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Voices Unheard – A Tragedy To Be Questioned From The Rights Of Nature Perspective

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Abstract

The occurrence of stray cows on roadways, particularly national highways in Tamil Nadu, has emerged as a significant problem, leading to accidents and raising worries about public safety. Although highly respected in Hindu traditions, the presence of stray cattle wandering unrestricted and defecating on highways has resulted in the safety and security of these animals. Although local authorities and panchayats acknowledge this problem, they have not yet implemented any meaningful measures to resolve it. The existing legal framework for addressing the issues arising from these roaming livestock is inadequate and requires identification and rectification. One of the causes that contribute to this situation is the practice of farmers abandoning male calves, which in turn leads to a rise in the number of stray animals. Moreover, there is a dearth of transparent government statistics about cattle mortality, with the majority of information being derived from press sources. According to statistics, a significant number of stray animals, including cows, perish each year due to factors such as traffic accidents and ingestion of plastic. The authors try to emphasize the need of implementing thorough legislative and regulatory actions to address the increasing issue of stray cattle on highways, which presents hazards to public safety, cleanliness, and animal welfare. The article also provides various suggestive measures that can be implemented for the protection of stray animals in the streets of Tamil Nadu.

Keywords: Stray animals, Cattle, Animal Welfare, Menace, Safety.

Introduction

Seeing the death of two stray cows in a week, is creating a misperception that how the legislation is helping the executive to fix the menace happening in the society. Many have contended that accidents happening in the National Highway is nothing but a menace caused by stray cows. The roads of Tamil Nadu are flooded with flocks of stray cattle and cattle owned by locals which make place for their grazing. Even though the panchayats and other local bodies has considered this as an issue but no steps were taken till this date. The

legislative framework to control the problems caused by these stray cattle is a predicament which has to be identified and rectified.

The cow, an animal which is respected in Hindu belief as sacred. It is considered as part of religious ritual representing as Mother Earth as it is treated as source of goodness. Lord Krishna is often portrayed in stories as unfolding his life as cowherd and as a child who protects cows. Few states have formulated laws to forbid the slaughter and consumption of cows¹. Nowadays the roads of Tamil Nadu are flocked with group of cattle's which are called as stray cattle. They graze, sleep, walk in the National Highway without any restrictions. As per the annual report 2023 published by the Department of Animal Husbandry and Dairying, Ministry of Fisheries, Animal Husbandry and Dairying, Government of India, Farmers often let the male calves' free which results into increase in stray animal population². Even after imposing fines on stray cattle it has created problem where patches of cow dung have resulted in concern in public hygiene. There is no clear data showing the death of cattle in any of the government records. The information collected is from newspaper and websites. In 2017, the Times of India reported that every year 1000 cows die from eating plastic. In a report published in the year 2019, it is noted that over 1000 stray animals die in road accidents in Nagpur³. Of the death of stray animals' cattle is placed at the third place after cats and dogs. As per the Parliamentary Standing Committee on Agriculture, Animal Husbandry and Food Processing, led by BJP MP P.C. Gaddigoudar, expressed doubt regarding the accuracy of the Union Animal Husbandry Ministry's data on the death of over two lakh cattle and buffaloes due to lumpy skin disease (LSD) in 2022 and 2023. The committee pointed out a discrepancy between the reported number of affected and deceased animals and the actual situation on the ground. Contrary to the Ministry's claims, the panel said that having precise data would have been beneficial for comprehending the severity of the issue and effectively managing and confining the sickness⁴.

Problems that rise in various states caused due to stray cattle's damaging crops, attacking humans and also cause for accident. along the highways and other marginal roads. The below mentioned statistics gives an idea on how accidents are caused by stray animals.

State/UT-wise Number of Persons Killed by Animals during 2018-2020

State/UT	2018	2019	2020
Gujarat	42	61	55
Tamil Nadu	60	80	112
Uttar Pradesh	138	169	162

¹ Simoons, F. J., Simoons, F. I., & Lodrick, D. O. (1981). Background to Understanding the Cattle Situation of India: The Sacred Cow Concept in Hindu Religion and Folk Culture. *Zeitschrift Für Ethnologie*, 106(1/2), 121–137. <http://www.jstor.org/stable/25841764>

² Annual Report 2022-2023, Department of Animal Husbandry and Dairying Ministry of Fisheries, Animal Husbandry and Dairying Government of India.

³ The Times of India, 1,000 cows die every year in Lucknow after eating polythene dated 2017.

⁴ The Hindu, House panel doubts Centre's data on cattle deaths by lumpy skin disease dated 2023.

Source - Press Information Bureau, Government of India, Ministry of Fisheries, Animal Husbandry & Dairying, 15 MAR 2022

There are talks in various states that accidents or harm caused by these Stray cattle's have to be prevented. The Madhya Pradesh High Court in July 2023 suggested that the Legal Aid Authority should also be included in the exercise of control of stray cattle menace and a mobile monitoring team should be constituted for controlling the stray animals in the state. The UP Government allocated funds for building temporary shelters for care and protection of Stray cattle. An amount of 125 crore is allocated for providing proper care and protection of stray cows and also to provide them with proper shelter, food, health care and other facilities. The Government has decided that a daily grant of Rs. 50 per cow will be given at temporary cow shelters in the state. The Government also launched various schemes such as Nand Baba Milk Mission, Nandini Krishak Samridhi Yojana and also assistance of providing ambulance and shelter for the protection of stray cows⁵.

In Tamil Nadu the issues raised by stray cattle has made the Corporation authorities to construct cattle pound. This proposed cattle shelter will provide a secure and regulated space for the animals. Tamil Nadu has taken steps in protecting the stray cattle by building pinjrapoles⁶. The Pinjrapole was built to house cows who had been deemed too old to calve or produce milk, as well as those that had become sick or injured and needed to be cared for till death. The number of milking cows was progressively increased by introducing young cows. The Madras Pinjrapole is a charitable society registered under the Societies Registration Act of 1860 and was founded in the year 1906. The Madras Pinjrapole (Pinjrapole meaning Goshala) is a great place for the many cows who have been donated to the farm, rescued, or brought here to be nursed back to health, as they have access to climate-controlled sheds with feeding bays for both staff and visitors, as well as drinking holes and an army of committed personnel. People are eager to pay for the unique grass and contribute to the various initiatives, so there is no shortage of financial backing for the business. There is thorough record-keeping and recognition of all monetary and in-kind gifts.

The Question here is the issues raised and concerned is the protection of the stray cattle taken by the Government. As per the newspaper reports and other material evidence identified there is no clear data or authenticated information on the death of these stray animals. Even though steps were taken by the judiciary and the Government in protecting the stray cattle, still the death of these animals are not questioned anywhere. The more worry was concentrated on how it is affecting human beings rather than the animals. It is high time that the death of stray cattle is questioned. Indian Court has ruled that legal status is provided for Nature which gives an elaborate right to be protected and the Government should act as a guardian for them. The 'Mother Nature' consists of all the flora and fauna attached to the ecosystem and its elements cannot be parted separately for any reason. Over 30 U.S. municipalities and counties have passed their own versions of "rights of nature" legislation, joining the ranks of countries like Ecuador, Bolivia, Panama, and New Zealand. Legal protections, such as the right to exist and the right to regenerate, typically provide more security for the natural

⁵ The Indian Express, Temporary shelters for stray cattle: UP govt releases Rs 125 crore dated 2023.

⁶ The Times of India, Tamil Nadu: Stray cattle menace persists, new pound planned for Thiruneermalai dated 2023.

world than do current environmental regulations. The Voiceless animals are neglected in day to day basis as human's selfish nature is increasing tremendously⁷.

Legal framework for stray cattle in India

Every five years, data on the nation's livestock population is tallied. The 2019 census found that there were 203.31 lakh stray dogs and animals in the country⁸. To ensure the safety of its residents, the State or UT Government is responsible for public health, cleanliness, and livestock pounds, while municipal governments are tasked with developing a system for managing stray animals.

The various Acts and provisions which pertains to the importance of Animals in India can be illustrated as

I. Constitution of India

- Article 48 of the Indian Constitution states that the state shall make every effort to organise agriculture and animal husbandry along modern and scientific lines and shall, in particular, take measures for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.
- Article 38A - Cows, calves, and other milch and draught cattle are protected from slaughter, and the state will work to organise agricultural and animal husbandry along modern, scientific lines.
- Article 51A - Every Indian has a responsibility and duty of the citizen to ensure that steps should be taken to honour and uphold the high ideals that motivated our nation's fight for independence. To safeguard and enhance the natural environment, including forests, and to show kindness to all forms of life. This Article is included in the Fundamental Duties Chapter of the Constitution enjoins upon the citizens of this country to cherish the ideals, which inspired our freedom struggle (ban on cow slaughter being one, the first War of Independence having been triggered off by the Sepoy Mutiny, in which soldiers, led by Mangal Pandey, refused to open beef-coated cartridges with their mouth).
- Article 246(3) - The State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule, including the preservation, protection, and improvement of stock and the prevention of animal diseases; veterinary training and practise. Article 246 defines the scope of legislation that can be passed by Central or state legislature. The Seventh Schedule divides this material into three categories: such as Union List, State List and concurrent list.

The State and Concurrent List includes the following items related to animal rights.

Schedule VII, List II – State List

⁷ Marine Pollution and Waste Management. (2024). *Journal of Law and Legal Research Development*, 1(2), 20-24. <https://www.jllrd.com/index.php/journal/article/view/10>.

⁸ Ministry of Fisheries, Animal Husbandry & Dairying, Public Information Bureau, STRAY ANIMALS, Posted On: 15 MAR 2022 5:57PM by PIB Delhi.

- Item 14. Agriculture, including agricultural education and research, protection against pest and prevention of plant diseases.
- Item 15. Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice.

Schedule VII List III – Concurrent List

- Item 17. Prevention of cruelty to animals.
- Item 28. Prevention of the extension from one State to another of infectious or contagious diseases or pests affecting men, animals or plants.
- Section 428 of IPC (Indian Penal Code): Any individual involved in mischief by killing or maiming animals is punished under Section 428 of the IPC. It states that “Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”
- Section 429 IPC (Indian Penal Code): It states that “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.”

II. Prevention of Cruelty to Animals Act, 1960

- Section 3 of the Prevention of Cruelty to Animals Act, 1960 contends that Animal welfare and the prevention of unnecessary pain and suffering are the responsibility of anybody who has care or custody of an animal. Section 11(1)(h) makes it illegal for an animal's owner to withhold food, water, or shelter from the animal, and Section 11(1)(i) makes it illegal for anyone to abandon an animal in conditions that make it likely that the animal will suffer pain from hunger or thirst, both of which are considered cruel acts. State governments are responsible for enforcing the provisions of the Prevention of Cruelty to Animals Act, 1960 and the Rules promulgated thereunder.
- Section 35 states that the animals are to be detained and have to be produced before the magistrate. Animals are to be treated and cared for in an infirmary, until they are fit for discharge. The animal sent for care and treatment to an infirmary cannot be released from such places unless the veterinary officer issues the certificate of its fitness for discharge. The cost of transporting the animal to an infirmary and its maintenance and treatment in an infirmary, has to be paid by the owner of the animal. Cattle Pounds (Kanji Houses)/Gaushala Shelters (community assets)/ Pinjrapoles may be established and managed by Panchayat.
- Section 38 empowers the Central Government to establish regulations to combat animal cruelty, Section 38 of the Act aids in the protection of stray dogs. In 1962, the Animal Welfare Board of India was founded by Section 4 of the PCA Act, which specifies the board's composition, responsibilities,

and authority. In accordance with the authority granted by subsections 1 and 2 of Section 38 of the Prevention of Cruelty to Animals Act, 1960, the Central Government enacted the Animal Birth Control (Dogs) Rules, 2001.

III. Rules Relating to Protection of Animals

- Animal Birth Control (Dog) Rules, 2001:

This Rule provides comprehensive standards for the vaccination, sterilisation, and management of canine populations. Euthanizing dogs is likewise covered by this regulation. Any street dog that is terminally ill or injured can be humanely put to sleep by a veterinarian chosen by the committee, using either sodium pentathol for adults or Thiopental Intraperitoneal for puppies. How to deal with diseased or rabid canines is addressed in this regulation as well.

- Draught and Pack Animals Rules, 1965

Pack animals (those accustomed to carrying burdens) are limited to a maximum and minimum weight according to this guideline. No animal shall be used to pull a vehicle or load for more than nine hours a day without proper rest, or in locations where the temperature is over 37 degrees Celsius, especially between the hours of 12 and 3 in the afternoon.

- Performing Animals Rules, 1973:

The rule was created to protect the welfare of animals used in the performing arts. Public performances that involve the use of animals for display or training purposes are prohibited unless the event's organiser holds a valid licence under the Parent Act. Bears, tigers, monkeys, panthers, and lions are also subject to the blanket prohibition. However, it is possible that this does not apply to animals employed by the police or the military.

- Transport of Animals Rules, 1978:

Transporting animals such as monkeys, chickens, cattle, etc. are covered by this regulation. In addition, it specifies in detail the minimum and maximum dimensions for transport cages.

- Slaughter House Rules, 2001

According to the regulation, killing of animals is prohibited outside of a licenced abattoir. The Wildlife Protection Act of 1972 also prohibits the killing of animals for ritual purposes.

IV. Organisations for Animal Protection

- Stray Animal Foundation of India (SAFI)

SAFI is a USA-based Charitable organization that was founded by Ujwala Chintala in Florida to fight for India's animals. This organization is focused on helping stray animals in India. It is done by providing shelter infrastructure, vet care, funding, resources, manpower, organizational support, education, guidance, and many more.

- People for the Ethical Treatment of Animals (PETA)
- Compassion Unlimited Plus Action (CUPA)
- Blue Cross

V. Judiciary on Protection of Animals

- Karuna Society for Animals and Nature and Others v. Union of India & Others (2012)

The Supreme Court issued directions to authorities for disposal of plastic bags and plastic waste to prevent animals from suffering.

- Animal Welfare Board of India v. Nagaraja and Ors.(2014)

Animals, like humans, have inherent worth and dignity that should not be taken away without due process. The Court has ruled that protections must be put in place to ensure the safety of animals from unlawful intrusions into their personal space. Thus, the right to dignity was expanded such that it does not only apply to humans.

- Gauri Maulekhi v. Union of India and Ors. (2016)

The Supreme Court banned on sending livestock to Nepal illegally for the Gadhimai festival. The Gadhimai festival is a massive event in which many animals are sacrificed to the goddess Gadhimai (goddess of power), making it one of the largest festivals in India.

- Navtej Singh Johar v. Union of India (2018)

The Indian Supreme Court overturned the criminality of Section 377's "unnatural offences." The sexual mistreatment of animals was likewise addressed in Section 377. This provision has not restricted any kind of activities affecting animals even it has not protected any rights of animals.

- Re: Bruno vs Union of India. (2021)

In response to the lack of administrative and legislative measures for the protection of animals, the Kerala High Court acted suomotu on complaints of a violent killing of a labrador dog in Thiruvananthapuram. In this case three men violently killed Bruno by beating it to death with a thick stick, hanging it from a boat, and then hitting it again. In this case, the Kerala High Court issued several directions and also took concern over the poor conditions of veterinary hospitals and allied infrastructure and directed the state government to improve these facilities.

Conclusion and Strategies

The analysis of above-mentioned judicial pronouncements and the listed-out legislations and rules gives a glimpse that there is no law to protect the stray animals. As the more concern was on the problems caused to the humans, the rights of animals to live a peaceful life is affected. The Supreme Court on Article 21 that, right to life also applicable to animals and their dignity is contended in Animal Welfare Board of India v. Nagaraja and Ors.(2014). The rights of Nature can be extended to right of animal to raise voice against the ill treatment given to them. In the present-day scenario animal interests are protected to the extent that humans

want them to be and benefit from those protections and limitations. The recognition of animals by providing them with legal personhood or legal person or legal naturehood is not sufficient as the laws are adequate in this regard. Right to Nature should be understood in global perspective as humans should be equally liable to the mischief caused to the animals. The question identified is not about the presence or absence of law but the execution of the law. The death of cattle or any stray animal can be minimised by following considerations:

- Awareness among the people who drive in the National Highways without any caution of stray animals. It should be there in our mind that we have destroyed forest land for our development.
- Mobile units in patrol for clearing out the stray animals in and around the roads, especially National Highways. The Toll which collects money for National Highways can be made more authoritative in clearing out the Highways for safe drive.
- Even though pinjrapoles or cattle shed are there, it is not sufficient due to the increase in stray animals. Providing more lands with sufficient amenities for grazing, walking and with intrinsic value of ecosystem.
- Imposing fines on motor vehicles which hurt the animals. Surveillance through camera or other mechanisms can be established to impose fine on those vehicles.
- The responsibility of the neighbourhood is another big stand which have to be taken. People are reluctant to complain on the problems of these stray animals, as they are not aware of the authorities responsible nor they drop the issue as they don't have any duty on this. Further if no steps are taken in this regard complaint mechanism against the Government authorities has to be brought for appropriate results.

The importance of rights makes it very evident that an individual is capable of having rights if and only if either his well-being is of ultimate value. Thus, it is the duty of every citizen, Government, Law regulatory bodies to value the rights of animals to live.