

# *Animal Welfare Legislations*

**Anand Grover**

Senior Advocate

Director, Lawyers Collective

Former UN Special Rapporteur On The Right To  
Health

# Constitutional Duty: compassion

- The Constitution of India, 1950 under the Part IV Fundamental duties at Article 51A(g) states that “The State shall endeavour to *“to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;”*”
- Though Fundamental Duties are not justiciable by themselves but are used to interpret Fundamental Rights which are justiciable.
- *AWBI v Nagaraja* is on case on animal rights where Article 51A(g) has been read with Article 21 to mandate that animal have the right to be treated with dignity

# Prevention of Cruelty to Animals (PCA) Act of 1960:

## Chapter III Cruelty

- The Prevention of Cruelty to Animals Act of 1960 was enacted with the view to ensure animals are treated without cruelty, *free from infliction of unnecessary pain and suffering.*
- Chapter I of the Act defines animals, owners and sets out the duties and obligations of animal “**owners**” – at Sections 3 “*Duties of Persons Having Charge of Animals*” states that it is the duty of these individuals **to take all reasonable measures to ensure the welfare of the animals under their care.**
- Chapter II – The (AWBI); Section 4 defines its mandate and powers. Section 5 details the constitution of the AWBI – drawing from a diverse pool of individuals from both the public sector and civil services and lay persons concerned with animal welfare.
- Section 6, 7 and 8 deal with the administrative aspects of the board – such as the term of office and funding for the same.
- Section 9 outlines the functions of the AWBI – Section 9(a) and (b) deal with the power of the AWBI to influence law making, framing of rules etc. It performs advisory functions under Sub Section (c), (e) and (j) and takes steps to ameliorate animal discomfort such as providing water troughs, alleviate their pain and suffering at sub section (d) and (f); further the board provides financial advisory at (g) and (i) and encourages and imparts knowledge and awareness regarding animal welfare at sub section (k) Section 10 empowers the AWBI to make regulations to aid its function and administration.

# The PCA Act: Chapter III Cruelty to Animals

- Section 11 states that acts that are cruel to animals are extensively described and made punishable. It is notable that these sections apply to not only animal owners but all individuals who are found to have been cruel to animals. But punishment is very low Rs. 50 to 100
- Section 11(3) exceptions are important, particularly subsections (b) and (c) relating to destruction of animals. In the Bombay High Court it was argued that this has to be read in harmony with the Animal Birth Control Rules; and (e) destruction for food for mankind
- Section 12 prohibits the practice of “*Phooka*” as defined in Section 2 (d)
- Section 13 Destruction of Suffering Animals – Sub Section (1) states that if the Court is satisfied that it would be cruel to prolong the life of an animal - may issue a direction to destroy the animal in the presence of the animal’s owner as defined in Section 2.
- Section 13(2) further provides that any magistrate/commissioner of police or district superintendent may direct the destruction of any animal who has suffered cruelty as defined in Section 11 and it is much too cruel to allow the animal to suffer.
- Section 13(3) Allows appropriate authority to eschew with procedure for consent/presence of the animal’s owner and allows destruction of the animal if the authority (magistrate/police officer above rank of constable) is so convinced that to delay the destruction of the animal would be cruel.

# PCA Act: Chapter IV: Experimentation

- Section 14 prohibits animal testing.
- Section 15,16 and 17 pertain to the setting up of a committee to supervise animal experiments, including regulations for maintenance of records and the duties of office bearers on the committee.
- Section 18 grants powers to inspect and search premises to ensure that animal experimentation is done in a documented and humane way and there is no animal testing of any kind.
- Section 19 empowers committee members to prohibit animal experimentation where there is insufficient/no adherence to prescribed rules

# PCA Act: Chapter V – Performing Animals

- **Section 21** – Defines “exhibit” and “train” – stating exhibit means entertainment where public is admitted through sale of tickets. This definition relates to circuses and as such
- **Section 22** - restricts exhibition and training as performing animals without appropriate registration in accordance with this Chapter and allied acts – such as the Wildlife Protection Act, 1972 and various Rules and Guidelines pertaining to animals typically employed as performance acts. Section 22(ii) provides that the Central Government may by notification specify a certain animal to not be used as performing animal. Notifications have been issued under this section barring animals from being registered/used as performing animals. Procedure for registration is provided for under Section 23
- Section 24 – On the basis of complaint, a magistrate may decide to prohibit performance by specified (registered) animals, or only on the basis of certain conditions.
- **Section 26** – specifies offences under this act pertaining to animal performances. Sub-sections (a) to (g) lists the offences punishable with fine up to Rs. 500, or with imprisonment up to 3 months. Offences include obstructing inspection of premises, exhibition and training of performing animals that are not registered or prohibited *vide* exceptions contained in Section 22(ii) of the PCA Act.
- **Section 27-** provides for exception for *bona fide* of training for animals for military or police purposes or for exhibition in zoos. **Question: Is that cruel??**

# PCA Act: Chapter VI – Miscellaneous

- Section 28 – Savings with respect to killing in manner prescribed by religion – nothing in this act applies to ritual killing of matter, i.e. animal slaughter for meat by either *halal* or *jhatka* method as prescribed in Muslim and Hindu, Sikh and Christian religions respectively.
- Section 29 allows for the confiscation of animal from an owner found guilty of committing acts of cruelty under Section 11 or not maintaining requisite paperwork and standards under the Performing Animals Rules.
- Section 31 declares offences under Section 11(1)(n) – animal fighting and 11(1)(o) – shooting animals and Section 12 - *phooka* to be cognizable.
- Section 36 places a limitation period of 3 months for prosecution from date of commission of offence.

# PCA Act: Rules

- Rules to the PCA Act cover a wide ground of issues peculiar to animal welfare, the **Performing Animals Rules 1973** and **Performing Animals Registration Rules 2001** deal with performing animals and require strict standards for their care, registration and subsequent and regular monitoring.
- The **Slaughterhouse Rules 2001** seek to regulate and monitor slaughterhouses, in order to ensure that animals **are killed for meat in the most humane ways** and causing them the least pain or discomfort. The rules specify methods **for stunning** and transporting the animals. These rules are supplemented and supported by the **Food Safety and Standards Act 2006** and accompanying **FSSAI Slaughterhouse Rules** as well as **Municipal Rules**. The Hon'ble Supreme Court in January, 2017 passed an order in W.P. 24 of 2004 – recognizing a comprehensive module of all applicable legislation pertaining to regulation of slaughterhouses and stressed on their urgent and strict implementation.

# PCA Act: Rules

- **Transport Rules 1978** specify the standards for transportation of various animals, including horses, monkeys, domestic pets, cattle and livestock. These rules are read in conjunction with the Performing Animals rules and the Slaughterhouse Rules.
- The **Animal Birth Control Dog Rules of 2001** specify the mode in which stray dog sterilization is to be conducted in order to bring down the stray dog population in a humane and effective way. The apparent conflict between the Act and the Rules may be read in a harmonious manner

# Challenges to the PCA Act

- The major lacuna in the PCA act is the bare minimum punishment given to those convicted of animal cruelty. The fines of Rs. 50 punishment does not serve as any deterrent. Furthermore, law enforcement is not keen to investigate suspected acts of animal cruelty for this reason.
- The many psychological ramifications of individuals found to take pleasure in being cruel to animals is well documented. There is an obligation therefore, to not just the animals, to increase the penalties for offences and rehabilitate those convicted through education and awareness.
- There is a need to think not only in terms of welfare of animals but frame the legislation in terms of their rights