguarding of forests and wildlife-The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country [16].

Fundamental duties-It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures [17].

Seventh Schedule: List III, Concurrent List:

17-A-Forests

17-B-Protection of Wild animals and birds

Thus, various entries of State List II were transferred to List III which empowered Parliament to legislate on environmental issues such as forests, wildlife etc. It was necessary to make such changes to bring uniformity in law throughout the country [18].

2.2. Bharatiya Nyaya Sanhita, 2023

The Bharatiya Nyaya Sanhita (BNS), which replaces the Indian Penal Code (IPC), retains and strengthens provisions aimed at ensuring the protection and welfare of animals. One of the grave concerns addressed by the BNS is the offence of unnatural sexual intercourse with animals. This act is recognized as a cognizable and non-bailable offence, with stringent punishment extending up to ten years of imprisonment along with a fine [19]. Additionally, the BNS penalises acts that intentionally harm, injure, kill, poison, or maim animals or cattle [20]. The severity of punishment under the law depends on the monetary value of the animal subjected to such cruelty. If the animal harmed is valued at ten rupees or more, the offender is punishable with imprisonment for up to two years, a fine, or both. However, if the offence is committed against an animal valued at fifty

rupees or more, the punishment increases to imprisonment for up to five years, a fine, or both [21].

2.3. Wildlife (Protection) Act, 1972

The wildlife protection Act, 1972 provide for the conservation, protection and management of wild life and with a view to ensuring the ecological and environmental security of the country [22]. The act revolves around following features:

- i). Act establishes protected areas such as National Parks and Wildlife Sanctuaries [23].
- ii). The Act prohibited the hunting of wild animals [24].
- iii). It categories animals into schedules, with varying levels of protection [25].
- iv). It imposes strict penalties for poaching, trade, and destruction of habitat.

Under the act no person is allowed to hunt wild animals [26]. However, hunting of wild animals is permitted in certain cases [27]. The act also constituted the National Tiger Conservation Authority (NTCA) [28], a statutory body under the Ministry of Environment, Forest and Climate Change (MoEFCC), which is be responsible for implementation of Project Tiger Plan for protecting endangered tigers. The primary purpose of the authority is to strengthen tiger conservation in India and ensure the implementation of guidelines and protocols related to tiger protection under Project Tiger [29]. The Central government has also been authorised to constitute a “Tiger and other Endangered Species Control Bureau” [30]. This Bureau shall have powers to collect and collate intelligence relating to organised wildlife crimes and to apprehend the criminals [31]. Another key provision is the prohibition on trade or commerce in wild animals, animal articles, trophies and derivatives obtained from certain protected animals, particularly those listed in Schedules I and II of the Act [32]. Under section 49, the act strictly prohibits the sale, purchase, or any form of trade involving animal articles or trophies derived from specified endangered species such as tigers, elephants, leopards, and rhinoceroses. This includes skins, bones, teeth, horns, claws, and other body parts [33]. The possession of such items is also regulated, and individuals must obtain a certificate of ownership [34] from the authorities, even for inherited items. The primary objective of this prohibition is to curb illegal wildlife trafficking, protect endangered species from exploitation, and discourage commercial incentives for poaching. The law imposes strict penalties, including fines and imprisonment [35], for violations, thereby acting as a deterrent.

2.4. Prevention of Cruelty to Animals Act, 1960

Key Features of the Act

- i). **Cruelty:** As per the Prevention of Cruelty towards Animals Act, 1960 *cruelty* amounts to beating, overriding, kicking, overloading, torture administering drugs which are injurious, transporting in a manner causing pain/suffering, neglect by owner, confinement, abandonment by owner, allowing diseased animal to go stray on roads by owner so as to succumb to death, abandoning with intent to die of thirst and starvation offering a suffering animal for sale, confining to become prey for another animal, causing animal fights for profit, etc. [36] If any individual commits any of these acts mentioned under section 11 of the act, he shall be liable to be punished with a fine of rupees ten which may

extend to rupees fifty for first time offenders. For any repeated offence person shall be liable for a fine not less than twenty five rupees and may extend up to rupees one hundred or imprisonment for up to three months or both [37].

- ii). **Animal Welfare Board:** The act provides for constitution of a board for animal welfare which shall consist of the ex-officio inspector- general of forests, ex-officio animal husbandry Commissioner, two representatives of the central government who deal with education and home affairs, one representative of the Indian Wildlife Board, three persons nominated by government who have performed animal welfare tasks and are well recognised humanitarians, two medical practitioners, three representatives from animal welfare organisations, three persons from societies working to prevent animal cruelty, three persons as nominated by the central government and six members from parliament [38]. The board shall continue for three years and perform functions of advising government regarding amendments to the act, regarding formulation of rules with regard to transportation of animals, advice local governments regarding ways that may decrease burden upon draught animals, rules regarding maintenance of slaughter houses, advice local bodies regarding unwanted animals, to encourage formation of rescue homes, animal shelters, etc., coordinate various authorities working with the aim of prevention of animal cruelty, board may provide authorities working for animal welfare with financial and other assistance such as medical or technological assistance, to educate public against animal cruelty through means such as media, books, lectures, etc. [39].
- iii). **Animal Experimentation:** Act does not seek to prohibit but rather regulate experimentation and exhibition of animals. Experimentation on animals is allowed to enhance knowledge through discoveries and to obtain knowledge that may be useful to save other living beings from diseases [40]. For the purpose of such regulation the act mandates formulation of committee [41] which shall register institutions and persons who carry out experiments on animal. Reports and information regarding animal formation shall be provided to the committee by registered institutions and persons [42]. The objective of the committee shall be to make sure that individuals carrying out experiments are qualified and are performing experiments with due care and humanity. It shall make sure that experiments on animals may be avoided wherever possible and animals be look after before and after the experiments are conducted. If committee finds out that an institution or individuals have performed experiments in contravention to the rules formed by it, committee may impose a prohibition for specific or indefinite time on carrying out experiments on animals or may allow continuing experiments on certain conditions [43]. Contravention of the orders of the committee shall be liable for a punishment of fine extending up to two hundred rupees [44].
- iv). **Animal Exhibition:** To exhibit animals means exhibition of animals for the purpose of public entertainment, where public is admitted by purchasing tickets to view such an exhibition [45]. No animal can be made to perform unless registered as per the act [46]. The act also empowers the central government to issue notice in the official gazette with regard to the animals which shall not be allowed to perform, trained or exhibited [47]. For the purpose of

registration of animals for exhibition under the act application shall be made to the prescribed authority and fee shall be paid to the authority [48]. A complaint may be made by any authorised officer or police officer to the magistrate where unnecessary pain is inflicted on any animal during such an exhibition. The court may prohibit such training or exhibition or impose certain conditions to be obeyed while training or exhibition of the animals [49].

- v). **Religious Activities:** The Prevention of Cruelty to Animals Act, 1960 excludes religious activities [50] from the preview of the act. The act empowers court to prohibit a person either for a specific period or permanently from the custody of an animal in case such an owner has been found guilty of an offence under the provisions of the act [51]. The act empowers Central government to make such rules that may be necessary to achieve the objective of the legislation [52]. Certain rules to prevent animal cruelty which have been formed by the Central government under the act are the Prevention of Cruelty to Draught and Pack Animals Rules, 1965, Prevention of Cruelty (capture of Animals) Rules, 1979 which describes and legalises only net method for the purpose of capturing birds for sale, export, etc. The Transport of Animals Rules, 1978 and 2001 which regulate the transportation of animals. 2001 rules specifically deal with transportation of animals on foot, it properly provides for how much distance may be covered by the animal and within how much time, it specifies the maximum number of travelling hours allowed and even the rest intervals. Then another important set of rules regarding birth control among dogs were passed in 2001. It regulates sterilisation, immunisation and euthanasia of street dogs. In 2009, the Prevention and Control of Infectious and Contagious diseases in Animals Act [53] was formed to control transmission of any animal related disease such as bird flu. The act prescribes proper procedure for segregation and treatment infected animals. It penalises the individual or authority which administers defective vaccine to animals. Further in 2018 rules were formed by the central government regarding the regulation of Pet Shops [54]. The act mandated registration of pet shops and make available veterinary care for pet animals [55]. It makes requirements regarding the infrastructure which includes proper ventilation, absence of noise pollution, to be distanced from butcherries, etc. [56]. Each pet shop owner is required to maintain records containing details of the animals. Non-compliance of rules by pet shop owners may lead to cancellation of registration [57].

3. Critical Analysis of the Legislations on Animal Welfare

The biggest challenge to the effectiveness of any law lies in its poor enforcement. Despite the existence of multiple legislations aimed at protecting animal welfare, enforcement remains weak. This is evident from the disturbing fact that between April and November 2021 alone, a total of 1,067 cases of animal cruelty were reported, highlighting the gap between legal provisions and their actual implementation [58]. The major animal welfare legislation i.e. Prevention of Cruelty to Animal Act, 1960 does not prohibit animal experimentation despite the development of modern experimentation techniques with more accurate results seems to be in contradiction to Article 51A of the Constitution which

seeks to develop a scientific temper. Excluding religious activities from the purview of the act and simply regulating the act of animal slaughter makes it a toothless legislation. The ambiguous language and there is also lack of clarity in defining cruelty under the Prevention of Cruelty towards Animal Act, 1960. Bhartiya Nyaya Sanhita has provisions for animal protection but it has diminished the value of animal life by referring to it as property of human beings. Despite having meaningful objectives the acts have failed miserably to provide protection to animals living in our country as they have failed to deter crimes against animals. Chapter IV of PCA, 1960 provides rules regarding animal experimentation. Animal experimentation has been regulated through the same chapter but it does not specifically eliminate the performance of certain cruel acts even if they are held during animal experimentation such as giving shocks, opening the skull and inserting electrical wires or inducing such diseases in animals which they would not have normally contracted etc. This act is very obsolete and lacks account of new and beneficial techniques of experimentation. With the development of science, it has been revealed that animal genetics differ a lot from that of human beings, humans have a much more complex cell structure as compared to animals. A report by National Institute of Health ^[59] disclosed that ninety five per cent of drugs which are tested on animals fail to provide same results on human beings.

Section 28 of PCA, 1960 does not render illegal killing of any animal, if the killing is required by the way of religious practice. India bagged grade 'C' ^[60] for allowing cruelty in global animal protecting index as Indian laws exempt animal cruelty in the name of religion.

Other than the above exceptions the act allows the acts describes as cruelty under section 11 of the act if they were performed out of necessity. These acts include dehorning, castration, nose roping of animals.

The Wildlife Protection Act mainly focuses on wildlife conservation rather than welfare as the act protects certain species from hunting and trafficking. The act, in its Schedules gives the list of animal and plant species in degree of the threat of their extinction. Another issue here is that these Schedules have not been regularly updated as per the lists of endangered species given by ICUN and CITIES. In fact, certain species have not found place in any of the schedules. These are called the invasive species ^[61]. Some of the invasive species that may be found in India are Amazon Sailfin Catfish, Cotton Mealy Bug, African Apple Snail, etc. Since such invasive species are not afforded the protection under any schedule they are traded and hunted freely. A recent case of smuggling of "Victoria Crowned Pigeon" was disclosed by the Border Security Forces at the West Bengal Bangladesh border ^[62]. In fact, the Delhi High Court issued orders for expansion of the scope of protection offered under the Wildlife Protection Act, 1972 and Central Zoo Authority to include Exotic wild animals and Hippopotamus as presently they were outside the purview of protection given by the acts ^[63]. A major drawback of the Wildlife Protection Act is that despite numerous cases of illegal trade and poaching of animals the conviction rate under the act have remained drastically low. It was reported that the conviction rate under wildlife protection act is two percent only ^[64]. The authorities responsible under the acts are untrained in regard to scientific knowledge concerning the wildlife and that impairs the very structure and the procedure meant to protect the Wildlife. Cases under the Wildlife Protection Act take years to resolve and end up in meagre penalties. Even anticipatory bails are

given to offenders under the wildlife protection act. The rising cases of illegal poaching of animals clearly show the poor implementation of laws made for wildlife protection. A total of 522 cases of wildlife poaching were reported in the year 2020 itself ^[65].

4. Judicial Approach on Animal Welfare in India

The judiciary has played a pivotal role in shaping and strengthening the framework for animal welfare in the country. There have been numerous landmark cases wherein the Supreme Court of India and various High Courts have actively addressed the welfare of animals. In *Tarun Bharat Sangh, Alwar v. Union of India* ^[66] a public interest litigation was filed by a voluntary organisation issue was raised regarding illegal mining taking place in the Sariska Tiger Park. It was claimed that despite several notifications by the government and declaring the park a sanctuary, the state government was still offering hundreds of license for mining in the prohibited area. Contention of the petitioner was that mining activities were detrimental to wildlife and ecology of the park. The Supreme Court held that the state government was duty bound to protect ecology of the protected area and directed appointment of committee to make sure that mining activity shall not affect the wildlife in park and directed that in future all mining activities shall take place outside the demarcated protected area. In another case ^[67] question was raised at the constitutional validity of the Wild Life Protection Act, 1972. It was contended by the petitioner that the ban imposed on having possession of mammoth ivory and its articles were detrimental to the right of the petitioner guaranteed under article 19(1)(g) of the constitution of India ^[68]. The petitioner contended that they were only involved in trade business of ivory and its products and not involving in any cruelty towards the animal *per se*. However, the court held that the ban was not violating the freedom conferred by the Constitution rather, it was a reasonable restriction on the guaranteed right and such reasonable restrictions do not make the law unconstitutional. Court also highlighted that imposition of such a ban was necessary in order to protect African elephants from going extinct.

Similarly, in another case *Ivory traders & manufacturers association v. Union of India* ^[69], some provisions of the Wild Life Protection Act, 1972 were challenged on the grounds of their Constitutional validity, the petitioner contended that the provisions banned sale of ivory which was extracted from mammoths that are already extinct and differ from African and Indian elephants. The significance of the trade as a craft for several workers involved in this field was highlighted. The Rajasthan High Court retained the validity of the provisions on the same grounds as the *Tarun Bharat Sangh* judgement. The court also highlighted the fact that it was a necessary ban that was imposed in order to implement the provisions of the Convention on International Trade in Endangered Species of wild fauna and flora.

The major reason for lagging performance in the field of animal welfare in India is religious practices and traditions. The Indian judiciary made significant efforts to prohibit the dangerous and controversial sport of Jallikattu in Tamil Nadu, emphasizing the need to uphold animal welfare and prevent cruelty. When the issue was raised by animal rights activists, the supporters of the sport said that it was a violation of their cultural right guaranteed by article 29 of the constitution. In *Animal Welfare Board of India v. A. Nagaraja & Ors.*, ^[70] recognised five freedoms which were fundamental for all animals viz. freedom from hunger, thirst and malnutrition,

freedom from pain injury and disease, freedom from fear and distress, freedom from physical and thermal discomfort, freedom to express normal patterns of behaviour. All India welfare board was directed by the court to make sure that no animal is incited to fight against any other animal or human being. Court also said that it is expected from the legislature that they protect dignity, honour and the rights animals. The court also highlighted various cruel practices which were violating Prevention of Cruelty towards Animal Act, 1960 and were performed during the jallikattu sport. They included biting a bull's tail, twisting of the tale of the bull by owners, poking bull with knives and sticks, using irritants to get rubbed in the eyes and nose of bull in order to agitate them, using nose ropes, lack of proper provision of water and food facilities, cramped bodies and fractured bones in bulls were signs of cruel inhumane treatment. The court imposed ban on jallikattu by rendering Tamil Nadu Regulation of Jallikattu Act, 2009 void. This led to great protests among the nation. This judgement was a significant move on recognition of animal welfare in India and shows the amount of empathy that Indian courts have towards animals. The sport is however continued to be played in the state. The state amendments to PCA^[71] allow the continuation of the sport. In a case of *Naveen Rahejav. Union of India*, this case^[72] it was brought to the notice of the court that tiger in the Andhra Pradesh zoo was malnourished and did not receive any care and protection from the zoo authorities. The court held the zoo authorities were responsible to take care of the animals in the zoo and their omission in performance of the task was condemned by the court. The court required the Chairperson of zoo authority to appear before the court in person and give a report as to what steps were being taken by them to protect tigers and other animals in the zoo.

Again, the judiciary failed in providing assistance to animals from being slaughtered and sacrificed when public interest litigation^[73] was filed against the religious practise of animal sacrificing. The Supreme Court straight away dismissed the suit and said that it was not in position to pass such order. The court held that matters of religion are very sensitive to touch upon and extremely crucial matters concerning individual faith and commented that one must not be blindfolded by the centuries old traditions that are still being followed today like clockwork.

The Supreme Court took a major step while looking at the cruel behaviour towards elephants which were used as joy ride and for business purposes near Ajmer Fort. The same was banned being in violation of Section 11 of PCA, 1960 and Under Performing Animals (Regulation) Rules, 2001^[74].

The above discussion shows that judiciary has partaken a great effort in the application of the laws developed for the welfare of animals. Judiciary has come forward to expand the scope of the fundamental right to life^[75] enshrined under the Indian Constitution and has brought animals under the ambit of this freedom through The Jallikattu Judgement^[76]. The active participation of animal rights activists in raising the issues concerning animal cruelty has been significant in making the voice of voiceless be heard. The only set back to the positive and widely scoped views of the judiciary arises when the issues relating to tradition and religion come into picture. The Jallikattu judgement is an example of positive approach of the judiciary towards animals but the sentimental and traditional approach of the individuals is a hurdle that has made it difficult to enforce the decision which was in favour of animal victim. Also, dismissal of public interest litigation^[77] seeking prohibition of animal sacrifice stating the reason

that such sensitive topics can't be touched is another example of how religion is acting as an obstacle in the betterment of our fellow species.

5. Conclusion

India, a country with a reverence for life ingrained in its cultural fabric, has recognised the importance of animal welfare. The Prevention of Cruelty to Animals Act, 1960, serves as the legal cornerstone for safeguarding animals' rights. This legislation establishes guidelines for the protection and prevention of cruelty to animals, with special provisions for working animals and captive animals in zoos. Prevention of Cruelty against Animals Act, 1960 and Wildlife Protection Act, 1972 are the two major legislations providing for animal welfare. Despite the existence of these laws, enforcement remains a significant challenge, contributing to the persistence of animal abuse. In the pursuit of animal welfare, India stands at a crossroads where tradition meets progress. Recognising the intrinsic value of all living beings and striving for their humane treatment defines the character of a nation. Laws are designed concerning animal cruelty to prevent needless cruelty. For example, some laws govern methods of killing animals for food, clothing, or other products, and other laws concern keeping animals for entertainment, education, research, or pets.

To truly grasp the status of animal welfare in India, it is insightful to draw comparisons with other nations. Spain, for instance, has embraced the concept of *corrida de toros* (bullfighting), which has sparked polarising debates regarding animal cruelty. In contrast, France has championed animal rights by enacting comprehensive legislation, such as the *Code Rural et de la Pêche Maritime*, which safeguards animal welfare across various domains. These international examples demonstrate the multifaceted nature of animal welfare concerns and the varying approaches taken by different countries^[78].

6. Suggestions

- i). Since, the penalties offered by the PCA are low in proportion to the offences that take place against animals it is suggested that they are raised to an amount that can act as a deterrent. Lesser penalties do not act as a stringent control over the acts which are considered illegal.
- ii). It is future suggested that use of Animals for Experimentation are swapped with modern technologies such as *In-vitro* testing, In-Silico Modelling, Human-Patient Stimulators, etc. as these methods have better results as compared to animal testing which fail drug test ninety-five percent of the times^[79]. Law must go hand in hand with the technological advancement. Available and better testing methods may be considered to render animal testing as unnecessary pain and suffering to animals. Even Article 51A (h) of the Constitution of India necessitates that scientific temperament is developed by the citizens so experimentation on animals must be substituted with the new developed scientific experimenting techniques that yield better results.
- iii). Moreover, PCA act being the major legislation preventing animal cruelty is as old as 62 years, laws such as those mentioned in the PCA, draught and Pack Animals Rules, 1965 need to be amended. Expert committee must be set up to analyse whether the amount of load and distances allowed to be travelled are justified or not in the present day. The same has been directed by

the Uttarakhand High Court as well ^[80]. With the development of infrastructure and transportation facilities rules regarding draught animals must be made keeping these developments in mind.

- iv). Cruelty towards animals under the shadow of religion needs to be eradicated, it is suggested that section 28 is deleted from the PCA. As stated in the ivory traders' judgement ^[81], religion based animal cruelty can be regarded as a reasonable restriction on the right to freedom of religion and cultural rights. Also all religions teach compassion and when animals are sacrificed in the name of religion it has a poor impact on the children who witness such activities and are hardened. The same was held in a report as well ^[82]. The report has suggested that such exposures make children violent and thus these exposures must be eliminated in the society.
- v). The scope of PCA shall be extended as the Supreme Court suggested in the Saras crane case where the applicant was carrying through railways cranes with their eyes stitched which was a usual practice. The essentially cruel act was not punished due to the requirement attached by the act that the act to pass the "test of necessity" before rendering an act offence. The test must be done away with and all the acts of cruelty shall be brought under the ambit of the act as suggested by the court ^[83].
- vi). ICUN and CITIES mention list of species which are threatened across the globe and require special protection. Some of these species have found no place under the Wildlife Protection Act, 1972 schedules. Some examples are the White Bellied Heron, Siberian Crane, Bengal Florican, Himalayan Quail, Javan Rhinoceros, Sumatran Rhinoceros, and Large rock-rat, Nicobar Shrew, among others. The schedules of the act need to update from time to time to fall in consonance with the list of endangered species provided by the ICUN and the CITIES.

Footnotes

1. TwishaKaul, *Cruelty to Animals*, Times of India (April 2021).
2. Ibid.
3. Like any other industry, animal farming industry also tries to maximise their production and limit their costs of production in order to gain profits.
4. ¹Maneka Gandhi, *Here's why beak trimming of chicks in poultry farms is a senseless act of cruelty* available at-<https://www.firstpost.com/living/heres-why-beak-trimming-of-chicks-in-poultry-farms-is-a-senseless-act-of-cruelty-2969954.html>
5. Pigs are considered to be intelligent and emotional creatures by behavioural scientists. They are transported to slaughter houses in conditions causing death of many, in order to remove their hair and soften skin they are dumped into extremely hot water while they are still alive and conscious. The New Indian Express, undercover video shows pig abuse at Kentucky supplier (December 28, 2024, 10:00PM),<https://www.newindianexpress.com/world/2018/jul/31/undercover-video-shows-pig-abuse-at-kentucky-supplier-1851125.html>.
6. They are injected so as to cause genetic manipulations to enhance milk produce. They are injected hormones which lead to an increased risk of mastitis (inflammation of breast tissue, may involve bacterial infection. It is a very painful condition resulting in swelling up of the mammary glands). See PETA, *Is Your Food a Product of Rape?* (March 28, 2025, 10:00PM), <https://www.peta.org/features/rape-milk-pork-turkey/>.
7. Experimentation takes place for various reasons including medical study and training, chemical, drug, cosmetic and food testing, etc. Some of the acts of experimentation involve burning, shocking, poisoning, isolating, drug addiction, brain damage. Animals are exposed intentionally to diseases which they wouldn't have contracted in normal circumstances. Animals are caged and treated mercilessly like some non-living object to work and research upon. Beside physical harm, the emotional and mental cruelty caused to these animals is immeasurable. Some countries such as Japan, China, The United States and Canada make these experimentations legal. See PETA, *Cruelty to Animals in Laboratories* (March 28, 2025, 10:00PM), <https://www.peta.org/issues/animals-used-for-experimentation/animals-laboratories/>.
8. Anuradha P. Nair, *Animal rights-protection against animal testing and exploitation: a critical study* (2020) (Unpublished Dissertation, National University of Advanced Legal Studies, Kochi).
9. ¹Jallikattu is a festival celebrated by Tamilians in India from centuries post the Pongal festival. During this festival thousands of people try to hang on the hump of Bull who is left open running among crowds, a cloth is hung on the horn of the bull. Whoever is able to remove this cloth is considered victorious. This dangerous activity causes multiple injuries and even leads to death of several people and Bulls. The Supreme Court had banned this sport resulting in protests but now the court has decided to leave this controversial matter in the hands of the High Court of Tamil Nadu.
10. Indian Pangolin, Star Tortoise, Tokay Gecko, Red Sand Boa, Bengal Monitor Lizard are a few of the most smuggled animals from India. Some are used for medicinal purposes, some for extracting oil, meat, leather and some are considered as a sign of good luck. Elephant Ivory, horns of certain animals are collected and displayed by rich buyers in their homes. It's not just illegal trafficking of these animals that is bothersome but also the manner in which it is done it. These animals are so tightly packed during their transit that their bones usually break or they suffocate and die on the way. Cow smuggling among India and Bangladesh was exposed at several intervals. Cows are tied by their throat and pulled up in air to reach across the border. It causes haemorrhage when such a heavy animal is pulled at such a height from their head. These are the worst acts of insensitivity towards our fellow members and must be stopped at any cost. See Saket Badola, *Indian Wildlife Amidst the COVID-19 Crisis: An analysis of Status of Poaching and Illegal Wildlife Trade*, TRAFFIC (2020).
11. The Hindu, *Pregnant Elephant Dies After Eating Cracker-Filled Fruit* (April 18, 2025, 10:00PM), <https://www.thehindu.com/news/national/kerala/pregnant-elephant-diesafter-eating-cracker-filled-fruit/article31746611.ece>.
12. Aditya Bhamenya, *Animal welfare in India: Striving for compassionate coexistence*, Times of India (May 22 2023).
13. S.C. Shastri, *Environmental Law* 125 (6th ed., Eastern Book Company, Lucknow 2018).

14. Id. at 35.
15. It came into force on 7-1-1977.
16. INDIA CONST. art 48-A.
17. Id. art. 51-(g).
18. C.M. Jariwala, *The Constitution 42nd Amendment Act and the Environment* in S.L. Agarwal (ed.,) Legal control of environmental pollution 25 (1980).
19. Bharatiya Nayaya Sanhita, 2023, sec. 377.
20. Id. sec. 325.
21. Id. sec. 325.
22. Wildlife (Protection Act), 1972, preamble.
23. Id. sec.
24. Id. sec.9.
25. Schedule I species receive the highest protection.
26. Under the Wildlife Protection Act, 1972 under Schedule I and II the list of wild animals, mammals, birds, reptiles, amphibians, fishes etc. is given and their hunting is prohibited.
27. See Wild Life (Protection) Act, 1972. secs. 11 and 12.
28. Id. sec.38L.
29. See Wildlife (Protection) Act, 1972, secs. 38—38-XA
30. Id. Chapter IV-C (From SEC. 38-Y to 38-Z). The chapter was incorporated by the Amendment Act, 2006.
31. *Supra* note 13 at 395.
32. See Wild Life (Protection) Act, 1972, Chapter V, V-A, V-B (From sec39 to 49-R).
33. Id. sec.49.
34. Id. sec.42.
35. See Wildlife (Protection) Act, 1972, sec.51.
36. Prevention of Cruelty to Animals, Act, 1960, s. 11.
37. Ibid.
38. Id. sec. 4.
39. Id. sec. 9.
40. Prevention of Cruelty to Animals Act, 1960, sec.14.
41. Prevention of Cruelty to Animals Act, 1960, sec. 15.
42. Id. Sec.17.
43. Id. sec. 19.
44. Id. sec. 20.
45. Id. sec. 21.
46. Id. sec. 22.
47. Id. 22(ii)
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