

# **ANIMAL RIGHTS AND CRUELTY AGAINST ANIMALS: A CRITICAL STUDY VIS-À-VIS JALLIKATTU CASE**

## **ABSTRACT**

In the light of several contemporary judgments such as the Jallikattu case (2014). It has become imperative to discuss and deliberate over animal rights now more than ever. With an increase in the instances of cruelty towards animals and for the realization of pro-active goal of judiciary to work in the area of animal welfare, and to guarantee the rights of animals, the article explores Constitutional provisions and legislations dealing with the same. The paper looks into the need for animal rights. It explores the factors that could be considered for their better implementation. The Court, in its 2014 Jallikattu judgment, sought to bring animals under the protection of the rights discourse by stating that Article 21 of the Constitution of India could be applied to animal life also.

## **INTRODUCTION**

The perspective towards animals have gone through a lot of changes from animal being considered as only biological machines during the time of Rene Descartes in the 17<sup>th</sup> century, to animals being provided certain rights.<sup>1</sup> Jeremy Bentham was the first scholar who challenged this view and advocated animal welfare and started a movement against animal cruelty which paved the way for legal developments and reforms in this field. For this he has been called the “first patron saint of animal rights”<sup>2</sup>. This led to modern welfare approach which was advocated by Bentham and is summarized in the Brambell’s Five Animal freedoms which carries the legacy of Bentham’s study. These principles were also recognized by the honorable Supreme Court of India in the landmark judgment of the Animal Welfare Board of India v. A. Nagaraja.

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<sup>1</sup> Glen Wright, Animal Law and Earth Jurisprudence , A Comparative Analysis of the Status of Animals in two Emerging Critical Legal Theories, last accessed (June 14, 2017). <http://www.glenwright.net/files/Animal%20Law%20and%20Earth%20Jurisprudence.pdf>

<sup>2</sup> Glen Wright, Animal Law and Earth Jurisprudence , A Comparative Analysis of the Status of Animals in two Emerging Critical Legal Theories, last accessed (June 14, 2017). <http://www.glenwright.net/files/Animal%20Law%20and%20Earth%20Jurisprudence.pdf>

The five freedoms are as follows:

1. Freedom from Hunger and Thirst;
2. Freedom from Discomfort;
3. Freedom from Pain, Injury or Disease;
4. Freedom to Express Normal Behaviour;
5. Freedom from Fear and Distress.<sup>3</sup>

Peter Singer in his book *Animal liberation* sought a total prohibition of animal exploitation. “Peter Singer was perhaps the first to move away from welfarism and propose an entirely new framework for considering the interests of animals. Singer’s utilitarian theory builds on Bentham’s welfarism, and takes a step forward, not only arguing that animals should not be treated cruelly, but also that an animal’s interest in not being treated cruelly, or, alternatively, its interest in enjoying happiness, must be considered equally with the interests of humans.”<sup>4</sup>

He coined the term ‘speciesism’, which he said, is the prejudice against animals in comparison to humans. Further developments in the animal rights jurisprudence were led by Tom Regan, *The Case for Animal Rights*<sup>5</sup>; Gray Francine, *Rain without thunder*<sup>6</sup>; Steven Wise, *Rattling the Cage*<sup>7</sup> which changed the stance from mere animal welfare to providing legal rights to the animals.

In India, the animals from ages are being considered as an essential part of the human existence. From the ancient period the seals and coins are found which were engraved with animal figures including bulls, elephants, tigers etc. In the ancient Hindu texts like Mahabharata and Ramayana animals had been mentioned as godly figures and teachings like loving and protecting animals

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<sup>3</sup> Farm Animal Welfare Council, ‘The Five Freedoms’, <http://www.fawc.org.uk/freedoms.htm>.

<sup>4</sup> Glen Wright, *Animal Law and Earth Jurisprudence*, A Comparative Analysis of the Status of Animals in two Emerging Critical Legal Theories, <http://www.glenwright.net/files/Animal%20Law%20and%20Earth%20Jurisprudence.pdf>

<sup>5</sup> *The Case for Animal Rights* (2nd edn University of California Press, Berkeley 2004).

<sup>6</sup> Francione, G., *Rain Without Thunder: The Ideology of the Animal Rights Movement* (Temple University Press, Philadelphia 1996).

<sup>7</sup> Wise, S., *Rattling the Cage: Toward Legal Rights for Animals* (Perseus Publishing, New York 2000) 7.

are given.<sup>8</sup> Also during the Mughal rule in India things like cow slaughter were not practiced because they considered it as bad from the economic point of view.<sup>9</sup>

After the advent of the British in India, no substantial growth towards animal welfare took place but some important legislation were passed like Elephant Preservation Act, 1879; World Birds Protection Act, 1887; World Birds and Animal Protection Act, 1912 which strived towards animal welfare and their protection.

With independence, India got a new Constitution where the Constitutional framers worked with an aim to promote animal welfare by adding Article 48, Article 48A, Article 51A(g) etc. In 1960, a major development took place when the parliament of India passed Prevention of Cruelty Act and in 1972 Wildlife Protection Act was passed. Both of these legislations are major promote the protection of animals rights. New developments have taken place with judiciary working for the animal welfare and protection with including animals under right to life under Article 21 in the landmark judgment, Animal Welfare Board of India v. A. Nagaraja,<sup>10</sup> and providing protection to them under Article 21.

### **CAN ANIMALS ALSO HAVE RIGHTS?**

In many discussions on the treatment of animals a reference is made to the ‘intrinsic value of animals’. The intrinsic value of something is said to be the value that thing has “in itself,” or “for its own sake,” or “as such,” or “in its own right.”<sup>11</sup> The phrase often means that animals have a value of their own, as opposed to its instrumental value, its value to other animals i.e., human beings. Advocates for animal rights hold the view that animals should not be reduced to their usefulness, since they too evoke sympathy, suffering and like behavior.<sup>12</sup> Some philosophers have been of the view that the idea of animal rights is implausible. St. Thomas Aquinas held belief that animals were not subject to rights as they purely acted on instinct unlike humans who

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<sup>8</sup> Dr. Lisa Kemmerer, Hindu *Ethics* and Nonhuman Animals, Animals: Tradition - Philosophy – Religion, All Creatures.org (May 2014) <http://www.all-creatures.org/articles/an-tpr-Hindu-ethics.html>.

<sup>9</sup> Das Bhargava, Constituional assembly of India debates vol VII , CAD India, Para 94 (June 15,2017) [http://cadindia.clpr.org.in/article/AVsOq5Cy7SXahIyw4ci0--constituent-assembley-of-india-debates-proceedings-volume-vii?categories=Cow+Slaughter&articles=48&main\\_query=animal+rights&p=90](http://cadindia.clpr.org.in/article/AVsOq5Cy7SXahIyw4ci0--constituent-assembley-of-india-debates-proceedings-volume-vii?categories=Cow+Slaughter&articles=48&main_query=animal+rights&p=90).

<sup>10</sup> [(2014) 7 SCC 547].

<sup>11</sup> Michael J.Zimmerman, "Intrinsic vs. Extrinsic Value", The Stanford Encyclopedia of Philosophy(June, 11,2017,11:00AM) ,<https://plato.stanford.edu/archives/spr2015/entries/value-intrinsic-extrinsic/>.

<sup>12</sup> MARCEL DOL, RECOGNIZING THE INTRINSIC VALUE OF ANIMALS 41-42 (1999).

act in a rational way. Rene Descartes compared animals to biological robots.<sup>13</sup> But Peter Singer suggests that “there can be no moral justification for regarding the pain (or pleasure) that animals feel as less important than the same amount of pain (or pleasure) felt by humans.”<sup>14</sup> Jeremy Bentham and John Stuart Mill suggested mistreatment of animals is similar to slavery.<sup>15</sup>

The idea of animals being considered as a subject of life and to have inherent value and rights is slowly developing. There are various instances such as New Zealand granting basic rights to apes in 1999, Germany amending its Constitution in the year 2002 to guarantee rights for animals, the New York court considering whether chimps are legal persons.<sup>16</sup> But any significant improvement in animal treatment will be difficult to achieve as long as animals are regarded as nothing more than property. Law to be an efficient tool in liberating animals from the arbitrary treatment, reformatory efforts ought to be directed at the property status of animals. “A progressive way to use law to bring change in the property status of animals would involve the recognition that animals have at least some non-tradable interests. For example a prohibition on particular scientific procedures, banning practices which have no essential significance to human interests”<sup>17</sup>.

## **CONSTITUTIONAL SAFEGUARDS TO ANIMALS UNDER ARTICLE 51A (G) AND ARTICLE 21.**

The age old practice of worshipping animals, seeking their dignified existence, and not to harm them was converted by the Constitutional framers into a fundamental duty, to continue the age old idea of peaceful existence with animals. The Constitution of India casts upon every person a duty to live with love and compassion with all living creatures under article 51A (g) of the Constitution. It is the soul of animal rights in India and is to be read with Art.48 and Art. 48A.

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<sup>13</sup> Animal Ethics: Animal rights, BBC, (June, 11, 2017, 11: 18 AM), [http://www.bbc.co.uk/ethics/animals/rights/rights\\_1.shtml](http://www.bbc.co.uk/ethics/animals/rights/rights_1.shtml).

<sup>14</sup> Fraser, D; Weary, D M; Pajor, E A; Milligan, B N, A SCIENTIFIC CONCEPTION OF ANIMAL WELFARE THAT REFLECTS ETHICAL CONCERNS, 6. UFAW, Aug. 1, 187-205.

<sup>15</sup> Cass R. Sunstein, The Rights of Animals: A Very Short Primer, University of Chicago Law School (June, 12, 2017, 9:08 PM), [http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1339&context=public\\_law\\_and\\_legal\\_theory](http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1339&context=public_law_and_legal_theory).

<sup>16</sup> Owen Bennett-Jones, Should Animals Have the same rights as humans, BBC,(accessed on June,12, 2017,10:30 PM ), <http://www.bbc.com/news/world-32854504>.

<sup>17</sup> Gary L. Francione, Animals--Property or Persons, Rutgers Law School,(June,13, 2017, 2:40 PM), <http://law.bepress.com/rutgersnewarklwps/art21/>.

Looking at the various atrocities committed against animals like Beating, kicking, torturing,<sup>18</sup> to atrocious crimes such as killing and thereafter cooking of a pet<sup>19</sup>, to rape of animals resulting in their death<sup>20</sup> these safeguards were introduced for making a better world for animals.

Quoting the exact words of the article 51A (g) it says, “It shall be the duty of every citizens of India to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.”<sup>21</sup> Although the fundamental duties are not legally enforceable, but the courts in India have in many a cases attached a lot of importance to it and have considered it fundamental in country’s governance. One such case is A.I.I.M.S. Student’s Union v. A.I.I.M.S<sup>22</sup> where court said the fundamental duties are essential in judicial interpretation of the Constitution.

Another major development which occurred in this area was by seen in the Supreme Court’s judgment in the case, *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat and Ors.* In the given case the SC held that the spirit of Article 48 and Article 48A is to be fulfilled through the fundamental duty enshrined in the article 51 A (g) which means to live with love, peace, to show kindness and sympathy with other living creatures.<sup>23</sup>

The spirit of humanism among people is a must in the present times, if we want a society where every creature can live with dignity and enjoy its basic rights provided by nature and by any other law enforceable. This was also opined by the SC in the famous Jallikattu case where the Apex court gave various meanings to the word ‘Humanism’ “Humanism also means, understand benevolence, compassion, mercy etc. Citizens should, therefore, develop a spirit of compassion and humanism. 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.”<sup>24</sup>

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<sup>18</sup> Prevention of Cruelty Act 1960, section 11(1)(a).

<sup>19</sup> Santosh Kumar R.B, Three Students held for killing, cooking pet dog, The Indian Express, <http://indianexpress.com/article/india/india-others/3-students-held-for-killing-cooking-pet-dog/> (last accessed on June 15 2017, 12:30 p.m.)

<sup>20</sup> Two men tie up cow, rape, stab it, The Times of India, <http://timesofindia.indiatimes.com/india/Two-men-tie-up-cow-rape-stab-it/articleshow/951733.cms> (last accessed at June 15, 2017, 11:26 a.m.)

<sup>21</sup> Constitution of India, Article 51A clause(g).

<sup>22</sup> AIR 2001 SC 3262.

<sup>23</sup> *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat and Others*, 8 SCC 534, (SC 2005).

<sup>24</sup> *Animal Welfare Board of India v. A. Nagaraja & Ors.*, CIVIL APPEAL NO. 5387 at \*80, (SC May.7, 2014)

## **ARTICLE 21**

Apart from the duties people have towards animals, the animals for their safeguards have certain rights also which includes Right to life and personal liberty guaranteed under this article. This is considered as the natural right and is to be given to everyone be it animals or human being.

The SC has expanded the horizon of the Article 21 by including animals under its ambit and providing them the basic right to life and personal liberty. “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 (emphasis supplied). 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, honor and dignity...Right to dignity and fair treatment is, therefore, not confined to human beings alone, but to animals as well...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 is insignificant, since laws are made by humans.”<sup>25</sup>

## **PREVENTION OF CRUELTY TO ANIMALS ACT 1960: THE LEGISLATIVE SAFEGUARD**

This act is the most important legislation in India, prevalent in the field of animal protection. This act was passed with an objective “to prevent the infliction of unnecessary pain or suffering on animals and for that purpose to amend the law relating to the prevention of cruelty to animals.”<sup>26</sup>

Being the epitome of all animal laws prevailing in India, this act has been the ground for implementation of various legislations including, Prevention of Cruelty to Draught and Pack

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<sup>25</sup> Uday Shankar, Do Animals Have A Right Under Article 21 of the Constitution of India? – Comment on Animal Welfare Board of India Case, *Bharti Law Review*, Oct. – Dec., (2014), at 67.

<sup>26</sup> Prevention of cruelty to animals Act 1960.

Animals, 1965, Licensing of Ferries Rules, 1965, Transport of Animals, Rules, 1978, Transport of Animals on Foot Rules, Transport of Animals (Amendment) Rules, Registration of Cattle Premises Rules, Capture of Animals Rules, Slaughter House Rules, The Wildlife Protection Act, 1972. It extends to whole of India except the state of Jammu and Kashmir.<sup>27</sup>

This act was passed to repeal the earlier existing PCA Act 1890, which had many loopholes in its provisions like its applicability, penalties, crimes, definition of animals etc. The PCA Act 1960 under its chapter II established the ANIMAL WELFARE BOARD OF INDIA (A.W.B.I) by the central government for the promotion of animal welfare and to protect them from unnecessary pain or suffering, with it itself granted the authority to make rules for its functioning.

Sec. 3 of the act bestows a duty upon every person, it reads,

*“It shall be the duty of every person having the care or charge of any animal to take all reasonable measures to ensure the well-being of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering.”*

Sec. 11 of the act defines acts which are to be considered crime under the act and falls under animal cruelty. It has certain acts which are subjected to punishment such as, unfit employment of animal,<sup>28</sup> harmful injection of any substance,<sup>29</sup> painful or harmful transportation,<sup>30</sup> unfit confinement of animals,<sup>31</sup> confinement for unreasonable time,<sup>32</sup> the duty of an owner of animal,<sup>33</sup> prevention of abandonment,<sup>34</sup> unfit sale of the animal,<sup>35</sup> mutilation of animal,<sup>36</sup> unlawful use for entertainment, such as, animal fights.<sup>37</sup> Thus, this section covers each and every act of cruelty against animals by not limiting the acts of animal cruelty to above mentioned acts but including acts which otherwise are the causes of animal cruelty.

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<sup>27</sup> The Prevention of Cruelty to Animals Act, 59, P.C.A Act, Section-1, cl.(2) (1960)

<sup>28</sup> The Prevention of Cruelty to Animals Act, 59, P.C.A Act, Section-11, cl.(1)(b) (1960).

<sup>29</sup> The Prevention of Cruelty to Animals Act, 59, P.C.A Act, Section-11, cl. (1)(c) (1960).

<sup>30</sup> The Prevention of Cruelty to Animals Act, 59, P.C.A Act, Section-11, cl. (1)(d) (1960).

<sup>31</sup> The Prevention of Cruelty to Animals Act, 59, P.C.A Act, Section-11, cl. (1)(e) (1960).

<sup>32</sup> The Prevention of Cruelty to Animals Act, 59, P.C.A Act, Section-11, cl. (1)(f) (1960).

<sup>33</sup> The Prevention of Cruelty to Animals Act, 59, P.C.A Act, Section-11, cl. (1)(g) (1960) and The Prevention of Cruelty to Animals Act, 59, P.C.A Act, Section-11, cl. (1)(h) (1960).

<sup>34</sup> The Prevention of Cruelty to Animals Act, 59, P.C.A Act, Section-11, cl. (1)(i) (1960).

<sup>35</sup> The Prevention of Cruelty to Animals Act, 59, P.C.A Act, Section-11, cl. (1)(k) (1960).

<sup>36</sup> The Prevention of Cruelty to Animals Act, 59, P.C.A Act, Section-11, cl. (1)(l) (1960).

<sup>37</sup> The Prevention of Cruelty to Animals Act, 59, P.C.A Act, Section-11, cl. (1)(m) (1960).

Chapter IV of the acts deals with the regulation of experiments on animals and draws a line to distinguish between legal and illegal acts of experimentation on animals. It constitutes a committee under section 15 to regulate such acts by making rules and regulations. While section 20, imposes penalties, if the guidelines of the committee are not followed. One can say by looking at the provisions of this act that it covers most of the crimes committed against animals and lay down the regulatory provisions in respect to them.

### **ANALYSIS OF ANIMAL WELFARE BOARD OF INDIA v A. NAGARAJA (JALLIKATTU CASE)**

Article 21 is one such right guaranteed under the Indian Constitution which has influenced the development of landscape of human rights in India, the most. The Article not only protects the rights of humans but now is also read into protection of rights of animals. The judiciary has adopted a liberal and welfare oriented stance towards the cases of animal rights.

In 2000 the Kerala High Court, in *N.R. Nair V. Union of India*, considered the issue whether the fundamental rights can be extended to animals and gave its opinion that legal rights should not be “the exclusive preserve of humans which has to be extended beyond people thereby dismantling the thick legal wall with humans all on one side and all non-human animals on the other side”.<sup>38</sup> Later, similar view was held by the Supreme Court in *Animal Welfare Board of India v. A. Nagaraja*<sup>39</sup>.

Supreme Court in this case considered a principal issue with regard to the Rights of Animals under our Constitution with reference to the Prevention of Cruelty to Animals Act, 1960, in connection with Jallikattu/Bullock-cart race widely practiced in southern state of Tamil Nadu. The Supreme Court upheld the rights of animals though conflict between the provisions of the State Act i.e. the TNRJ Act (Tamil Nadu Regulation of Jallikattu Act, 2009) and the Central Act i.e. the PCA Act.

The Animal Welfare Board of India asserted that participating bulls of 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), Article 21 of the Constitution of India, and hence

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<sup>38</sup> N.R. Nair v. Union of India, AIR 2000 Ker 340.

<sup>39</sup> Animal Welfare Board of India v. A. Nagaraja, (2014) 7 SCC 547.

exhibition or training them as performing animals be completely banned. The court considered well-being and welfare of animals as a decisive factor for determining the issue. It was clearly found that the conduct of human beings towards the animal was contrary to the scheme of the PCA Act.

Jallikattu started as an act of bravery where bundle of coins is tied to the bull's horns. In older times, the tamer sought to remove this bundle from the animal's head to win gold or silver. He would be called brave and be rewarded. But this act of bravery has now turned into an act of sheer cruelty towards the animal.<sup>40</sup>

Various media reports and Animal Welfare Board of India's report submitted before the court gave an account of various brutish forms of tortured and suffering that is being inflicted on these animals during the festival.

- Ear Cutting/Mutilation: to increase hearing capacity of the bulls.
- Fracture and Dislocation of Tail Bones
- Using Irritants: Irritant solutions were rubbed into the eyes and noses of bull
- Forcing Bulls to Drink Liquor, etc.<sup>41</sup>

Not just the animal but the spectators and the participants are also at high risks of serious injury. From 2010 to 2014, media outlets reported that there were some 1,100 human injuries and 17 deaths caused by jallikattu-style events.<sup>42</sup> Justice K.S. Radhakrishnan points out in the verdict, innumerable human lives, both of the participants and the audience, have been lost, as the bulls try to flee from the pain.

While the Tamil Nadu state government raised issues like whether an animal can have a legal right, and the sport being closely related to village life, tradition and culture also that the Act does not prohibit the infliction of all forms of pain or suffering on animal.<sup>43</sup> The Supreme Court

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<sup>40</sup>Sruthisagar Yamunan, Taming bulls, maiming rights, The Hindu, (June, 13, 2017, 1:02PM), <http://www.thehindu.com/opinion/op-ed/Taming-bulls-maiming-rights/article13980816.ece>.

<sup>41</sup> Prof. Dr. Mariamma.A.K, Case Comment on Animal Welfare Board of India vs. A. Nagaraja & others", 2. JLAR, 25 (2015).

<sup>42</sup> PETA India, (accessed on June, 14, 2017, 10:45 AM) <http://www.petaindia.com/blog/faq-on-jallikattu-bull-races-and-peta-india/>.

<sup>43</sup> Jessemine Therese Mathew and Ira Sridhar, Granting Animal Rights under the Constitution: A misplaced Approach? An analysis in light of Animal welfare board V. A Nagaraja, Manupatra, (accessed on June, 14, 2017, 11:01AM) <http://docs.manupatra.in/newslines/articles/Upload/F6A0FB5A-88EF-4DF0-9583-3CBE36BDB956.pdf..>

maintained that every specie including animal life which is necessary for human life fall within the meaning of Article 21 and 'life' means to lead a life with some intrinsic worth, dignity and honour.<sup>44</sup>

The judgment comes as a major step to keep in line with the development in animal rights across the world with the Spanish state of Catalonia banning the 'bullfighting' sport in 2012, United Kingdom in 2011 passed The Animal Welfare Act, recognizing all vertebrates as sentient, feeling beings.<sup>45</sup>

## **ANIMAL WELFARE LEGISLATIONS: RECOMMENDED SOLUTIONS FOR THEIR BETTER IMPLEMENTATION**

### **HARSH PENALTIES TO BE IMPOSED**

Penalties are the most effective way of stopping something to continue or to occur. But our most prominent legislations on animal welfare like PCA Act 1960 lacks in imposing a reasonable penalty on the wrongdoer of any crime against animals.

It imposes a penalty of a meager amount of money which is ten rupees, but not more than fifty rupees in case the offence is committed for the first time. In the case of subsequent offence committed within three years of the previous offence, a fine of minimum twenty five rupees and maximum of hundred rupees can be imposed or an imprisonment for a term which may extend, to three months, or with both.<sup>46</sup>Section 20 of the same act imposes a penalty which can be extended up to rupees two hundred. These penalties are negligible against the interest they are supposed to take care of.

“Penalty for violation of those rights is 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

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<sup>44</sup> Animal Welfare Board of India v. A. Nagaraja, (2014) 7 SCC 547.

<sup>45</sup> Kristen Arnim, Animal Protections around the World, (accessed on June, 15, 2017, 4:07 PM) <https://ladyfreethinker.org/animal-cruelty-laws-around-the-world-the-u-s-ranks-lower-than-you-would-think/>.

<sup>46</sup> Subs. ibid S. 10 (a) (vii) for the portion beginning with the words "in the case of a first offence" and ending with the words "or with both" PCA Act 1960.

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.”<sup>47</sup>

“G. Dowlath Khan, an inspector with SPCA (Society for Prevention of Cruelty to Animals) for the past 33 years, said outdated legal provisions, the abysmally low fine amount and a shortage of inspectors had resulted in increased cruelty towards animals of late”<sup>48</sup> There arises a need to regulate these penalties so that a fear in the mind of a wrongdoer can be ignited and he/she must think twice before committing of a crime.

### **GENERAL PUBLIC AND OFFICIALS TO BE MADE MORE AWARE**

Public awareness, trained officials dealing with the issue increases the efficiency of the law. The role of general public can be well understood by the fact that, they are the ones who could help the government in curbing animal exploitation if they report the unlawful acts committed against the animals. People should be made aware of the general laws and rules affecting animals so that they can work in adherence to those laws.

For example “teasing, feeding or disturbing the animals in a zoo and littering the zoo premises is an offence punishable by a fine of Rs. 25000 or imprisonment of up to three years or both.”<sup>49</sup> Most of the people do not know about such laws and they remain bystander if someone else does such things. We have encountered various cases where people often disturbs animals like in Gwalior zoo a student in drunken state and having bottle in hand chased two tigers in their cage by breaching the fences.<sup>50</sup>

Another basic area where people lack knowledge of rules and regulations is animal slaughter. “No animal (including chickens) can be slaughtered in any place other than a slaughterhouse. Sick or pregnant animals shall not be slaughtered.”<sup>51</sup>

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<sup>47</sup> Animal Welfare Board of India v. A. Nagaraja & Ors., CIVIL APPEAL NO. 5387 at \*85, (SC May.7, 2014).

<sup>48</sup> P. Oppili, Cruelty to animals on the rise, The Hindu-Chennai, [www.thehindu.com/news/cities/chennai/cruelty-to-animals-on-the-rise/article5076494.ece](http://www.thehindu.com/news/cities/chennai/cruelty-to-animals-on-the-rise/article5076494.ece) (last accessed on June 12, 2017, 08:06 p.m.),

<sup>49</sup> Humane Society International(India), The Better India, <http://www.thebetterindia.com/46721/humane-society-india-animal-laws-prevention-of-cruelty-act>.

<sup>50</sup> Visitors often insensitive to animals in the zoo, The Times of India City, Sep.14 (2014), 2:14 am IST. <http://timesofindia.indiatimes.com/city/delhi/Visitors-often-insensitive-to-animals-in-the-zoo/articleshow/43274730.cms>.

<sup>51</sup> Rule 3, of Prevention of Cruelty to Animals, (Slaughterhouse) Rules, 2001 and Chapter 4, Food Safety and Standards Regulations, 2011.

Such ignorance may result in animal cruelty. So to stop such things people must be made aware of such laws, rules etc. and what action they could take in such situations.

### **WELL TRAINED OFFICIALS AND OTHER PROFESSIONALS**

The well functioning of a law is only possible if the officials related to it are well trained and well versed with their powers given by a law. The officials lack awareness about the provisions, rules, powers, penalties etc. relating to animal welfare legislations. One instance of which is “G. Dowlath Khan, an inspector with SPCA (Society for Prevention of Cruelty to Animals) for the past 33 years, said that though there are provisions in the Prevention of Cruelties to Animals Act to punish offenders, a complainant also has to include provisions of the Indian Penal Code in order for severe action to be taken against an offender. However, since there is little awareness or interest amongst law enforcers, there is hardly any implementation of the law, he said.”<sup>52</sup>

The acts like not registering complaints of animal abuses by the police officials<sup>53</sup>, and hence not acting on such complaints have resulted in increasing animal cruelty. So, there is a need to train the officials and make them aware. Measures like organizing Seminars, Conferences, training Sessions, Workshops, Short duration courses by the government or NGO’s could be milestone in fulfilling this motive.

### **ENACTMENT OF THE DRAFT ANIMAL WELFARE ACT 2011**

The Animal Welfare Board of India has drafted an Animal Welfare Act to replace the old PCA Act. This draft bill has covered almost everything and is more comprehensive, efficient, well structured etc. to deal with the current acts of animal abuse. It has a provision to increase the penalty which is there in the PCA act, upon animal abuse. It fines an amount of rupees 10,000 to 25,000 or imprisonment for up to two years – or both – for a first offence. For a subsequent offence, the penalty would be between 50,000 rupees and one lakh rupees and imprisonment for one to three years.

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<sup>52</sup> P. Oppili, Cruelty to animals on the rise, The Hindu-Chennai, <http://www.thehindu.com/news/cities/chennai/cruelty-to-animals-on-the-rise/article5076494.ece> ( Last accessed on Feb 29, 2016, 08:06 p.m.).

<sup>53</sup> Poorva Joshipuria, Delhi gang rape two years on: Shocking levels of animal abuse show India has failed to change, International Business Times, [www.ibtimes.co.uk/delhi-gang-rape-two-years-shockinglevels-animal-abuse-show-india-has-failed-change-1481008](http://www.ibtimes.co.uk/delhi-gang-rape-two-years-shockinglevels-animal-abuse-show-india-has-failed-change-1481008) (June 15, 2017, 07:49 p.m.).

Having various other strong regulatory provisions, it can be called a well drafted legislation. So, there is a need to enact this legislation by the parliament and not let it pending before it for more duration.

## CONCLUSION

Among all the progressive countries in the world, India is one such country which has given due consideration to the cause of Animal rights and has ample of laws guaranteeing the same such as *The Prevention of Cruelty to Animals Act, 1960*, *The Transport of Animal Rules, 1978*, *The Prevention of Cruelty to Animals (Slaughter House) Rules, 2001*, etc.

Though India with the help of its laws and actively participating judiciary has covered great milestones but still there are some flaws that need to be addressed. The meager amount of fine ranging from Rs. 10 to 100 or 200 does not help much in fulfilling the objective behind these Acts. Also, the lack of awareness among the people and officials is becoming a bone of contention in fulfillment of the noble objective of animal welfare in our country. The enactment of the Draft Animal Welfare Act could prove to be a milestone in the field of Animal Welfare in India, if enacted.

Despite of the shortcomings, various steps are being taken in India to take over the loopholes and lacunas in every field for strengthening the animal legislations in India. The Indian judiciary has played an active role to give new dimensions to animal rights. Court has 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<sup>54</sup>. The Supreme Court in the *Nagaraja case* extended the meaning of Article 21 including animals within its ambit.

With this India has come in line with countries like Switzerland, U.K., and Germany. Though some developed countries have extensive laws on Animal Protection there still arises a need for International legislation. Apart from pacts on environment, countries should evolve and become signatories to such legislations which enforce compulsory recognition of some non-tradable rights of Animals rights. The masses should be sensitized on the issue and it's high time we realize that the birds and animals are entitled to coexist along with the human beings as animals

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<sup>54</sup>Prof. Dr. Mariamma.A.K,Case Comment on Animal Welfare Board of India vs. A. Nagaraja & others”, 2. JLAR, 25 (2015).

and birds are always useful to the mankind for their sustenance. Even an animal has honour and dignity which cannot be arbitrarily deprived. Also, their rights and privacy have to be respected and protected from being violated by the humans. Therefore, the need for recognition and proper implementation of animal welfare legislation is a pertinent issue not only on the national level but also on international forum, which needs to be dealt with due diligence.