

MOOS AND PAWS

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ABSTRACT

Most of our acquaintance with animals occurs in the form of them roaming mindlessly by the street sides. Our parents take us to zoos and parks for us, to have an idea regarding their 'habitat' and 'wild' lifestyle. The shapes of animals are presented to us in the most distorted forms. From having them dead on our plates to painting them red—during Holi— on the streets. From shoo-ing them by stone pelting to giving our 'human-friendly' biscuits to them. We do more harm in the guise of good. Animals do not exclude our innocent hens, buffaloes, pigs, etc. Consumption cannot be a reason for mass destruction. Their growth can be easily controlled without cutting them. Humans have adopted multiple means to regulate population growth. Why not some innovative brains come up with ideas to mitigate their rampant growth rather than sucking their bone marrows for the sheer pleasure of their taste buds?

MOOS AND PAWS

IS INDIA A LEGIT SAFE HOME FOR ANIMALS?

According to Section 2(a) of the Prevention of Cruelty to Animals Act, “animal” means any living creature other than a human being; Now the time has come when we should start re-examining our behavioural attitudes towards our fellow species. As per the IUCN Red List, 2.13 million species share our home with us.¹ It forms a major chunk of our habitat. However, have we associated enough value with our fellow mates? Do we have adequate compassion to make us what we call ‘humans’? These days we often find that the animals remain stuck to their animality but are humans following their paths of humanity? It is a big question to ponder over. Stray dogs stray because they are homeless and they have to forage to fill their unfilled stomachs. They don’t have anyone who wants to stand guard over the harshness of their lives. They don’t have anyone who calls them their own. They are like unhinged creatures who do not have homes but rather have what we call “shelters”.

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¹ Hannah Ritchie, ‘How many species are there?’ (Our World in Data, 30 November 2022)

<<https://ourworldindata.org/how-many-species-are-there>> accessed 18 September 2023

However, the minds of humans stray because of their uncontrolled consciousness. Our self-awareness makes us different from the animals. But do we even have command over our senses? Do we care about the environment in which we live? Can we see the long-term repercussions of our selfish actions? Are even calculating the butterfly influence of the decline of an average of 68% of 21,000 monitored populations of mammals, fish, birds, reptiles and amphibians, encompassing almost 4,400 species around the world? Animals' rights are blatantly violated by humans.² We need to understand that we "share" this planet with other organisms and not possess the earth. Our belonging is dependent on their well-being. We need to be more mindful about the choices that we are making. We can only enjoy our rights to the fullest when the rights of other creatures are not desecrated.

Do animals too have all the five senses that we have who gave us the right to impair their senses for our enjoyment? We should not destroy what we have not created on our own. Animals do feel the way we do though the way they express themselves may be different. Animal rights and laws are still not in place. We are sucking the warm air off our A.C. rooms and transporting the excessive heat to our external surroundings—where the animals thrive to live. We want our rooms to stay as cold as our hearts. Zillion laws are fashioned and implemented for the betterment of the human race. We are all our moving ahead leaving other organisms behind. If such a behaviour is continued then sooner or later no miles will be left to go before, we sleep.

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We always have tended to think differently about people or things that are not alike us. People holding different ideologies, people looking distinctly or people who try to defy the norms; we often find ourselves holding grudges against people/things with dissimilar sets of habits. This holds with other organisms also. We feel indifferent to the different organisms. Now and then we are working to uplift the weaker sections of society. Why does it happen that these organisms and animals do not even count as a separate significant section? Why does it happen that though many laws are made however they are hardly implemented? Complications faced by the animals of our society:

- Animals like cows are left to wander on the streets after they are proved to be infertile.
- There are no definite shelter homes for the free-ranging Indian pariah dogs and pigs.

² Adeela Hameed, 'The silent crisis: A 75% land transformation and 68% decline in wildlife' (Jk Policy Institute, 16 July 2023) <<https://www.jkpi.org/the-silent-crisis-a-75-land-transformation-and-68-decline-in-wildlife>> assessed on 18 September 2023

- Cows and buffalos that are being raised in the sheds are only “used” as a mere means. They are not taken care of properly. They are injected with hazardous doses of injections that promote fertility and make them bear offspring at uneven and unnatural time frames.
- Stress and strain endured during postpartum periods often cause induced infertility in animals like cows³

Multiple laws are present—the Prevention of Cruelty to Animals Act (PCA) 1960⁴, and rules enacted under Section 38 of the act, particularly, the Animal Birth Control (Dogs) Rules, 2001⁵; Indian Penal Code⁶, sections 428 & 429 and Article 51A (g) of the Constitution⁷—that offer justice to animals in case of the violation of their rights. However, justice offered is like chalk and cheese if it is compared to justice being retained. Animals are subjected to various kinds of mental, physical and sexual cruelties. There are designated adult sites where animals are being sexually abused. Are there any laws that are actually *in place* dealing with such kinds of atrocities? Why are not we able to feel the endless plight of these animals? How long these animals are going to die unnamed on these destination-less streets?

The pariah dogs are blended so well in Indian society still they are still not one of our parts. Why don't we let our streets be cleaned? We can have rest in our four-walled homes but they only have these garbage-d streets. Right to property was a fundamental right however it was later broken down to get the shape of a constitutional right. This fact is enough to exemplify the importance of having a property of your own—a place to reside; an abode. Why don't we think of having laws to give these poor creatures some genuine shelter? Isn't it their right? There should be laws formulated and implemented to provide adequate shelter, food and other necessary supplies. All the rights that are granted to these animals are statutory. These rights need to be raised to provide satisfactory freedom to our fellow creatures. There have been enough heated debates regarding the constitutional validity of Jallikattu too. We have to understand inflicting pain on animals in the name of culture is morally and ethically wrong. We tend to feel compassionate towards animals only when they are our pets.

³ Matthew C. Lucy, 'Stress, strain and pregnancy outcome in postpartum cows' (2019) 16(3): 455–464

⁴ The Prevention of Cruelty to Animals Act 1960, s 38

⁵ Animal Birth Control (Dogs) Rules, 2001

⁶ Indian Penal Code, 1860, s 428 and s 429

⁷ The Indian Constitution, 1950, a 51A (g)

Article 51A (g) states the following: “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.”⁸ In our Indian constitution, animals have got a meagre portion which is functional as a duty and not as an obligation. Animal rights are nowhere in the talk of the town. We have been so concerned about and internalised in ourselves that we simply forget or neglect the rights of animals. Animals do not have a right because they cannot stand for themselves. Hardly laws are formulated for them, regularly. Even today, people having the *custody* or *possession* of animals are called their owners. If we read the definition of animals, then we understand that leaving humans, every other creature constitutes an animal still, we have objectified every other creature on earth leaving us meaning that we have the power and thus every other species on earth is subjected to our dominance. We do not take care or look after our animals but we *own* them.

Animal rights have no mention in our laws. We have just formed some laws regarding animals only to ensure that people do not exceed their limits by humiliating animals thereby becoming unbearable or disgusting for us to tolerate. There was a time when humans used to nourish themselves using animals’ flesh and bones. However, situations are entirely different right now. There is an availability of vegan sources of food, food derived from non-animal sources but still, we are adamant about hurting the other species to satisfy our ever-hungry stomachs. This appetite is not going to quench itself anytime soon.

Status of animal laws in some other nations⁹-

- In Austria, the value of animal life is paralleled and proportional to the value of human life. According to its laws, animals hold comparable rights and liberties. They are not subjected to harsh cruelties and inhuman behaviours.
- Leading all other animal-friendly nations, Switzerland has become the first nation to protect the dignity of animals. It has constitutionally recognized the rights related to the dignity of animals. Any such activity that is deemed detrimental and abusive to the dignity of animals is prohibited under Switzerland’s laws.

⁸ M. Preetha, Animal Rights in India: An Overview (Legal Bites, 5 October 2020)

<<https://www.legalbites.in/animal-rights-in-india-an-overview/>> assessed on 18 September 2023

⁹ Meenu Kataria, ‘Countries With The Strictest Animal Welfare Laws In The World That India Can Take Cues From’, (Swoop Whoop, 2 November 2018) <<https://www.scoopwhoop.com/animals/countries-with-strict-animal-welfare-laws-in-the-world/>> assessed on 18 September 2023

- Germany has also become the first country in the European Union that give constitutional protection to animals. In comparison to India where the state passes down its responsibility to its citizens to 'behave nicely' with animals, Germany identifies its accountability for protecting the interests of animals.
- Sweden has progressive laws regarding its animals and thus has granted legal protection to its wild and domesticated animals. It even watches out the eating/grazing patterns of animals e.g., the cattle and pigs in Sweden must be fed straw and the dairy animals should be allowed to venture out for grazing during summer months.
- Demark has barred any kind of slaughtering of animals.

Why cannot we learn from these nations that are working to make their countries a better place for animals? For these countries, animals are an important and considerable subject matter.

Animals are neither our accessories nor are there for our amusement. They are our counterparts and are eligible for equal treatment. Through the process of elimination of the survival of the fittest, animals have also stood the test of time. Animals should be given due respect-irrespective of religious beliefs. Humans need not exploit them boundlessly without any serious penalties and punishments. Let us understand the point using three different scenarios,

- Case 1- Due to the rash driving of a driver, a domesticated or pet animal got run down.
- Case 2- A driver's rash driving causes injury or death of a wild animal.
- Case 3- One such rash driving driver causes the death of a street animal.

All of these three scenes that should be attracting similar penalties or backlashes are governed by three different approaches in reality. In case 1, the *owner* of the pet can claim damages or compensation from the driver or owner of the car in case of vicarious liability. In Case 2 and Case 3, no liability would be rendered on the driver. If an animal is not associated with a human then it has no identity of its own. If an animal has an *owner*, then the *owner* can claim damages on the part of the animal because the *owner* is suffering an arm and a leg in treating the injured animal-- or if the pet dies then some emotional trauma the owner suffers. Other than this the accountability jumps out of the window in case of *owner-less* animals. Even the Karnataka

high court in one of such cases held that road accidents involving injury to animals do not attract the provisions of rash driving offences¹⁰.

Animals deserve care, love, protection, warmth and attention. We cannot do away with our duties. Animals are subjected to different kinds of cruelties that are both unreasonable and arbitrary. India requires stringent, advanced and new legislation penalising all those individuals who commit wrongdoings and crimes against animals. The evolution of humans made us better equipped with technology and other useful resources. We should be using these resources for the further development of animals—who are unable to cater for themselves. Dependability gives rise to responsibility.

Let us try to create homes for our animals rather than buying cages for them. We tend to beautify our places using animals as our pets. How far is this acceptable? We consume them and use them for other cosmetic purposes. Animals are just reduced to mere decorative items highlighting the prettiness of our backyard and the status of a family. Law-making agencies need to give animals due importance and credibility. The slaughter of animals should be considered a slaughter and failure of entire humankind. Animals form an indispensable part of our belongingness to the environment. The beauty of mother nature cannot be withheld by maiming our innocent animals. Appropriate laws are a mechanism through which we can establish a healthy link and relationship with animals. Let us strive to give all animals the rights that they deserve and a home they feel safe in.

¹⁰ Mustafa Plumber, 'Road Accidents Involving Injury To Animals Do Not Attract 'Rash Driving' Offences U/S 279 IPC, S.134 & 187 MV Act: Karnataka High Court', (Live Law, 31 October 2022) <<https://www.livelaw.in/news-updates/karnataka-high-court-ipc-s279-s428-s429-motor-vehicles-act-rash-driving-pet-dog-212837>> assessed on 18 September 2023