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Why Prevention of Cruelty to Animals Act 1960 is under enforced till date?

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The under-enforcement of the Prevention of Cruelty to Animals Act, of 1960 in India has significant implications for the nation's social fabric and international reputation. This issue perpetuates animal cruelty, as offenders go undetected due to a lack of awareness and accountability. This lack of enforcement creates a deterrent effect, encouraging potential offenders to continue committing acts of cruelty, damaging society's humane and ethical mentality, and impairing India's commitments and reputation in international conventions on animal rights. India's legal framework differs from other countries, such as the United States, the United Kingdom, and Canada, in terms of scope and approach to animal welfare. Reasons for under-enforcement include a lack of awareness, weak infrastructure, limited resources, inconsistent judicial interpretations, and lenient penalties. To address this issue, corrective measures should be adopted, including education and awareness campaigns, strengthening enforcement agencies, promoting consistent judicial interpretation through training programs and specialized courts, increasing penalties and introducing provisions for non-bailable offenses, and better interagency coordination and cooperation involved in animal welfare enforcement. By addressing the under-enforcement of the Act, India can create a society that respects and protects animal rights, positively impacting the nation's social fabric and reinforcing its international commitments to animal welfare.

Keywords: *under-enforcement, animal welfare, animal cruelty, judicial interpretation, interagency cooperation, enforcement challenges.*

INTRODUCTION

As quoted, keenly observed by Mahatma Gandhi, *"The greatness of a nation and its moral progress can be judged by the way its animals are treated."*¹ The Prevention of Cruelty to animals act introduced in the year 1960 replaces the same act from the year 1890, as the prior act has a very restrictive sense of laws relating to cruelty to animals, the successor act has the objective to prohibit any form of unnecessary injury or pain to the animals either by their owner or by the consent of their owner. Some acts done by humans on animals are considered under the ambit of crime in the act like Torture, mutilation, and dosing of injurious substances in animals. Concerning this Animal Welfare Board of India (AWBI) was established under section 4² of the act. Another main issue we are facing is the under-enforcement of the act, as Section 1(3)³ of the Prevention of Cruelty to Animals Act 1960 states that, 'the act shall come into force only when the government will notify it in the official gazette and different enforcing dates may be appointed to different states and for the different provisions in the act'.

According to the Author's opinion and research, the gist of this statement is that the act is not completely enforceable in the whole of India, which results in leniency in the force of punishment of the act. Unfortunately, this leniency & under-enforcement obliges heaps of cases stacked upon which go uncharted from the eyes of the law. Another issue is that people of the country are not aware enough of the punishments and process of law relating to these offenses.

THE EFFECT ON THE SOCIAL FABRIC OF THE NATION

Our great nation is the home of hospitality regardless of species, as our religious scriptures and tales show us how even gods loved animals. In a nation like this, it is quite prominent that society will get affected by the cruelty of animals, there are several cases and unregistered incidents revolving around the subject matter. The under-enforcement of the Prevention of Cruelty to Animals Act 1960 has several negative impacts on the social fabric of the nation, as

¹ Vikram Jit Singh, 'Gandhi's Hoax Quote' *Hindustan Times* (26 October 2014) <<https://www.hindustantimes.com/chandigarh/gandhi-s-hoax-quote/story-g3tWx6HSo9UECeW4j1TymO.html>> accessed 10 July 2023

² Prevention of Cruelty to Animals Act 1960, s 4

³ Prevention of Cruelty to Animals Act 1960, s 1(3)

initially, it perpetuates a loop of misconduct and torture, as people committing the act go undetected due to lack of awareness which leads to default in accountability & apathy towards the animal welfare. The under-enforcement slips in the creation of a deterrent effect, leading to encouragement in potential offenses like these to continue. On the global level, the under-enforcement impairs the commitments and reputation in the area of welfare of animals, the effect is so vast due to the membership of India in several international conventions and agreements related to animal rights. The ultimate effect on the society of the under-enforcement is that it gives out the message that cruelty against animals is not a serious offense, which damages the humane & ethical mentality of society.⁴

COMPARING THE LEGAL FRAMEWORK WITH OTHER COUNTRIES

Comparing the Prevention of Cruelty to Animals Act 1960 in India with similar acts from other countries administers valuable insights into various approaches to animal welfare opted by various countries. While each country has its specific legal framework, common themes such as the prohibition of animal cruelty, the definition of penalties, and the promotion of animal welfare emerge. Understanding these diversities and correlation contributes to the ongoing efforts to improve animal welfare around the globe. Here are some comparative studies of India with some countries.

India & United States: The Animal Welfare Act (AWA) in the United States of America is a federal law that regulates the treatment of animals in research, exhibition, transport, and commercial use. While both Prevention of Cruelty to Animals Act, of 1960 and the Animal Welfare Act (AWA) in the USA aims to protect animals, some differences in their scope are to be noted.⁵ The Prevention of Cruelty to Animals Act in India has a broader application, covering various forms of cruelty and encompassing all animals. It addresses animal cruelty in general, not limited to specific contexts or industries. On the contrary, the AWA in the United States of

⁴ Peter AJ Waddington, *Policing citizens: authority and rights* (first published in 1999, Psychology Press)

⁵ Andrew D Cardon et al., 'The Animal Welfare Act: From Enactment to Enforcement' (2012) 51(3) JAALAS

America primarily focuses on regulating specific activities involving animals, such as research, exhibition, transport, and commercial sales.⁶

India & United Kingdom: The Animal Welfare Act 2006 in the United Kingdom contains comprehensive legal protection for animals. It enumerates general welfare requirements that apply to all animals under the care of humans, it includes the duty of responsible ownership, provision of a suitable environment, proper feeding, and protection of any injury, suffering, or disease. The Animal Welfare Act 2006 in the United Kingdom shares similarities with the Prevention of Cruelty to Animals Act 1960 in India in terms of a comprehensive approach to animal welfare. Both acts affirm the duty of care owed to animals, the provision of suitable living conditions, and the prevention of unnecessary suffering. However, the Animal Welfare Act 2006 places a stronger emphasis on the duty of responsible ownership and sets specific welfare requisites that apply to all animals under human care in the United Kingdom.⁷

India & Canada: The Criminal Code of Canada addresses the offense of Animal Cruelty. The Code includes provisions that specifically criminalize acts of cruelty to animals, such as causing unnecessary suffering, injuring animals willfully, and neglecting or abandoning animals. The Criminal Code in Canada and the PCA Act 1960 in India address the offense of animal cruelty in the context of criminal law by establishing frameworks for acts of cruelty to animals as criminal offenses and construing penalties for offenders. However, the Criminal Code of Canada is part of the broader criminal justice system, while the Prevention of Cruelty to Animals Act 1960 in India is an unaided legislation specifically focusing on animal welfare.⁸

REASONS BEHIND THE UNDER-ENFORCEMENT

Lack of Awareness & Sensitization: A primary reason for under-enforcement is the lack of awareness and sensitization in the general public, enforcement agencies, and other judicial authorities. The public is unaware of the provisions and scope of the act, resulting in unreported and undetected cases relating to cruelty to animals. Also, the heaviness of animal cruelty is not

⁶ Animal Welfare Act 1966 (7 USC 2131-2159)

⁷ Animal Welfare Act 2006, c. 45

⁸ Criminal Code (RSC, 1985) c. C-46

made clear to law enforcement officials and judicial authorities due to the limited training and knowledge of animal welfare. This led to faulty investigation, procedures, and punishment.⁹

Weak Infrastructure & Resources: Inadequate infrastructure & Resources are another factor in this issue of under-enforcement. The welfare agencies such as the Animal Welfare Board of India and the Animals Welfare Society, usually suffer from a dearth of funding, and official and strategic support. This hinders their efficiency in responding to complaints, monitoring, and processing cases in compliance with the act. Insufficiency in resources also bars the scope of carrying out awareness & education campaigns or programs, and training initiatives, further intensifying the issue of under-enforcement.¹⁰

Inconsistent Judicial Interpretations: The act has several inconsistencies in its interpretation which contribute to under-enforcement issues. Interpretation by the courts of the provisions of the act varies from court to court, leading to inconsistencies and confusion in the outcomes of the cases. This absence of uniformity makes several loopholes in the legal framework, conferring offenders to break out from the punishment or undergo lenient sentences. The lack of landmark decisions on the issue of animal cruelty also contributes to the under-enforcement of the Act, because it fails to create a robust legal framework for the welfare of the animals.¹¹

Frail deterrence and penalties: The stated penalties as prescribed in the act of prevention of cruelty to animals are generally considered improper and insufficient to punish potential offenders. The act initially classifies cruelty against animals as a bailable offense, further allowing offenders to get immunity to bail easily. Also, the fines and imprisonment terms prescribed by the act are so lenient and nominal which leads to ineffective deterrence. The lack

⁹ Dr Arpita Mitra et al., 'Poultry Farming: Prospects and Impediments in India' (2021) 6(6) Saudi Journal of Humanities and Social Sciences <https://saudijournals.com/media/articles/SJHSS_66_193-198.pdf> accessed 10 July 2023

¹⁰ Sumit Arora, 'India ranks second in Global Animal Protection Index 2020' *Adda24/7* (13 March 2020) <<https://currentaffairs.adda247.com/india-ranks-second-in-global-animal-protection-index-2020/>> accessed 10 July 2023

¹¹ Cass R Sunstein and Martha C Nussbaum, *Animal rights: Current debates and new directions* (Oxford University Press 2006)

of strict fines and appropriate punishment erodes the gravity of offenses against animals and further adds to the issue of under-enforcement.¹²

Limited Cooperation between Agencies: The influence of limited cooperation between animal welfare enforcement agencies and other relevant authorities. Welfare Organizations for animals and law enforcement agencies often lack effective coordination and collaboration mechanisms. This results in delays in the investigation and prosecution of cases relating to animal cruelty, as well as insufficient sharing of resources and information. The absence of a streamlined and coordinated workflow undermines the overall enforcement of the Act and perpetuates the issue of under-enforcement.¹³

WHAT CORRECTIVE MEASURES SHOULD BE ADOPTED? (SUGGESTIONS)

Education & Awareness: Overall awareness campaigns and educational programs should be initiated to aware the public, enforcement officials, and judicial authorities about the rights of animals and the provisions of the Act. This can be achieved through public campaigns, integration into the school curriculum, and training programs for relevant associates.

Strengthening Enforcement Agencies: Sufficient financing, staffing, and infrastructure should be provided to enforcement agencies for animal welfare to enhance their capacity to effectively respond to grievances, investigation of cases, and ensure compliance with the Act. Usual training programs should also be conducted for personnel to enhance their knowledge of animal welfare laws.

Uniformity in Judicial Interpretation: Efforts to promote consistent judicial interpretation of the Act should be made. Training programs for judges and the establishment of specialized

¹² 'The law against animal cruelty, and the ridiculously low fines for offenders' *The Indian Express* (New Delhi, 22 September 2022) <<https://indianexpress.com/article/explained/law-against-animal-cruelty-and-the-ridiculously-low-fines-for-offenders-8164339/>> accessed 10 July 2023

¹³ Leslie Retnam et al., 'Laws, Regulations, Guidelines and Standards for Animal Care and Use for Scientific Purposes in the Countries of Singapore, Thailand, Indonesia, Malaysia, and India' (2016) 57(3) *ILAR Journal* <<https://doi.org/10.1093/ilar/ilw038>> accessed 10 July 2023

courts to deal with offenses of cruelty to animals or dedicated benches within existing courts can ensure uniformity in the application of the law.

Increase in Penalties: The Amendment in the Act should provide for more severe penalties and proportional punishment for offenses of animal cruelty. Increasing fines, imprisonment terms, reclassification of certain offenses as non-bailable, and introducing the provisions relating to forfeiture of assets acquired through Illegal activities relating to cruelty to animals.

Interagency Confederacy: Better Coordination and cooperation mechanisms should be introduced between animal welfare enforcement agencies, law enforcement agencies, and other relevant authorities. Cooperation includes sharing of information, resources, and best practices to enhance the overall effectiveness in Investigations and prosecutions of animal cruelty cases.

CONCLUSION

The under-enforcement of the Prevention of Cruelty to Animals Act, of 1960 in India is a pressing issue that poses significant challenges to the protection and welfare of animals in the country. Addressing this issue requires a comprehensive approach involving awareness, education, strengthening of enforcement agencies, uniform judicial interpretation, enhanced penalties, and improved interagency cooperation. Lack of awareness and sensitization among the general public, law enforcement agencies, and judicial authorities has hindered the effective enforcement of the Act. To combat this, comprehensive awareness campaigns and educational programs are necessary to educate all stakeholders about animal rights and the provisions of the Act. This should be supported by integrating animal welfare education into the school curriculum and conducting training programs for relevant authorities. To address this, adequate resources should be provided to these agencies to enable them to respond effectively to complaints, investigate cases, and ensure compliance with the Act. Additionally, regular training programs for personnel are essential to enhance their understanding of animal welfare laws and enforcement techniques. Efforts should be made to promote uniformity in the application of the law through training programs for judges and the establishment of specialized animal cruelty courts or dedicated benches within existing courts. This will help establish a

strong legal foundation for the protection of animals and ensure that offenders do not escape punishment or receive lenient sentences due to inconsistencies in interpretation. There is a need to amend the Act to introduce more stringent penalties and proportionate punishment for animal cruelty offenses. Such enhanced penalties will send a strong message that animal cruelty is a serious offense and will act as a deterrent. It perpetuates a cycle of cruelty and mistreatment towards animals, undermines India's international commitments in the field of animal welfare, and hampers efforts to promote a compassionate and ethical society. To protect the rights and welfare of animals, concerted efforts from government bodies, civil society organizations, and the public are required. In conclusion, addressing the under-enforcement of the Prevention of Cruelty to Animals Act, of 1960 in India is crucial to ensure the well-being and protection of animals. By increasing awareness, strengthening enforcement agencies, promoting uniform judicial interpretation, enhancing penalties, and improving interagency cooperation, India can take significant strides toward creating a society that respects and protects the rights of animals.