

ANIMAL SACRIFICE/ QURBANI - AS AN EXCEPTION UNDER THE PREVENTION OF CRUELTY TO ANIMALS ACT

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ABSTRACT

The Prevention of Cruelty to Animals Act, 1960 prohibits any person from inflicting, causing, or if it is the owner, permitting, unnecessary pain or suffering to be inflicted on any animal. The Act makes it a crime to beat, kick, torture, mutilate, administer an injurious substance, or cruelly kill an animal. It is also illegal to over-ride, over-drive, over-load, or work an unfit animal. It is an offense to cruelly transport, confine, chain or tether an animal. It is a violation to engage in animal fighting or shooting competitions in which animals are released from captivity to be shot. An owner commits an offense if he or she fails to provide sufficient food, drink or shelter, unreasonably abandons any animal, or permits any diseased or disabled animal to roam or die in any street. However, Section 28 of the act carves out an exception for animal sacrifice for religious purposes. Is this a lacuna in the law, which disregards the rights of Animals?

INTRODUCTION

The abuse that animals suffer at human hands is heart-breaking, sickening, and infuriating. It's even more so when we realize that the everyday choices we make, such as what we eat for lunch and the kind of shampoo we buy, may be directly supporting some of this abuse. But as hard as it is to think about, we can't stop animals' suffering if we simply look the other way and pretend it isn't happening.

Animals deserve rights, regardless of how they taste or how convenient it is to experiment on them. Like humans, animals are capable of suffering and have an interest in leading their own lives. They are not ours to use for food, clothing, experimentation or entertainment.

The Prevention of Cruelty to Animals Act, 1960 prohibits any person from inflicting, causing, or if it is the owner, permitting, unnecessary pain or suffering to be inflicted on any animal. The Act makes it a crime to beat, kick, torture, mutilate, administer an injurious substance, or cruelly kill an animal.

It is also illegal to over-ride, over-drive, over-load, or work an unfit animal. It is an offense to cruelly transport, confine, chain or tether an animal. It is a violation to engage in animal fighting or shooting competitions in which animals are released from captivity to be shot. An owner commits an offense if he or she fails to provide sufficient food, drink or shelter, unreasonably abandons any animal, or permits any diseased or disabled animal to roam or die in any street.

However, Section 28 of the Act provides an exception to killing of animals as prescribed by religion. (Animal Sacrifice)

“Chapter IV

Miscellaneous

28. Saving as respects manner of killing prescribed by religion: Nothing contained in this Act shall render it an offence to kill any animal in a manner required by the religion of any community.”

On the other hand, stunning is required for animal slaughterhouses according to provision 6 of the Prevention of Cruelty to Animals (Slaughter House) Rules, 2001, and provision 3 states that slaughter is only permitted in recognised or licensed slaughterhouses, while there is no provision to mandate the stunning/ tranquilization of animals before being sacrificed for religious purposes.

Animal sacrifice is not confined to any single religion.

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*ⁱ is a 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. It was case against the bull taming sport of Jallikattu prevalent in Tamil Nadu that was a century old tradition.

It was contested that Jallikattu was a necessity under Section 11(3) if the PCA Act, and this matter.

The court held that animals have a fundamental right against infliction of pain. It was held in this landmark judgement that - Bulls must not be used in any type of performance which includes races, bullfights. It also added that Governments and Animal Welfare Board must protect the ‘five freedoms’ of animals which includes- freedom from hunger and thirst; freedom from discomfort; freedom from pain, injury, and disease; freedom from fear and distress and freedom to express normal behaviour.ⁱⁱ

In another caseⁱⁱⁱ, the court held that excitement, presentation or entertainment don’t fall under the exempted classifications under Section 11(3) and was not a need.

Recently, A PIL filed by a journalist Varaaki contended that “religion cannot be allowed to become a tool for perpetuating untold miseries on animals”. It contended that “faith, religion, customs and practices should not take precedence over lawful rights, human or animal”. This being true for all communities, whether it be “Durga Pooja, the slaughter of lambs for Easter, turkeys for Thanksgiving or goats for Bakri-id”.

In this regard, the Supreme Court bench of Chief Justice H L Dattu and Justice Amitava Roy said:

“The Act itself carves out exception for animal sacrifices carves out exception for animal sacrifices carried out for religious purposes. There are many communities in villages which feel that animal sacrifice ritual brings them rain. If they do not do it, then there might be no rain.

That is why the legislature while framing Prevention of Cruelty to Animals Act has provided for the exception. This court has to balance between the law and religious practices. This is a sensitive matter better dealt by the representatives of the people in the appropriate forums. We cannot shut our eyes to centuries- old traditions. We cannot start examining the relevance of animal sacrifice in each religion if a PIL is filed under Article 32”

The Chief Justice then pointed to Section 28 of The Prevention of Cruelty to Animals Act and observed that it was not an offence to kill an animal in a manner required by the religion of any community.

In this case, the honourable court did not want to intervene being a centuries old tradition. Why should then there be ban on Sati Pratha?

Just because a tradition was practiced regularly for hundreds or thousands of years, it need not be relevant or justifiable today. Animal Sacrifice may be accepted, so as long as it is done humanely and for a logical purpose, like human consumption or culling. The Judiciary is just pandering to the traditional Indian custom by trying not to ruffle the feathers of the traditionalists.

In 2021, PETA (India) appealed to the Prime Minister to scrap the law that allows animal sacrifice. It referred to Section 28 of The Prevention of Cruelty to Animals Act, 1960, that allowed killing of any animal to be killed in any manner for/required by the religion of any community.

In the letter, the PETA Official wrote:

“We hope you will agree that Section 28 is an aberration in the land of "ahimsa", "karuna", and, increasingly, modern technology and where Article 51A(g) of the Constitution of India requires compassion for all living creatures,”^{iv}

The letter said that the provision (section 28) goes against the very purpose of the PCA Act, as it causes “unnecessary pain and suffering to animals and is now, in a modern society, outdated”.

It said, that just as human sacrifice is treated as murder, similarly, the archaic practice of animal sacrifice, like wringing their neck, beheading them, biting them to death, or slitting their throats while they are fully aware of what is happening to them, should be treated as punishable cruelty.

PETA India also submitted recommendation to the Animal Welfare Board of India (AWBI), which included recommending ban on animal sacrifice.

Even though the PCA Act gives an exception for animal sacrifice, such practices often stand in contravention to the Wildlife Protection Act, 1972 which protects indigenous wild species from hunting and capture.

We need a national discussion on animal sacrifice. Many animal sacrifice rituals are based on “substitution”, using animals as proxy-humans to discharge a sacred duty of loss. We must ask why an act of publicly killing an animal (often with brutal, painful methods) is needed to propitiate the gods. We must also ask whether animal sacrifice should be substituted entirely with other non-violent forms of worship, irrespective of whether it is an essential practice or not.

In political landscape, the matter of Animal Sacrifice has been a common tool to create further hate and divisions across communities.

FACTORY FARMING

A robust animal rights position recognises that animal sacrifice is but a branch of industrial animal agriculture. Only a capitalist animal farming system can meet the year-round demand for lakhs of animals. This in turn forms a vicious cycle of the mass production of animals, their surplus availability for slaughter, normalisation of animal sacrifice and the generation of further demand. A stance against animal sacrifice must also work to dismantle factory farming to achieve the vision of liberating animals from being mere instruments for human ends.

The (1957) Parliamentary Committee for the Prevention of Cruelty to Animals that recommended a national ban on animal sacrifice, but caveated with a call for dialogue said:

“Any legislation seeking to put an end to animal sacrifices can succeed in achieving its objective only if a strong public opinion, created by such measures as education and propaganda, is at its back. In the building up of the public opinion humanitarian, religious, and other organisations working on animal welfare can play an important role.”^v

LAWS ON ANIMAL SACRIFICE

The act of animal sacrifices is covered under Local Municipal Corporation Acts, Prevention of Cruelty to Animals Act, 1960, Wildlife (Protection) Act, 1972, Indian Penal Code (IPC).

It is also specifically forbidden in the following states under The Prohibition of Bird and Animal Sacrifice Act:

- i. Andhra Pradesh
- ii. Gujarat
- iii. Karnataka
- iv. Kerala
- v. Pondicherry
- vi. Rajasthan
- vii. Tamil Nadu

The states of Andhra Pradesh, Karnataka, and Telangana also prohibit animal sacrifice in any place of public religious worship or adoration or its precinct or in any congregation or procession connected with religious worship in a public street.

Local Municipal Corporation Acts:

Municipalities' laws prohibit the slaughter of any animal within a corporation area, other than in a licensed slaughterhouse. Since temples and streets, where animal sacrifices usually occur, are unlicensed, it becomes illegal to slaughter animals at these places.

The Prevention of Cruelty to Animals Act, 1960:

The Act, prohibits the infliction of unnecessary pain and suffering on an animal and makes such unnecessary pain and suffering a penal offence. Sub-section (3) of section 11 PCA says that it is the duty of every person having the care and charge of any animal to take all reasonable measure to ensure the well-being of such animal and to prevent the infliction of unnecessary pain or suffering.

The penalty under this Act is, the offender (in the case of a first offence) will have to pay fine which shall extend to fifty rupees and if it is the case of second offence or subsequent offence committed within three years of the previous offence, he will be fined with not less than twenty-five rupees but which may extend to one hundred rupees or with the imprisonment for a term which may extend to three months or with both. Also, in the case of second offence, the offender's vehicle is confiscated, and he will never be allowed to keep an animal again.

Wildlife (Protection) Act, 1972:

This Act prohibits injury to any wild animal, which is considered to be government property, under section 39. The definition of an "animal" in the Act includes amphibians, birds, reptiles and mammals and their young. In the case of bird and reptiles, even their eggs are included in this category. Section 51 of the Act provides the penalty for the person guilty of an offence under this Act. The accused on conviction, will be punishable with imprisonment for a term of three years or with fine of twenty-five thousand rupees or with both. And in the case of a second or subsequent offence, the term of imprisonment will be seven years with fine of ten thousand rupees.

Indian Penal Code (IPC):

Under Section 268 of IPC, 1860 a person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the

public or to the people in general who dwell or occupy property in the vicinity or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have persons who may have occasion to use any public right. A common nuisance is not excused on the ground it causes some convenience or advantage.

Under Sections 269/270 - It can be a negligent act or a malignant act which can spread infection or disease dangerous to life. These sections enable a person to file a charge sheet to prohibit the killing of an animal or the sale of the meat obtained from sacrificed animals, in any public place, other than those which are registered for this purpose. Also, the killing of an animal in public place amounts to public nuisance, and annoyance to the public.

In the essence of religion, say Hinduism, for example, the idea of animal dignity and recognition of its sufferings is entrenched in it, as its core values, be it the animal deities like Hanuman, Ganesha or their mounts in form of rats, peacocks etc. Scriptures teach ahimsa towards all living things. Cow is considered the abode of all gods and highly revered in the Hindu tradition. The legal machinery could be built on these values but instead through the incessant judicialization, all that is tried to be achieved, is mocked. These exercises do little towards the cause of universal animal rights.

All religions call for compassion, no religion requires killing or eating animals, and hacking animals to death with weapons is just plain cruel. Animal sacrifice is also bad for everyone: It normalizes killing and desensitizes children to violence against animals.

Animals are not ours to experiment on, eat, wear, use, for entertainment, or abuse in any other way.

It is a cold reality that Animals cannot get Justice on this Earth ruled by Human Beings. Human Beings cannot get Justice in this universe governed by God.

ABBREVIATIONS

- PCA – The Prevention of Cruelty to Animals Act, 1970
- PETA – People for Ethical Treatment of Animals
- AWBI – Animal Welfare Board of India

ENDNOTES

ⁱ Animal Welfare Board of India v. A. Nagaraja & Ors. [Special Leave Petition (Civil) No.11686 of 2007]

ⁱⁱ Sections 3 & 11 of PCA Act

ⁱⁱⁱ Bhuri Nath and Others vs. The State of Jammu and Kashmir & Ors.

^{iv} People for Ethical Treatment of Animals (PETA)

^v Parliamentary Committee for the Prevention of Cruelty to Animals (1957)