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# **LAWS FOR PROTECTION OF STRAY ANIMALS IN INDIA: AN ANALYTICAL STUDY**

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## **ABSTRACT**

Unfortunately, most Indian streets are sullen, with an apparent indifference to animal life. Even worse is the indifference in civil society. There, the few people who care for stray animals often face incredible ridicule and opposition. The author through its present research paper has brought forth the constitutional and statutory laws besides regulatory guidelines relevant for the protection of stray animals in India which would not only help the animal rights activist in their effort towards animal welfare but would also be helpful in spreading awareness amongst people at large regarding the care and protection that these voiceless animals deserve.

**Keywords:** Stray animal, animal rights, survival of the fittest, animal cruelty

“There is no fundamental difference between man and the higher animals in their mental faculties. The lower animals, like man, manifestly feel pleasure and pain, happiness, and misery.

The love for all living creatures is the most noble attribute of man”.

- Charles Darwin

## INTRODUCTION

Most of us have heard and read about Sir Charles Robert Darwin (1809-1882), an eminent naturalist who gave this world the theory of evolution and used the expression “survival of the fittest”. The said expression “survival of the fittest” is often misinterpreted and seen as an evolutionary concept which gives us license to kill or use other creatures and at times used as a warrant for exploiting them. The true meaning of this expression would refer to the idea that organisms having the necessary advantageous characteristics in order to successfully reproduce and adapt to its environment are more likely to survive to reproductive age and have offspring of their own. However, the understanding of this concept in the sense of strong subjugating the weak is totally misconceived.<sup>1</sup>

As rightly quoted by Sir Charles Darwin, “Animals whom we have made our slaves, we do not like to consider our equal”.<sup>2</sup> Though animals cannot assert or convey their rights to us, but we humans do have duties towards them because of the advanced cognitive faculties, and power to utilize resources to their well-being. Having said that, it is our utmost duty, as humans, to take care of animals and not to exploit, hurt or trouble them to our whims and fancies. Do these animals have a voice? Just because they by themselves, cannot protest or stand up in court for their rights, they are not voiceless, for it is our failure to understand the message they want to convey in the language they speak. Undoubtedly, humans have a moral and ethical obligation to stand up for them.

## DEFINITION OF STRAY ANIMALS

As defined by Dr. Anshita Sharma<sup>3</sup>, “Stray Animals refer to street animals that are born and reproduce on the street and have never been owned, lost animals that could not find their way home, or abandoned animals that are no longer wanted and are abandoned on the street or taken

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<sup>1</sup> <http://thinkdifferentlyaboutsheep.weebly.com/animal-rights-a-history-charles-darwin.html> (last visited on January 16, 2023).

<sup>2</sup> *Ibid.*

<sup>3</sup> Assistant Professor, Department of Animal Genetics & Breeding, Post Graduate Institute of Veterinary Education and Research, Jaipur, Rajasthan.

to a shelter by their owner”.<sup>4</sup> Wild animals live in the jungle or their earmarked territory away from human settlements and thus are different from stray animals.

The most common cause of stray animals is uncontrolled breeding among stray animals after being abandoned, resulting in their multifold subsequent generations.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS, RULES, GUIDELINES AND JUDICIAL PRONOUNCEMENTS TO PROTECT STRAY ANIMALS IN INDIA**

“The greatness of a nation and its moral progress can be judged by the way its animals are treated.”

- Mahatma Gandhi

In July 2021, in case “*Re: Bruno*”, the Kerala High Court took suo-moto cognizance after a dog was beaten to death by three people in Thiruvananthapuram.<sup>5</sup> In April 2022, four people were arrested for carrying out unnatural sexual acts on a monitor lizard in Maharashtra.<sup>6</sup>

Stray animals are often seen as a menace but it should be kept in mind that they too are subject to pain and other types of feelings as humans do. Accordingly, while evolving and developing the mechanism to check stray animals for the protection of humans, it is also incumbent upon us to ensure proper legislative framework and executive will to protect stray animals in India.

Relevant laws for protection of Stray Animals in India are:

*Section 377 of Indian Penal Code, 1860* strictly prohibits voluntarily carnal intercourse against the order of nature with the animal and prescribes punishment of life imprisonment or upto ten years imprisonment and fine.

*Section 428 of Indian Penal Code, 1860* reads as follows:

“Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of the ten rupees or upwards, shall be punished with imprisonment of

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<sup>4</sup> Anshita Sharma, Priyanka Meena, Brajesh Kumar, “Stray Animals: A social impact and solutions”, available at: <https://www.pashudhanpraharee.com/stray-animals-a-social-impact-and-solutions/#:~:text=for%20human%20society.-,What%20are%20stray%20animals%3F,a%20shelter%20by%20their%20owner.> (last visited on January 16, 2023).

<sup>5</sup> <https://theprint.in/judiciary/in-re-bruno-kerala-hc-pays-tribute-to-dog-beaten-to-death-renames-case-after-him/689028/> (last visited on January 16, 2023).

<sup>6</sup> Reported in Indian Express on dated April 15, 2022, available at: <https://indianexpress.com/article/cities/pune/four-arrested-for-poaching-video-shows-suspect-raping-monitor-lizard-in-sahyadri-tiger-reserve-7869925/> (last visited on January 16, 2023).

either description for a term which may extend to two years, or with fine, or with both.”

*Section 429 of Indian Penal Code, 1860* reads as follows:

“Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.”

*Section 11 of Prevention of Cruelty to Animals Act, 1960* reads as follows:

“(1) If any person-

(a) beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animal to be so treated; or

(b) employs in any work or labour or for any purpose any animal which, by reason of its age or any disease, infirmity, wound, sore or other cause, is unfit to be so employed or, being the owner, permits any such unfit animal to be so employed;

(c) wilfully and unreasonably administers any injurious drug or injurious substance to any animal or wilfully and unreasonably causes or attempts to cause any such drug or substance to be taken by any animal; or

(d) conveys or carries, whether in or upon any vehicle or not, any animal in such a manner or position as to subject it to unnecessary pain or suffering; or

(e) keeps or confines any animal in any cage or other receptacle which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for movement; or

(f) keeps for an unreasonable time any animal chained or tethered upon an unreasonably short or unreasonably heavy chain or cord; or

(g) being the owner, neglects to exercise or cause to be exercised reasonably any dog habitually chained up or kept in close confinement; or

(h) being the owner of any animal fails to provide such animal with sufficient food, drink or shelter; or

(i) without reasonable cause, abandons any animal in circumstances which render it likely that it will suffer pain by reason of starvation or thirst; or

(j) wilfully permits any animal, of which he is the owner, to go at large in any street while the animal is affected with contagious or infectious disease or, without reasonable excuse permits any diseased or disabled animal, of which he is the owner, to die in any street; or

(k) offers for sale or, without reasonable cause, has in his possession any animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment; or

(l) mutilates any animal or kills any animal (including stray dogs) by using the method of strychnine injections in the heart or in any other unnecessarily cruel manner; or

(m) solely with a view to providing entertainment- (i) confines or causes to be confined any animal (including tying of an animal as a bait in a tiger or other sanctuary) so as to make it an object of prey for any other animal; or (ii) incites any animal to fight or bait any other animal; or

(n) organises, keeps, uses or acts in the management of, any place for animal fighting or for the purpose of baiting any animal or permits or offers any place to be so used or receives money for the admission of any other person to any place kept or used for any such purposes; or

(o) promotes or takes part in any shooting match or competition wherein animals are released from captivity for the purpose of such shooting;

he shall be punishable, in the case of a first offence, with fine which shall not be less than ten rupees but which may extend to fifty rupees and in the case of a second or subsequent offence committed within three years of the previous offence, with fine which shall not be less than twenty-five rupees but which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.”

*Rule 7 (3) of Animal Birth Control (Dogs) Rules, 2001* reads as follows:

“On receipt of specific complaint or for capturing dogs in normal course the dog squad will visit the concerned area, capture the dogs identified by the complaint in case of complaint oriented capturing and other dogs in case of general capturing. All the dogs caught will be tagged for identification purposes and to ensure that the dogs are released in the same area after

sterilization and vaccination. Only stipulated number of dogs, according to the Animal Birth Control Program target, shall be caught by the van. A record of dogs captured shall be maintained in a register, mentioning therein the name of the area/locality, date and time of capture, names of persons in the dogs squad on that particular day and details about dogs captured such as number of male dogs, number of female dogs, number of puppies etc.”

*Rule 7 (4) of Animal Birth Control (Dogs) Rules, 2001* reads as follows:

“The dogs shall be captured by using *humane* methods such as lassoing or soft-loop animal catchers such as those prescribed under the provisions of Prevention of Cruelty (Capture of Animals) Rules, 1979.”

*Rule 9 of Animal Birth Control (Dogs) Rules, 2001* reads as follows:

“Incurably ill and mortally wounded dogs as diagnosed by a qualified veterinarian appointed by the committee shall be euthanized during specified hours in a *humane* manner by administering sodium pentathol for adult dogs and Thiopental Intraperitoneal for puppies by a qualified veterinarian or euthanized in any other *humane* manner approved by Animal Welfare Board of India. No dog shall be euthanized in the presence of another dog.”

Thus, it is illegal to cause any sort of injury or to give poison to stray animals in view of Sections 428 and 429 of Indian Penal Code, 1860 and Section 11 of Prevention of Cruelty to Animals Act, 1960.

It is also illegal to relocate street animals from their neighbourhood in view of Section 11 (1)(i) and Section 11(1)(j) of Prevention of Cruelty to Animals Act, 1960. Even no sterilized dog can be relocated from their area in view of Animal Birth Control (Dogs) Rules, 2001 issued by Government of India.

Deliberately starving animals or taking away their shelters would be against the law, in view of Section 11(1)(h) of Prevention of Cruelty to Animals Act, 1960.

This discussion assumes much significance as many people in the society pose hindrance against ones who feed dogs on the streets.

As per the *Department of Personnel & training, Ministry of Personnel, Public Grievances and Pensions, New Delhi letter F.No. 30/9/2006-WELFARE dated 26.05.2006*, “if any Govt. servant indulges in act of cruelty to animals he will be making himself liable for action under

Prevention of Cruelty to Animals Act. Besides, punishment under the Act, he would also make himself liable for action under CCS (Conduct) Rules for conduct unbecoming of a Govt. servant.”

As per the *Animal Welfare Board of India letter No. AWBI/PCA dated 03.03.2008*, it is brought to the notice of all that “for dealing with the problem of stray animals, there are designated agencies in Govt./ local self-government organizations etc. Such organizations regularly undertake inoculations, sterilization of female animals etc. Recognized Associations in Govt. colonies may approach such institutions for redressal of their grievances. All the problems of stray animals have to be handled within the institutional framework available and no association, recognized or unrecognized, shall take recourse to take action on their own, either themselves, or through any person employed by them like security guard etc.”<sup>7</sup>

The *Delhi Police Act, 1968 (Sections 73 to 79 and 99)* gives special powers to the police to take action when an animal offence has been committed under sub-section (1) of Sections 11 or 12 of the Prevention of Cruelty to Animals Act, 1960. Under Section 73, if a police officer believes that there is a reasonable ground for suspecting the commission of the aforementioned offence, he may take the animal to the Metropolitan Magistrate or to an infirmary if the animal is injured followed by a subsequent production before the Magistrate within a period not exceeding three days.<sup>8</sup>

The Hon’ble Delhi High Court in in the case titled *Dr. Maya D. Chablani vs. Radha Mittal & others* held that people feeding street dogs shall be given assistance by Resident Welfare Associations, Municipal Corporation and all law enforcement agencies of State; and that the duty to ensure that every community dog in every area has access to food and water shall, where no caregivers or dogfeeders are available, lie upon every Resident Welfare Association or Municipal Corporation (in default). The Hon’ble Supreme Court in May 2022 lifted its stay on aforesaid Delhi High Court order on stray dogs’ right to food.

As per *Guidelines on prevention of cruelty to animals issued vide the Department of Personnel & training, Ministry of Personnel, Public Grievances and Pensions, New Delhi letter F.No. 30/9/2006-WELFARE dated 26.05.2006*, “while residents and associations are free to address

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<sup>7</sup> <https://www.cse.iitb.ac.in/~nutan/strays.pdf> (last visited on January 16, 2023).

<sup>8</sup> Quoted from para 122 of Delhi High Court judgment dated 24.06.2021 in the case titled *Dr. Maya D. Chablani vs. Radha Mittal & others*, 2021 SCC Online Del 3599.

institutional agencies for redressal of grievances in the matter, no resident/ association will interfere with the freedom of other residents in tending animals etc.”<sup>9</sup>

In the case of *Animal Welfare Board of India vs. A. Nagaraja & others*<sup>10</sup>, the Hon’ble Supreme Court while upholding the enforcement of the ban on Jallikatu, by expanding the definition of ‘life’ under Article 21 of the Constitution of India to include within its ambit all forms of life including animal life, has notably held that 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. It was also observed that compassion for all living creatures include concern for their suffering and well-being.

*The Constitution of India through its Article 48* lays down imperative on the State Machinery to prohibit the slaughter of cows and calves and other milch and draught cattle.

*The Constitution of India through its Article 48A* lays down directive on the State Machinery to protect the wildlife of the country.

*The Constitution of India through its Article 51A(g)* places a duty on the citizens of India to protect and improve the natural environment and have compassion for all living creatures.

In the case of *State of Gujarat vs. Mirzapur Moti Kureshi Kassab Jamat*<sup>11</sup>, the Hon’ble Supreme Court observed that even though the cattle has turned useless owing to its age, still it must be treated with compassion and further held that Article 48 of the Constitution of India envisages a total ban on the slaughter of cows and their progeny.<sup>12</sup>

## METHODOLOGY

The research undertaken is doctrinal research hence the author has opted for collection and review of literature. For this, different policies, case-laws, legislations and Acts have been analyzed and material from books, journals, articles, reports and newspapers published on the subject as well as online databases have been studied. A uniform method of citation has followed throughout the research paper.

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<sup>9</sup> <https://jaagruti.org/information-to-empower-you/indian-street-dogs-and-their-rights/> (last visited on January 16, 2023).

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

<sup>11</sup> (2005) 8 SCC 534.

<sup>12</sup> Taruni Kavuri, *The Constitutional Scheme of Animal Rights in India* (Michigan State University College of Law, 2020).



## CONCLUSION

As discussed above, it is not only the duty of the State to protect stray animals but rather a duty on us as well. If someone sees another person hitting, beating or troubling any stray animal, he/ she should not be a mute spectator to such animal abuse and he/ she should educate such violator and in default should report to law enforcement agency. The street dogs should be vaccinated so that they don't get rabid and their bite won't infect others.<sup>13</sup>

People who feed stray animals can get themselves registered and obtain IDs issued by the Animal welfare board of India.<sup>14</sup> Let love and compassion be our tool towards stray animals and they be fed without causing trouble to other residents.

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<sup>13</sup> <https://www.pashudhanpraharee.com/street-dog-issue-solutions-stray-dogs-legal-rights-in-india/> (last visited on January 17, 2023).

<sup>14</sup> <https://www.pashudhanpraharee.com/10-laws-rights-to-protect-stray-animals-in-india-that-every-animal-lover-should-be-aware-of/> (last visited on January 17, 2023).

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- d) Indian Penal Code, 1860
- e) Prevention of Cruelty to Animals Act, 1960

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