

ANIMAL RIGHTS- PROTECTION AGAINST ANIMAL TESTING AND EXPLOITATION: A CRITICAL STUDY

A Dissertation submitted to the National University of Advanced Legal Studies, Kochi in partial fulfilment of the requirements for the award of L.L.M Degree in Constitutional Law



THE NATIONAL UNIVERSITY OF ADVANCED LEGAL STUDIES

Kalamassery, Kochi – 683 503, Kerala, India

2019-2020

Submitted by:

Anuradha P Nair

(Register Number: LM0119016)

Under the Guidance and Supervision of:

Dr. Mini. S, Professor, NUALS

Director, Centre for Competition Law And Policy, NUALS

November 2020

NUALS, Kochi

CERTIFICATE

This is to certify that Reg No. LM 0119016 has submitted her Dissertation titled, “**Animal Rights – Protection Against Animal Testing And Exploitation: A Critical Study**” in partial fulfilment of the requirement for the award of Degree of Masters of Laws in Constitutional and Administrative Law to the National University of Advanced Legal Studies, Kochi under my guidance and supervision. It is also affirmed that, the dissertation submitted by her is original, bona-fide and genuine.

Date: 08-10-2020

Place: Ernakulam

Prof. (Dr) Mini S,
Guide and Supervisor
Professor of Law,

NUALS, KOCHI

DECLARATION

I declare that this dissertation titled, “**Animal Rights- Protection Against Animal Testing And Exploitation: A Critical Study**” researched and submitted by me to the National University of Advanced Legal Studies in partial fulfilment of the requirement for the award of Degree of Master of Laws in Constitutional and Administrative Law, under the guidance and supervision of Prof (Dr).Mini S is an original, bona-fide and legitimate work and it has been pursued for an academic interest. This work or any type thereof has not been submitted by me or anyone else for the award of another degree of either this University or any other University.

Date: 08-10-2020

Place: Ernakulam

Anuradha P Nair
Reg. No: LM 0119016 LLM,
Constitution and Administrative Law,
NUALS, Kochi

ACKNOWLEDGEMENT

I take this opportunity to express my profound respect and deep sense of gratitude to **Prof. (Dr.) Mini S** for her support, guidance, and encouragement throughout the course of the research work acting in his capacity as the supervisor and research guide and well as the Director of the Centre for Post Graduate Legal Studies.

I would like to extend my gratitude to the Vice-Chancellor **Prof. (Dr.) K.C. Sunny** for his constant encouragement and support. I would further extend my deep-felt gratitude to **Prof. (Dr.) M.C.Valson, (Dr.) Balakrishnan.K**, Associate Professor, NUALS, Kochi for their guidance and support. I would also extend my heart filled gratitude to all faculties of NUALS for their constant encouragement.

I convey my thanks to **Mrs. Jeeja V**, Assistant Librarian, **Mr. Anil Kumar C**, **Ms. Neenu**, **Mr. Unnikrishnan K.K.**, Library Assistants for their timely assistance to carry out the work. Words fall short of expressing love, appreciation and gratitude to my loving parents, my siblings, my friends and all my well-wishers for their constant support, encouragement and motivation.

With genuine humility, I am thankful to the One and Only Almighty for all his uncountable bounties and Blessings.

Anuradha P Nair

ABBREVIATIONS

1.	ALR	All India Reporter
2.	A.L.R.C	Australian Law Reform Commission
3.	APIO	Central Public Information Officer
4.	BSF	Border Security force
5.	CAG	Comptroller and Auditor General
6.	CIC	Central Information Commission
7.	CPIO	Central Public Information Officer
8.	CULR	Cochin University Law Review
9.	Del	Delhi
10.	D.L.R	Delhi Law Review
11.	DO	Designated Officer
12.	Fed. L. Rev.	Federal Law Review
13.	GOI	Government of India
14.	ILD	Indian Legal Decisions
15.	IJPA	Indian Journal of Parliamentary Affairs
16.	Ker.	Kerala
17.	L.Q.R	Law Quarterly Review
18.	L.Ed.	Law Edition
19.	NIC	National Informatics Centre
20.	OSA	Official Secrets Act

21.	PGC	Public Grievances Commission
22.	PIO	Public Information Officer
23.	PRO	Public Records Office
24.	Raj	Rajasthan
25.	RTI	Right to Information
26.	RTS	Right to Service
27.	SIC	State Information Commission
28.	S.C.C.	Supreme Court Cases
29.	S.C.R	Supreme Court Reports
30.	U.P.	Uttar Pradesh
31.	Wash. ULQ.	Washington University Law Quarterly
32.	Yale, L. J.	Yale. Law. Journal

TABLE OF CASES

1. Abdul Hacim Quareshi v. State of Bihar, AIR 1961 SC 448
2. Anandoppally Karshaka Samithy v. The District Collectors AIR 2009 Ker. 189
3. Animal Welfare Board of India v. A. Nagaraj and Ors AIR 2014 SC 362
4. Animal Welfare Board of India v. A. Nagaraj and Ors, AIR 2014 SC 362
5. Ashok Kumar v. State of J&K, AIR 2005 SC 267.
6. Cottage Industries Exposition Ltd. v. Union of India AIR 2007 SC 267
7. Haji Usmanbhai v. State of Gujarat, AIR 1986 SC 1213
8. Indian Circus Federation (ICF) in K.R. Haier and others v. Union of India AIR 2000 SC 867
9. Indian Handicraft Emporium v. Union of India, (2003) 7 SCC 589
10. Ivory Traders and Manufacturers Association v. Union of India AIR 1997 Del 267
11. Maneka Gandhi v. Central Zoo Authority AIR 2000 SC 1517
12. Mansukhlal Vithaldas v. State of Gujarat (1997) 7 SCC 622
13. Mohd Hanif Quareshi v. State of Bihar, AIR 1958 SC 731
14. Mr. Jasraj Shri Shrimkal v. govt of A.P by prvt. Secretary Hyderabad, AIR 2002 A.P 167
15. People for Animals and Anr. v. Animal Welfare Board and Ors AIR 1995 SC 345
16. Ranjit Thakur v. Union of India, AIR 1987 SC 2386
17. Sansar Chand v. State of Rajasthan (2010) 10 SCC 604
18. State of Bihar v. Murad Ali Khan (1988) 4 SCC 655
19. State of Tamil Nadu v. Kayper Industrial Chemical Pvt Ltd, AIR 2005 Mad 304
20. T N Godavarman Thirumulpad v. Union of India and Ors. (2012) 3 SCC, 277
21. Tarun Bharat Singh v. Union of India (1992) 2 Supp SCC 448
22. Viniyog Parivar Trust V. Union of India AIR 1997 SC 3217

TABLE OF CONTENTS

CHAPTER	CONTENTS	PAGE NO
1.	INTRODUCTION	11
	STATEMENT OF PROBLEM	13
	SCOPE OF STUDY	13
	RESEARCH OBJECTIVES	14
	HYPOTHESIS	15
	RESEARCH QUESTIONS	15
	RESEARCH METHODOLOGY	15
	REVIEW OF LITERATURE	15
	CHAPTERIZATION OF STUDY	17
2.	EVOLUTION OF ANIMAL RIGHTS: CRUELTY, WELFARE AND REHABILITATION	18
	INTRODUCTION	18
	ANIMAL WELFARE	22
	ANIMAL CRUELTY	27
	TYPES OF ANIMAL CRUELTY	32
	CONCLUSION	34

3.	DEVELOPMENT OF ANIMAL RIGHTS AND PREVENTION OF ANIMAL TESTING: INTERNATIONAL AND CONSTITUTIONAL PERSPECTIVE	35
	INTRODUCTION	35
	EVOLUTION OF ANIMAL ETHICS: ANCIENT PERIOD	36
	BIRTH OF MODERN ANIMAL ETHICS: A CONSTITUTIONAL PERSPECTIVE	38
	MEASURES AT INTERNATIONAL LEVEL TO PROTECT ANIMAL RIGHTS	41
	RECOGNITION OF ANIMAL RIGHTS	46
	ANIMAL WELFARE AND ROLE OF NON-GOVERNMENTAL ORGANIZATIONS - INTERNATIONAL SCENARIO	52
	CONCLUSION	53
4.	THE PREVENTION OF ANIMAL TESTING AND EXPLOITATION ON AN INTERNATIONAL SCALE.	54
	INTRODUCTION	54
	UNDERSTANDING ANIMAL EMPATHY, CRUELTY AND TESTING	59
	ANIMAL TESTING AND BIRTH OF ACTIVISM	61
	UNDERSTANDING ANIMAL TESTING	64

	ANIMAL TESTING ON AN INTERNATIONAL LEVEL	65
	CONCLUSION	71
5.	DEVELOPMENT OF ANIMAL LAWS IN INDIA AND CONTEMPORARY ISSUES	72
	INTRODUCTION	72
	ORIGIN OF PCA ACT	73
	THE PREVENTION OF CRUELTY TO ANIMALS ACT 1960	73
	IMPORTANCE OF CONSTITUTIONAL PROVISIONS	78
	EMPIRICAL STUDY: ANALYSIS	82
	CONCLUSION	94
6.	THE ROLE OF JUDICIARY IN PROTECTING ANIMAL RIGHTS	95
	INTRODUCTION	95
	VARIOUS CASE LAWS PERTAINING TO ANIMAL CRUELTY	96
	NEED FOR PROTECTING ANIMAL RIGHTS	101
	CONCLUSION	109
7.	CONCLUSIONS & SUGGESTIONS	110
8.	ANNEXURE 1 – EMPIRICAL QUESTIONS	116
9.	BIBLIOGRAPHY	119

ANIMAL RIGHTS- PROTECTION AGAINST ANIMAL TESTING AND

EXPLOITATION: A CRITICAL STUDY

- Anuradha P Nair

LL.M

CHAPTER 1

INTRODUCTION

Immanuel Kant had once said, “He who is cruel to animals becomes hard also in dealings with men”.¹ Animal Rights are those entitlements which are specifically curated for animals to live free from human abuse and exploitation. Many people are of the opinion that the concept of Animal rights are implausible and that it is insignificant to be given any consideration. However contrary to this opinion many legal scholars and moral rights activists have passionately opposed the said implausibility. He further stated that animals are man’s instruments and that we can judge the heart of a man by his treatment towards animals.²

On the other hand Bentham took a different approach and proposed that the animals are akin to slavery and racial discrimination.³ According to Bentham, a full-grown horse or dog is beyond comparison a more rational, as well as a more conversable animal, than an infant of a day, or a week, or even a month old.⁴ The said analogy rightly confronts us with the questions whether we would make a baby suffer for the sole reason that it does not have a capacity to talk. Thus, the lack of significance mankind has given to protect the rights of animals have pushed many fragile creatures through the hands of tyranny and suffering over the years and it has only been quite recent since the debate of animal’s rights have grown from a mere peripheral topic to one of grave concern and importance.

¹ Immanuel Kant, Lectures on Ethics, trans. Louis Infield (New York: Harper Torchbooks, 1963), at 240.

² Id.

³ Jeremy Bentham, The Principles of Morals and Legislation 310-11 n 1 (Prometheus 1988).

⁴ Id.

Originally the concept of animals as a property of human beings is a relic of Roman law. This association of animals to that of property is one reason that paved way to its exploitation over centuries. However, since the advent of the 20th century, there has been a lot of debate on the ethics of treating animals as property and exploiting them for various purposes such as chemical testing, cosmetic testing, and genetic modifications for the purpose of livestock which is harmful for humans as well etc. The age of reasoning have paved way to the emergence of specific laws for the protection of animals had also been enacted both in the national and international level. Whether the said laws were enacted for a reciprocating protection for humans from harm that could come to them as a result of genetic exploitation of animals or for the sake of welfare of the animals itself, is a question left to be debated. Nevertheless, proactive steps had been taken to prevent the inhumane exploitation of animals. However, the most important and frequently raised questions by the animal right activists and advocates is that, whether these enactments in favor of the rights of the animals are really protecting them from human exploitation? The answer is unresolved.

Animals were harmed and exploited for many purposes before as well as after the commencement of these laws. Nowadays, people who are reaching out their hands for helping and protecting those distressed animals in need are also abused for the ethical deeds they are doing. Only those common people who are tag lined as animal activists or animal lovers are contributing for the protection of animal rights. They are considered as the only ‘hope’ to the animals who are in distress. The establishment of a number of Non-Governmental Organizations in both national and international level for the protection of animals has been a positive sign for the betterment of animal rights. These NGO’S reach out to the animals who need help and also fight for their rights, in other words, they act as the voice for the voiceless. The only problem with regard to the functioning of these NGO’S are the shortage of funds, genuine volunteers and staffs. In this situation, it is equally necessary for the government to provide help to these NGO’s as it is the primary responsibility of the government to protect and show compassion to these voiceless creatures.

These problems can be solved only through the declaration of statutes having effective enforcement and penal provisions and a will to effectively apply the same without any discrimination or exemption. In the current scenario, there are central and state statutes having minimal teeth to effectively apply the law and selectively refrain from enforcing the same. It is

high time that the legal system should be modified and introduced effectively to fight the battle and render justice to animal rights. Animal abuse and exploitation must come to an end otherwise it will result in the disruption and degradation of ecological systems. Animals has the same right to live in this environment as we humans do. We are nobody to decide who should live and who should not live in this environment. Mother Nature has created humans, animals and all the other living organisms to live with equal love, respect and prosperity.

STATEMENT OF PROBLEM

- 1) In recent years, even though there has been an emergence of certain legislations with regard to the protection of animals, against exploitation and experimentation, the problem is not yet under control.
- 2) Apart from the state and federal laws, there has been an establishment of various Non-Governmental Organizations to abate animal cruelty, but those institutions have lagged in proper funding and mechanism.
- 3) Various companies who have marked their products such as- cosmetic brand, medicines, fragrance, oral care, laundry products, etc., as cruelty free, still test their products on innocent animals. This is only because of a failed mechanism of the state and federal laws.
- 4) Innocent animals are still being captured, harmed and skinned alive at the fur and leather industries, even though human brains are capable to find out the best alternatives for it.

SCOPE OF STUDY

The fundamental issue concerning exploitation of animals have to be analyzed from a historical point of view. Over centuries, man has systematically abused and exploited animals for the welfare and development as most of civilizations were built on the effective utilizations and domestication of animals of varying categories. Large body animals were used for construction and entertainment purposes, forcibly torturing them and depriving them of all basic necessities to tame them with fear. Smooth skinned animals were skinned for personal and therapeutic purposes without any care or hesitation. Small body animals were used for transportation and amusement with any regard for

their wellbeing. These practices continued for centuries, until people started listening and realizing the folly in their actions.

Through this dissertation, I intend to analyze the various ways in which mankind has exploited animals, the legal frameworks that have been established for its prevention, the lack of effectiveness and improper implementation of these legal frameworks in present day society, and a possible solution to come to a practical solution to this never ending problem of exploitation of animals. I have divided my dissertation into mainly 6 parts, wherein, in the first part, I will be exploring the evolution of animal exploitation and its historical significance. In the second part I will focus on the existing legal frameworks for the prevention of exploitation of animals both at a domestic and international level. The third, fourth and fifth part in intend to focus on specific modes of exploitation of animals in spite of existing legislations with special reference to animal testing (chemical and cosmetic testing), genetic modification of animals and inhumane manner of eradication of stray dogs. In the last part, I will be focusing on contemporary and constitutional issues regarding the exploitation of animals and provide suggestions and alternative model of effective legal and practical solution to prevent animal exploitation.

My dissertation would concentrate on providing an effective remedy to the present crisis and provide suggestions regarding draft legislations having strong penal provisions and effective implementation mechanism. The technological advancement has paved way to avenues that can be effectively incorporated in the legal mechanism to bring about proper and fruitful implementation of the same. The very same advancement has also opened doors to other news modes of exploitation of animals to meet the needs of the millennia. A fine balance between the two need to be made and that will also be a point of discussion in my dissertation.

RESEARCH OBJECTIVES

The study focuses on the following objectives:

1. To analysis the concept of Animal Rights from a human rights perspective to understand which would prevail.

2. To evaluate the evolution of Animal Testing and exploitation both from a Constitutional and International Perspective.
3. To examine various contemporary issues regarding the implementation of Animal Rights and Circumvention of existing laws preventing exploitation of Animals.
4. To evaluate whether the need of the millennial for alternative fast food sources is paving wave to genetic modification and exploitation of animals.

HYPOTHESIS

H1 Existing legal provisions ensuring protection to animals need consideration in the light of exorbitant exploitation of animals.

RESEARCH QUESTION

The research I intend to undertake on this topic is mainly to answer the question following questions:

1. Whether enlargement of penal punishment for Infringement of animal testing laws would reduce such infractions?
2. Whether there is an alternative method of implementation of Animal Rights and Prevention of Animal Exploitation Laws in India?
3. Whether constitutional amendments are required to incorporate modern issues regarding Animal Rights Protection and Prevention of Exploitation of Animals for various purposes?

METHODOLOGY

I intend to undertake a Doctrinal Legal research and Empirical study as a means to establish my hypothesis in the best suitable way.

REVIEW OF LITERATURE

1. Elisa Galgut, Raising the Bar in the Justification of Animal, Journal of Animal Ethics, Vol. 5, No. 1 (Spring 2015) – There are various articles available on the journal touching of

topics relevant to my dissertation but this particular article was useful in giving a broader picture in understanding the need for Animal ethics on an international sphere.

2. Maneka Gandhi, Ozair Husain, Raj Panjwani, *Animal Laws of India*, Third Edition, 2006 – One of the most prominent animal rights activist who in her book as made a detailed and comparative study of the various animal laws existing in the country and its impact. This book was indeed helpful in contributing to the study undertaken in my dissertation and helped me in framing effective solutions.
3. Mary Weideman, *Toxicity Tests in Animals: Historical Perspectives and New Opportunities*, *Environmental Health Perspectives*, Vol. 101, No. 3 (Aug., 1993), pp. 222-225 - The historical perspective relating to animal tests and its evolution has been dealt in detail in this book and there were considerable material to work on and interpret in preparing the initial chapters of my dissertation.
4. Stephen W. Baier, *The Impact of Animal Rights on the Use of Animals for Biomedical Research, Product Testing & Education*, *The American Biology Teacher*, Vol. 55, No. 3 (Mar., 1993), pp. 136-139 - The focus on animal testing is prevalent in the literature and as a result it had contributed immensely in my research in understanding the various forms of animal testing prevalent in society and what changes and restrictions been to be adopted. The author has done an in-depth study into the area of animal testing and the literature is a testament to his dedication in painting a harsh reality.
5. Thomas Hartung, *Research and Testing Without Animals: Where Are We Now and Where Are We Heading?* Publisher: Brill. (2019) – Some important material was available in this literature that had helped me work on areas relating to animal testing
6. PCA Snyman, *Prescription, cosmetic and chemical drug products liability in Australia and some Commonwealth jurisdictions*, *The Comparative and International Law Journal of Southern Africa*, Vol. 20, No. 3 (NOVEMBER 1987), pp. 353-376 - Though the literature focuses heavily on prescription, cosmetic and chemical drug products, very little was available covering animal testing and abuse. Nonetheless the material pertaining specifically to animal testing was quite relevant and sufficient information was extracted from the same.

7. Bernard E. Rollin, *Animal Rights as a Mainstream Phenomenon*, published: 19 January 2011, ISSN 2076-2615 – The authors gives a general understanding of the topic and issues concerning recognizing animal rights.
8. Jan Narveson, *Animal Rights*, *Canadian Journal of Philosophy*, Vol. 7, No. 1 (Mar., 1977), pp. 161-178. – This literature also contains materials discussing about the evolution of animal rights over the years and as a result was helpful in preparing the first few chapters.
9. Steve Siegel, *Grassroots Opposition to Animal Exploitation*, *The Hastings Center Report*, Vol. 19, No. 6 (Nov. - Dec., 1989), pp. 39-41 – Animal exploitation is dealt in detail in this work and various instance of the same are explained in detail by the author. The author while discussing the realities of the world and the exploitations prevalent, he focuses on solutions that were helpful in giving a conclusion to my dissertation.

CHAPTERIZATION OF STUDY:

Chapter 1: Introduction

Chapter 2: Evolution of Animal Rights: Cruelty, Welfare And Rehabilitation

Chapter 3: Development of Animal Rights And Prevention Of Animal Testing: International And Constitutional Perspective

Chapter 4: The Prevention of Animal Testing and Exploitation on An International Scale

Chapter 5: Development of Animal Laws in India And Contemporary Issues

Chapter 6: The Role of Judiciary in Protecting Animal Rights

Chapter 7: Conclusions & Suggestions

CHAPTER 2

The Evolution of Animal Rights: Cruelty, Welfare and Rehabilitation

“For as long as men massacre animals, they will kill each other. Indeed, he who sows the seeds of murder and pain cannot reap the joy of love”

Introduction

One of the greatest Philosopher’s, Pythagoras had made the above stated phrase. In ancient period, the living traditions of Indians and Aborigines showed an admiration and understanding for the natural world, which resulted in the sustainability of the environment with a care for each individual animal.⁵ Earlier, the Buddhist and Pythagorean canons, dominated perhaps by the creed of reincarnation, which was read into the maxim ‘not to kill or injure any innocent animal’.⁶ Over time, there has been an evolution in the viewpoint about the humane care and treatment towards animals.⁷ The Pythagoreans and the Neo Platonist urged respect for animal’s interests, primarily because they believed in the transmigration of souls between human and animal bodies.⁸ Aristotle influentially argued that animals having sense-perception put lacking reason, fall below humans in a natural hierarchy and are therefore appropriate resources for human purposes.⁹ He then pondered that animals lack rational souls, and thus, our dealings with them are not a matter of justice. Through his biological writings, Aristotle repeatedly suggested that animals lived for their own sake, but his claim while in the ‘politics’, that nature made all animals for the sake of humans was unfortunately destined to become his most influential statement on the subject.¹⁰ This understanding of the concept as animals being mere objects of human exploitation lacking any rational comprehension has been the underlying principle governing all human actions over centuries. Apart from a small group of persons who consider animals with significant status of having both emotional and living quotient, majority of persons of all society throughout the years

⁵ Peter Singer, In Defence of Animals: The Second Wave, Blackwell Publishing, ISBN: 1405119411

⁶ Id.

⁷ Morton S. Silberman, Animal Welfare, Animal Rights: The Past, the Present and the 21st Century, The Journal of Zoo Animal Medicine, Vol. 19, No. 4 (Dec 1988), pp. 161-167

⁸ V D Mahajan, Jurisprudence and Legal Theory (5th edition 1987) 28

⁹ Keith festee, Animals and Society. The Humanity of Animal Rights (1st edition, 1991) p.136

¹⁰ Id.

have given very little regard to the rights of animals. Human actions have been in the forefront throughout history of constantly exploiting animals for one reason or the other.

Aristotle, and later the Stoics, believed that the world was occupied by an infinity of beings arranged hierarchically according to their intricacy and excellence, from the barely living to the merely sentient, the rational and the wholly spiritual.¹¹ In this great chain of being as it came to be known, all forms of life were characterized as existing for the sake of those forms higher in the chain.¹² Among corporeal beings, humans by dint of their rationality, occupied the highest position.¹³ The great chain of being became one of the most persistent and powerful, if utterly erroneous, ways of conceiving the universe, dominating scientific, philosophical, and religious thinking until the middle of the 19th century.¹⁴ This dominance of one species over the other and mankind leading the food chain has led to a habitual suppression of animals as being part of a lesser species, which resulted in developing a non-empathetic attitude towards such beings.

The stoics insisting on the irrationality of all non-human animals, regarded them as slaves and accordingly treated them as contemptible and beneath notice.¹⁵ Aggressively advocated by St. Augustine these stoic ideas were also embedded in Christian theology.¹⁶ They were absorbed wholesale into Roman law as reflected in the treaties and codifications of Gaius and Justinian taken up by the legal glossators of Europe in the 11th century, and eventually pressed into English Common Law.¹⁷ Meanwhile, arguments that urged respect for the interest of animals nearly disappeared, and animal welfare remained a relative backwater of philosophical inquiry and legal regulation until the final decades of the 20th century.

The bible largely reinforced the Aristotelians view of animals by asserting that god created humans in his own image and that we are free to use natural resources including animals for our own purposes.¹⁸ On the other hand by declaring that all humans are made in God's image, the Bible

¹¹ Supra n.4

¹² Id.

¹³ Id.

¹⁴ James Connelly and Graham Smith Rutledge, *Politics and Environment*, 2nd Edition, 2003, p.219.

¹⁵ Id.

¹⁶ Fredrick Polleck and Fredric William Martland, *The History of English Law Before the Time of Edward*, 1st Edition, 1968, p.326

¹⁷ Fredrick Polleck and Fredric William Martland, *The History of English Law Before the Time of Edward*, 1st Edition, 1968, p.326

¹⁸ B.K Sharnma "Wide life crime in India myths and realities sanctuary" 100 2004, p.90-111

legitimated an egalitarian view of humanity that opposed the Aristocratic tendencies of Greek thought, including that of Aristotle's.¹⁹ In Middle Asia, such Christian philosophers as Augustine and Thomas Aquinas understood the claim that animals lack of reason justified their subordination which is a proposition that most Christians have accepted ever since.²⁰ While agreeing that animals are subordinate to humans, the more ancient tradition of Judaism has placed greater importance than has Christianity in minimizing pain caused to animals.²¹ Based on the idea that all god's creatures deserves comparisons regarding the slaughter of animals for food and in condemnation of hurting for pleasure, bullfights and dogfights.²² Meanwhile, Islam the third Abrahamic religions tradition concurs that humans are uniquely important and animals exist for human use. However, the Quran stated that cruelty to animals are condemnable and arguably suggest that animals pressers some degree of rationality. Most importantly, the prophet Muhammad allegedly commented, whoever kind to the creatures of Allah, as kind to himself.²³

It is interesting to evaluate the Western modern philosophy, an era stemming from Descartes in the seventeenth century through the late nineteenth century which largely upheld the view of human supremacy, reflecting the influence of its dominant religion, Christianity.²⁴ Conceptualizing nature in purely mechanical terms, modern science replaced the long dominant Aristotelian view of nature as endowed with purposes and somewhat akin to a living being.²⁵ In this background, Rene Descartes emphasized that it is natural to regard animals, part of nature, an organic machines, entirely devoid not only of reason but of feelings.²⁶ He thought that, Human bodies were part of nature, whereas the essence of humanity-revealed through a unique capacity for languages and innovative behavior was found in the human mind, spirit or soul, which alone possessed consciousness.²⁷ That animals could not even feel pain, however, struck most philosophers as contrary to common sense. Hence Thomas Hobbes, John Locke, Immanuel Kant and others attributed perception and feeling to animals while denying that they had some property

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Supra n.4

²³ Supra n.3

²⁴ Supra n.10

²⁵ Supra n.3

²⁶ Id.

²⁷ Id.

such as reason or the capacity to grasp general concepts that was allegedly necessary for significant moral status.²⁸ In Kant's enormously influential moral philosophy autonomy or freedom from the casual determination of nature became prominent in justifying the human use of animals.²⁹

While the assertion of human superiority clearly dominated modern philosophy, the possibility of alternative perspectives was also evident.³⁰ A partial example is found in David Hume, who regarding sympathy as a foundation of moral thought, noted that sympathy can extend to sensitive creatures other than humans. Still, Hume thought, the notion of justice concerns transactions among those roughly equal in power and is therefore irrelevant in our dealings with animals.³¹

Earlier it is said that, animals are man's instrument deserving protection only to help human beings in their relation to one another.³² Few people accept this remark, but many people find it offensive. Since the early, 1990's the animal right question has moved from the periphery and towards the center of political and legal debate.³³ The advocates of animal rights seem to think that their opponent's arguments are selfish, unthinking, cruel and even morally blind.³⁴ Those who oppose animal rights seem to think that the advocates are fanatical and even bizarre, willing to trample on important human interests for the sake of rats and mice and salmon.³⁵ Animal welfare advocates constantly argue for stronger laws preventing cruelty and necessitating humane treatment. They oppose any and all, human 'use' of animals,³⁶ which challenge a wide range of current practices which includes the use of animals in Circus, Zoos, Agriculture, Hunting, Scientific Experimentation and other Exploitations. The fundamental principle of animal right is that non-human animals deserve to live according to their own natures, free from harm, abuse and exploitation. Simply it means that, animals should have that right to be free from cruelty and exploitation, just as we humans do. The concept of Animal Right tries to extend the human circle of respect and compassion beyond our species to include other animals, who are also capable of

²⁸ Id.

²⁹ B.K Sharma, Opcit, p.17

³⁰ Supra n.4

³¹ Id.

³² See. – Cass R Sunstein, "what are animal rights" in Cass R Sustein, Martha C Mussabaum (ed) Animal Rights Current Debates and New Directions 3-15, (2004), Oxford University Press.

³³ Id.

³⁴ Ibid

³⁵ Ibid

³⁶ Peter Singer, Animal Liberation, 1990, 6th Edition, New York Review of Books, p.121

feelings, pain, fear, hunger, thirst, loneliness and kinship. When we see this concept in a deeper manner then, we no longer can support certain acts like, factory farming, vivisection, exploiting animals for entertainment and other exploitations.

The fundamental demand of the philosophy of animal rights is to treat animals with respect. Naturally the question which has to be answered then is that animals don't respect our rights therefore, humans have no obligation to respect their rights either. This narrow mindset of humans of expecting reciprocity from animals to warrant any sentiments or consideration has resulted in promoting and inculcating vexations attitudes towards animals. This attitude needed to change and as a result of educational and technological advancements. Though mankind's attitude has changed considerable over the year, we have a long way to go. Society is slowly and steadily starting to realize that animal welfare is equally important.

Animal Welfare

Animal welfare can be a difficult concept to understand because it has no single definition and can mean different things to different people.³⁷ Welfare generally refers to “the quality of an animal's life as it experienced by an individual animal”.³⁸ An Animal's welfare is influenced by many factors including their genetics, previous experience, physiological state and psychological state.³⁹ There are three main views which are essential for a good animal welfare, they are :-

- Physical Wellbeing: The extend of animal's biological processes can cope with their environment.⁴⁰
- Mental Wellbeing: An animal's emotions and how they feel.⁴¹
- Natural Living: The extent to which an animal lives and behaves as it would in the wild.⁴² Today's domesticated species have retained the adaptations of their

³⁷ Bracke, M.B.M., Spruijt, B.M Metz, J.H.M. 1999, Overall animal assessment reviewed, Part 1: Is it possible? *Neth J Agri. Sci.* 47, 279-291

³⁸ Id.

³⁹ Id.

⁴⁰ Fraser, A.F, Broom, D.M 1990. *Farm Animal Behaviour and Welfare*, 3rd edition. CAB International, Wallingford, Oxon.

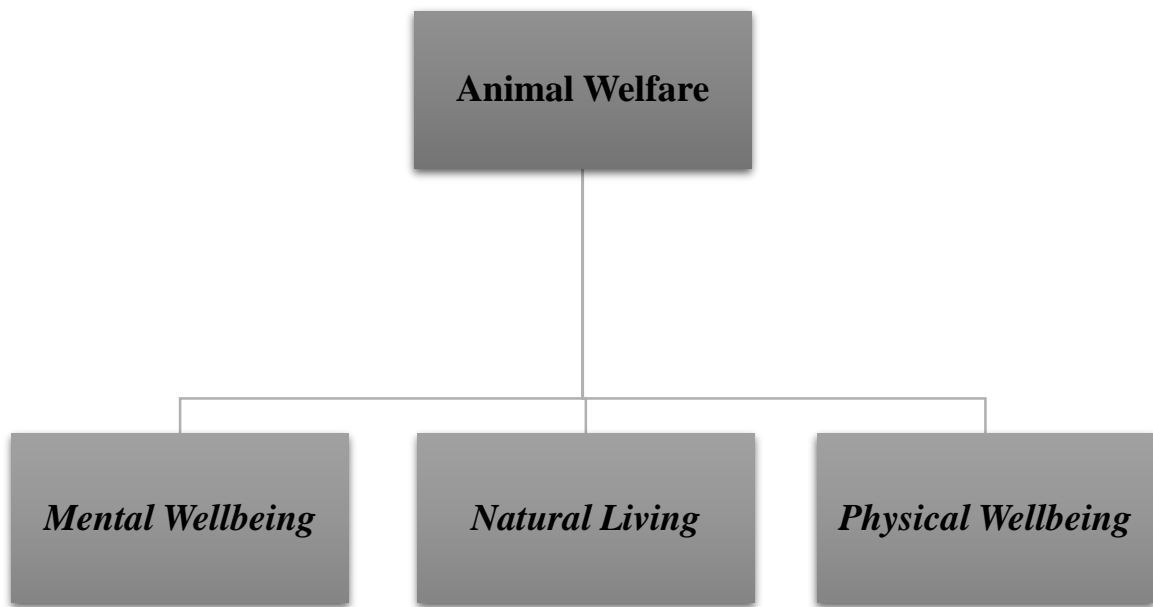
⁴¹ Duncan, I.J.H. 1996. Animal Welfare defined in terms of feelings. *Acta Agriculturae Scandinavica, Sect.A, Anim. Sci. Suppl.* 27, 29-35

⁴² Lawrence, A.B. 2007. *What Is Animal Welfare?* In: Branson, E. *Fish Welfare*. Blackwell Publishing, Oxford.

ancestor,⁴³ and so they need an environment which allows them to express their natural behavior.⁴⁴

These three views can be combined to reflect an animal's overall wellbeing and quality of life.

WELFARE IS QUALITY OF LIFE WHICH IS: -



Animal welfare in its holistic sense, encompasses not only the health and physical well-being of the animal, but the animal's psychological wellbeing and the ability to express its own important behavior.⁴⁵ Welfare can be described as high if the animals are fit and healthy, feeling good and free from suffering and have what they need and want.⁴⁶ These situations can be reflected into the five freedoms⁴⁷:-

⁴³ Ibid

⁴⁴ Rollin, B. 1992. *Animal Rights and Human Morality*. Prometheus Books, Buffalo, New York.

⁴⁵ Supra. N.12

⁴⁶ Id.

⁴⁷ FAWC, Farm Animal Welfare Council, 2009. *Farm Animal Welfare in Great Britain: Past, Present and Future*. London, UK.

- Freedom from hunger and thirst- By ready access to diet to maintain full health and vigor.⁴⁸
- Freedom from discomfort- By providing suitable environment including shelter and a comfort resting area.⁴⁹
- Freedom from pain, injury or disease- By prevention or rapid diagnosis and treatment.⁵⁰
- Freedom to express normal behavior- By ensuring conditions which avoid mental sufferings.⁵¹
- Freedom from fear and distress- By providing sufficient space, proper facilities and the company of the animal's own kind.⁵²

It is necessary to meet all these freedoms in order to avoid animal suffering and prevent the gross lack of welfare for the same. All these freedoms have to be satisfied concurrently so as to positively say that animal welfare has duly being applied. As regards to the emotional and positive welfare of animals, an animal's mental state and emotions are inherently difficult to assess, due to their subjective nature and being experienced by the individual.⁵³ However new methods can reveal what an animal is feeling, For example - choice preference test can reveal what an animal needs and wants by showing what an animal is willing to work for, cognitive bias test can show whether an animal currently possess an 'optimistic' or 'pessimistic' mental state, appraisal tests recording animal's behavioral and physiological reactions to a situation can show the type of emotion experienced, and observable behavioral signals can reveal an animal's emotional state.

The term "animal welfare" is being used more and more in the United States. This is not achieved by political attention specifically, but more by several animal protection organizations who have raised this subject. An important role is played by the Humane Society of the United States. They have a budget of approximately 30 million dollar per annum, mostly received from memberships

⁴⁸ Farm Animal Welfare Council 1992 FAWC Updates the five freedoms Veterinary Record 17:357

⁴⁹ Ibid

⁵⁰ Ibid

⁵¹ Ibid

⁵² Ibid

⁵³ Dawkins, M.S. 1983. Battery Hens name their price: Consumer demand and the measurement of ethological needs. *Animal Behaviour*. 31, 1195-1205.

and grants. The Humane Society organizes referenda and uses pressure via legal options, forcing local governments to act. Recently, they revealed a video of badly treated weak (downer) cattle at a Californian slaughterhouse, which created concern for food safety (BSE) and a large meat recall. New Jersey has set an example in environmental issues and is also taking the lead in animal welfare issues. The other states have minor legislative differences, but in general they are not very different from each other. A recent report with potential impact on the US's farm industry explicitly condemned intensive confinement systems: "The Commission believes that the most intensive confinement systems, such as restrictive veal crates, hog gestation pens, restrictive farrowing crates, and battery cages for poultry, all prevent the animal from a normal range of movement and constitute inhumane treatment. Growing public awareness and concern for the treatment of food animals has brought increased demands for standards to ensure at least minimal protection of animal welfare. These demands have been expressed through pressure on retail and restaurant operators for standards that can be audited and certified. The Commissioners believe that the demand for such standards will increase in the next several years and that it will be incumbent upon meat, poultry, egg, and dairy producers to meet that demand and demonstrate that food animals are treated humanely throughout their lifetimes, up to and including the method of slaughter."

Animal farming systems are not very intensive, and animal diseases are common. In the Hindu culture a taboo exists on causing the flowing of blood. Cows are regarded as sacred in the Hindu culture, and slaughtering cows is forbidden. In contrast, the domestic water buffaloes are slaughtered for consumption by Muslims. Higher castes and Muslims do not eat pig meat, but pigs are occasionally consumed by lower castes. India lacks an organized pig-husbandry. Pigs roam around on garbage fields, flooded lands and in villages and seem to be partly wild. Laying hens frequently roam freely. Poultry may be housed under free-range conditions (in warmer regions) and in battery cages (in colder regions). Beak trimming is practiced. Broiler meat is mainly (95%) sold at so called "wet markets" where they are sold alive and slaughtered on local markets. Production mainly focuses on local markets and only 5% is processed in abattoirs. India has a variety of aquaculture practices including sea fishing (mainly shrimp) and fresh water production (especially tilapia).

Although Russell and Burch⁵⁴ published their seminal treatise on the 3R's (replacement, refinement, reduction) in 1959, the acceptance and, more importantly, implementation of these precepts have been gaining global momentum only in recent years. Inclusion of reference to the 3R's in multinational documents has resulted in these principles gaining traction in laboratory animal science in all parts of the globe. For example, in 2010, the World Organization for Animal Health (OIE) issued standards for the "Use of Animals in Research and Education" in chapter 7.8 of its Terrestrial Animal Health Code.⁵⁵ The OIE is recognized as a reference organization by the World Trade Organization and has a total of 178 member countries that span the globe. By serving as members of the OIE, these countries commit to incorporating the OIE standards in their regulatory framework. The chapter in the Terrestrial Animal Health Code pertaining to the use of animals in research, testing, and education stipulates that oversight of the animal program ensures the implementation of the 3Rs, typically by including consideration of the 3Rs during project proposal review. The global effect of requiring inclusion of the 3Rs in the 180 Member Countries' regulatory frameworks is potentially enormous.

Similarly, the "International Guiding Principles for Biomedical Research Involving Animals"⁵⁶ issued by the Council for International Organizations of Medical Sciences (CIOMS) and the International Council for Laboratory Animal Science (ICLAS) state (principle III) states: *"Animals should be used only when necessary and only when their use is scientifically and ethically justified. The principles of the Three Rs—Replacement, Reduction and Refinement—should be incorporated into the design and conduct of scientific and/or educational activities that involve animals. Scientifically sound results and avoidance of unnecessary duplication of animal-based activities are achieved through study and understanding of the scientific literature and proper experimental design. When no alternative methods, such as mathematical models, computer simulation, in vitro biologic systems, or other nonanimal (adjunct) approaches, are available to replace the use of live animals, the minimum number of animals should be used to achieve the scientific or educational goals. Cost and convenience must not take precedence over these principles"*.

⁵⁴ Russell WMS, Burch RL. . 1959. The principles of humane experimental technique. London (UK): Methuen

⁵⁵ World Organisation for Animal Health (OIE). 2011. Terrestrial animal health code, chapter 7.8.

⁵⁶ Council for International Organizations of Medical Sciences/International Council for Laboratory Animal Science (CIOMS/ICLAS). [Internet] 2012. International guiding principles for biomedical research involving animals.

Through its membership, CIOMS is representative of a substantial proportion of the biomedical scientific community. In 2013, the membership of CIOMS included 49 international, national and associate member organizations, representing many of the biomedical disciplines, national academies of sciences, and medical research councils. ICLAS also has an extensive international influence, manifest by its aim to promote and coordinate the development of laboratory animal science throughout the world, especially in developing countries. Therefore, the influence of its Guiding Principles, particularly those elements related to the 3Rs, has similar global scope and effect.

Although many nations, whether explicitly or implicitly, now include 3Rs requirements within the regulations, codes, or guidelines that govern the use of animals in science within their jurisdictions, the implementation of the 3Rs within biomedical science is difficult to judge. One group⁵⁷ suggested that the extent of 3Rs implementation is “substantially underestimated” due to the lack of recognition by the investigator or protocol review committee that a proposed procedure will result in a reduction, refinement or replacement outcome. The authors⁵⁸ refer to these as “invisible 3Rs applications.” Once these aspects are given their due weightage there will be an immense reduction on the cases of animal cruelty and focus on eradicating the same would be the highlight.

Animal Cruelty

Animal cruelty is a behavior performed repetitively and proactively by an individual with the deliberate intention of causing harm to an animal with the understanding that the animal is motivated to avoid that harm.⁵⁹ Harm refers to both physical and psychological harm. Frank Ascione defined animal cruelty as “socially unacceptable behavior that intentionally causes unnecessary pain, suffering or distress to and/or death of an animal”, while others defined as a

⁵⁷ Id.

⁵⁸ Mellor DJ, Schofield JC, Williams VM. 2007. Underreporting of the 3Rs deployment that occurs during the planning of protocols that precedes their submission to animal ethics committees. *AATEX* 14:785–788

⁵⁹ 2. Lawrence A. Hansen and Kori Ann Kosberge, *Ethics, Efficiency and Decision-making in Animal Research, Animal Experimentation: Working Towards a Paradigm Change*, Vol 22, 2019

behavior pattern that deliberately, repeatedly and unnecessarily causes hurt to vertebrate animals such in such a way that is likely to cause them serious injury.⁶⁰

Violent behavior does not happen in a vacuum⁶¹. Animal abuse has been continuously linked with other forms of criminal violence.⁶² Animal abusers are five times more likely to commit crimes against people, four times more likely to commit property crimes and three times more likely to have a record for drug or disorderly conduct offences.⁶³ Animal cruelty includes many kinds of mistreatments, from temporarily failing to provide essential care to the repeated torturing or killing of an animal.⁶⁴ The definition of animal cruelty differs from one state to another. For example, livestock are not protected and hunting is exempted from animal protection laws, even though animals are killed in both the cases.⁶⁵ Animal protection laws of some states protect wild animals from frivolous harm, although most of the animal laws are designed to only protect only the “companion animals” or pets.⁶⁶

Animal cruelty may differ in types. Neglect is the most common type of animal cruelty.⁶⁷ This type of cruelty occurs when the owner fails to provide the animal with adequate food, water, shelter or veterinary care, it also includes the restriction of an animal’s movement by tethering it to a stationary object or keeping the animal in a cage is the most common and most visible type of visible.⁶⁸ Another type of animal cruelty is hoarding. It’s a severe form of neglect in which the owner accumulates an excessive number of pets which results in poor sanitation, nutrition, shelter facility and improper veterinary care. Such neglect causes illness and starvation and may even lead to the death of the animals.⁶⁹ Physical abuse is the most dangerous type of animal cruelty. It can be defined as an intentional act which causes pain, suffering or death of an animal. These abusive

⁶⁰ Id.

⁶¹ Eleonora Gullone, Risk Factors for the Development of Animal Cruelty, *Journal of Animal Ethics*, Vol 4, No.2 (Fall 2014), pp. 61-79

⁶² Eleonora Gullone, An evaluative Review of Theories Related to Animal Cruelty, *Journal of Animal Ethics*, Vol 4, No.1 (Spring 2014), pp. 37-57

⁶³ Id.

⁶⁴ Id.

⁶⁵ Kelly Dedel, *Animal Cruelty*, Community Oriented Policing Services U.S Department of Justice, No.65, ISBN:978-1-932582-05-5, August 2012

⁶⁶ Ibid

⁶⁷ Michael S. Scott, *Disorderly Youth in Public Places*, ISBN: 1-932582-05-3, 2001

⁶⁸ See. *Supra* n.30

⁶⁹ See. *Supra* n.30

behaviors include beating, burning, choking or suffocating, dragging, drowning, hanging, kicking or stomping, mutilating, poisoning, shooting, stabbing and throwing. Animal abuse also comprises sexual contact with animals, particularly contact that causes injury or severe distress such as vaginal or anal penetration or ligature or lacerations to the animal genitalia.⁷⁰

People have different motives for abusing animals, for example, curiosity, excitement, teasing, or desire to hurt.⁷¹ Animal abuse may also be used to intimidate others, to control, to frighten, to isolate, to manipulate, to punish, to stock, to take revenge, or to emphasize prejudices; there may also be a sadistic aggressive motive.⁷² In almost half of the cases the reason to commit animal abuse is aggression, and in other cases it is pleasure. Power and control will mainly play a part when animal abuse takes place in the context of interpersonal violence.⁷³ A survey shows that, Seventy percent of people who abuse animals have also committed other violent crimes.⁷⁴ Studies have shown that people who abuse animals have had negative experiences in childhood, for example, they have been the victim of and/or have seen interpersonal violence and/or animal abuse.⁷⁵ These children are three times more likely to abuse animals than children who have not had similar experiences.⁷⁶

An animal activist's definition of animal cruelty may be very different from that of a hunter or a farmer. There is also a legal definition of Animal Cruelty⁷⁷. These varied definitions of animal cruelty have created a dilemma which has existed since the very beginning of the animal-protection movement. While much progress has been made for animals in our society, particularly during the past 50 years, the continuing absence of a widely accepted definition of cruelty to animals remains an enormous obstacle. Every activity that threatens the wellbeing of animals – and that has not

⁷⁰ Supra n.30

⁷¹ Arluke A Levin, Luke C and Ascione, The Relationship of Animal Abuse to Violence and Other forms of Antisocial Behavior, *Journal of Interpersonal Violence*, (1999), 14 (9), pp.963-975

⁷² Ibid

⁷³ Ibid

⁷⁴ Gleyzer, R. Felthouse A.R and Holzer, Animal Cruelty and Psychiatric Disorders, *Journal of the Academy of Psychiatry and Law*, 2002, 30, pp.257-265

⁷⁵ Ibid

⁷⁶ Supra n.36

⁷⁷ Duel D. (2000). *Violence Prevention and Intervention: A directory of animal related programs*. The Humane Society of the United States: Washington DC. 888-213-0956.

already been remedied through legislation – must be challenged and overcome on a largely individual basis.

It is true that animal cruelty cases make headlines around the world every day, whether it's the person who kills the neighbor's cat, the hoarder of sick and dying animals, the family whose freezing, starving dog is tied up outside in the middle of winter. These acts would likely constitute animal cruelty under any state's animal cruelty statute, and would also fit with the public's common understanding of the term.⁷⁸ However, when it comes to animals other than cats and dogs, peoples' concept of the term Animal Cruelty varies greatly. Most animal activists would say that traditional agricultural practices such as de-beaking, tail docking, castration and confinement on factory farms are animal cruelty. Most people would probably agree, but factory farmers and most states Animal Cruelty laws would disagree.⁷⁹ While some might base their definition of Animal Cruelty on how much the animal suffers or feels pain during death, the amount of suffering is not relevant for animal rights activists because the animals are deprived of their right to live and exist free of human use and abuse. Some may also base their definition on which type of animal is involved or how intelligent they perceive that animal to be. The slaughter of dogs, horses or whales for meat may be the epitome of Animal cruelty to some, while the killing of cows, pigs and chickens is acceptable to those same individuals.⁸⁰ Similarly, to some, the killing of animals for fur or cosmetics testing may constitute unacceptable animal cruelty while the killing of animals for food is acceptable. Among the general public, the more culturally beloved the animal is and the more unusual the harm is, the more likely they are to be outraged and label the harm to that animal as Animal Cruelty. To animal activists, a much wider range of harms is referred to as Cruelty. Animal rights activists would argue that cruelty is cruelty, regardless of how common or legal the harm is.

The California Penal Code defines animal cruelty as the malicious or intentional maiming, mutilation, torture or wounding of a living animal, and states that any person who overworks,

⁷⁸ Id.

⁷⁹ Randour, M. I. (2004). "Including Animal Cruelty as a Factor in Assessing Risk and Designing Interventions" Conference Proceedings, Persistently Safe Schools, The National Conference of the Halmilton Fish Institute on School and Community Violence, Washington DC

⁸⁰ Randour, M. L. and Davidson, h. (2008). A Common Bond; Maltreated Children and Animals in the Home. Guidelines for Practise and Policy. The Humane Society of the United States, Washington DC. 30, 12-18.

tortures, torments, deprives of necessary food, drink or shelter, cruelly beats, mutilates or cruelly kills an animal is guilty of a misdemeanor or felony. Any person, who owns, possesses keeps or trains a dog with the intent to engage the animal in exhibition fighting, as well as any person who is knowingly present as a spectator at an exhibition of fighting of dogs, is guilty of a misdemeanor. In addition, any person who wilfully abandons any animal is guilty of a misdemeanor.⁸¹ The Nigeria constitution holds that any person who:

1. Cruelly beats, kicks, ill-treats, over-rides, over-drives, over-loads, tortures, infuriates or terrifies any animal or causes or procures or being the owner, permits any animal to be so used.
2. Unreasonably does or omits to do any act or causing or procuring the commission or omission of any act, causes any unnecessary suffering, or, being the owner, permits any unnecessary suffering to be caused to any animal.
3. Conveys, carries, or being the owner permits animals to be conveyed or carried in such manner or position as to cause such animal unnecessary suffering.
4. wilfully without any reasonable cause or excuse administers, causes, procures or being the owner, permits such administration of any poisonous or injurious drug or substance to any animal or wilfully without any reasonable cause or excuse causes any such substance to be taken by any animal.
5. Subjects or causes or procures or being the owner permits animals to be subjected to any operation which is performed without due care and humanity
6. causes or procures, or assists at the fighting or baiting of any animal, or keeps, uses, manages, or acts or assists in the management of, any premises or place for the purpose, or partly for the purpose, of fighting or baiting any animal, or permits any place to be so kept, managed or used, or receives or causes or procures any person to receive money for the admission of any person to such premises or place, is guilty of an offence of cruelty and is liable to imprisonment for six months or to a fine of fifty naira, or to both such imprisonment and fine⁸².

Thus it can be said, that various legislations around the world have been sympathetic to recognizing animal abuse as a cause for concern and have also implemented strict laws to punish people who violate the same. However the number of cases on a global scale is still on a very high side. It is

⁸¹ Lockwood, R. (2006).Animal Cruelty Prosecution: Opportunities for early response to crime and interpersonal violence. American Prosecutor Research Institute; Alexandria. Va. 39; 110-121.

⁸² Constitution of the Federal Republic of Nigeria (COFRN) (1999). 498

relevant to first identify the various types of abuse and then tackle each of them through specific methods both legal and moral.

Types of Animal Cruelty

The types of animal cruelty recognized across the globe today are as follows:

Simple Neglect: This involves failure to provide adequate food, shelter, water, or veterinary care to one or few animals, usually due to ignorance. This form of animal cruelty is the most common around the world today.⁸³ The most common example of simple neglect found everywhere today is the case of dog owners chaining their dogs around the neck without a dog belt and most times the dog is kept stagnant at the backyard for hours if not days without proper shelter.

Gross Neglect: It can also be called wilful, malicious or cruel neglect. It is important to make a distinction between simply failing to take adequate care of animals and intentionally or knowingly withholding food or water needed to prevent dehydration or starvation. Gross neglect is therefore the intentional act of withholding food or water from an animal or group of animal⁸⁴. A typical example of this type of cruelty is the case of people throwing away their sick dogs callously, some leaving their dogs out in the cold or rain.

Intentional Abuse: Cases of intentional cruelty are the ones of greatest concern to the general public and the ones more likely to involve juvenile offenders. There is legitimate fear that the individuals involved in violent acts against animals present a danger to the public. Intentional animal abuse is often seen in association with other serious crimes including drug offenses, gang activity, weapons violations, sexual assault and domestic violence and can be one of the most visible parts of an entire history of aggressive or antisocial behavior. Such cases are often easier to prosecute than neglect or hoarding cases since the effects of the crime on the victim may be easier to document and the intentionality of the offense is more clearly recognized.⁸⁵

⁸³ Supra n.73

⁸⁴ Supra n.76

⁸⁵ Lockwood, R. (2006).Animal Cruelty Prosecution: Opportunities for early response to crime and interpersonal violence. American Prosecutor Research Institute; Alexandria. Va. 39; 110-121.

Animal Hoarding: This is the accumulation of a large number of animals and failing to provide minimal standards of nutrition, sanitation and veterinary care; to act on the deteriorating condition of the animals; and to recognize or correct the negative impact on the health and well-being of the people in the household⁸⁶. Examples of animal hoarding cases are: the transportation of large numbers of animals in an in-humane way, the keeping of birds and other animals in a very poor and un-conducive environment, pigs and other animals kept to starve to death at livestock farms etc.

Organized Abuse—Dog fighting and Cockfighting “Blood sports” such as dog fighting and cockfighting have been singled out for special attention in the anticruelty laws of the United States and the United Kingdom since their inception in the 19th century.⁸⁷ A glance at the constitution of the federal republic of Nigeria also reveals this act as a crime. This act involves the setting of two or more dogs, cocks or any other animal in a fight circle and allowing them to brutally kill each other for the sole purpose of entertaining the spectators.

Ritualistic Abuse: The phrase “Occult and ritualistic animal abuse” immediately evokes many disturbing images: a cat nailed to a crucifix and burned, the head of a dog left on the steps of a building with a piece of paper bearing a curse stuck in the animal’s mouth, a goat’s throat slit as part of a ritual sacrifice⁸⁸. Few other crimes against animals create such intense concern within a community. Most crimes in which animals are killed or mutilated and left where they will be discovered immediately raise fears of “satanic” or cult activity and concern about what other crimes the perpetrators of such acts may have committed or be capable of⁸⁹.

Animal Sexual Assault (Bestiality) Bestiality is defined as an affinity, attraction or sexual attraction by a human to non-human animals. This act of using an animal for the purpose of sex as awful and nasty as it sounds and despite the fact that most people believe this to be a sin committed against nature, the issue of bestiality has been raising alarm across the globe including Nigeria. In

⁸⁶ Arluke, A., and Lockwood, R. (Eds) (1997). *Society and Animals*, SpecialTheme Issue: Animal Cruelty, Washington Grove, 54; 112-134.

⁸⁷ Supra n.78

⁸⁸ Id.

⁸⁹ Supra n.77

2011 San Francisco Chronicle one of the largest news outlets in California had the picture of a man making love to a dog on its headline; Sunday Tribune on the 17th of October reported a case of a 32 year old man who engages in bestiality with goats.

Conclusion

Animal cruelty is an ever-growing reality and as long as this menace is left unchecked the more abuse these living beings face. Throughout history mankind as always abused animals for their selfish means. Even though there has been various cases of ritualistic practices wherein animals have been worshipped, most of the animals have either been used for practical requirements and sacrificial needs. Animal welfare is as important in this 21st century as empathy towards all living beings is necessary for the basic sustenance of mankind itself. In the following chapters we shall look deeper into more important aspects of the topic.

CHAPTER 3

DEVELOPMENT OF ANIMAL RIGHTS AND PREVENTION OF ANIMAL TESTING: INTERNATIONAL AND CONSTITUTIONAL PERSPECTIVE

“Mice are mice, and people are people. If we look to the mouse to model every aspect of the disease for man, and to model cures, we’re just wasting our time.”

- Dr. Clifton E. Barry, chief of the Tuberculosis Research Section at the National Institute of Allergy and Infectious Diseases.

Introduction

Understanding the importance of preventing animal testing on an International or a Constitutional sphere has to be understood in consonance with understanding the concept of animal rights and ethics. As already stated, Animal rights is the ideology that aims at protecting animals from being used or abused by us. The proponents of this Animal Rights theory hold that it is morally wrong to use or exploit animals in any way. This radical social movement seeks to abolition use of animals for human purposes. However, this concept though always omnipresent since the birth of civilization, has undergone various transformation over the course of time.

In the history of human civilization, in its primitive stage, known as the hunter-gatherer stage, animals were treated with respect, and were considered to have emotional and rational spirits. The reason for this respect may be inherited from the pre-historic stone-age, when a number of carnivores were large enough to prey human-beings. This attitude towards animals lasted, even during the period when man resorted to agricultural practices and utilized animals for the said purposes. Originally, man believed animals to be godly creations and any kind of cruelty could not have been acceptable. Though these sentiments existed, this admiration and respect did not last long as people started with the practice of animal sacrifices to please the gods for better agricultural yields. Gradually hierarchical-belief system of beings gradually entered into religious beliefs and soon animals were considered to be inferior to humans and can be used for human purposes.⁹⁰

⁹⁰ Richard Ryder, *Animal Revolution Changing Attitudes toward Speciesism*. (Jefferson, NC: Routledge,1989), p. 6

Evolution of Animal Ethics: Ancient Period

During the ancient period, compassion toward animals is also observed even in the pre-Socratic period. The great philosopher and mathematician Pythagoras (570-500 BC) was a vegetarian and advised his followers to treat animals with respect. Pythagoras believed that, both humans and animals have the same kind of soul, which is indestructible and could be migrated from humans to animals and vice versa.⁹¹ The notion, as we know today, is known as the transmigration of soul. As such, according to Pythagoras, we have no right to cause unnecessary suffering to animals, and those who kill animals should be treated as murderers.⁹² Empedocles (495-444 BC), influenced by Pythagoras, supports the doctrine of incarnation and believed that killing animals is the greatest disgrace for humans.⁹³ However, Aristotle (384-322 BC), was one of the most prominent early philosopher to argue that animals are lower on a natural hierarchy as they lack reason. In the beginning of the first century, the Stoic philosophers revived Aristotle and denied the moral worth of animals on the same ground that they are irrational. We find that the Stoics took reason ‘as divine, as well as cosmic law, which are possessed by humans only. Furthermore, they believed that everything on this planet exist to serve some purposes, and that irrational animals are for the purposes of rational human beings.⁹⁴

The early Christians believed that animals are significantly different from human beings, and they thought that any humanlike behavior from the part of animals is a miracle.⁹⁵ In the 12th century, St. Francis of Assisi (1181-1226) is seen to preach against animal cruelty. A story tells of him prevailing upon a wolf to stop eating country people.⁹⁶ Prophet Isaiah also condemned animal sacrifice. But the opposite way of thinking is not scarce in the then West.

The negative but most influential view to use animals for human purposes is found in the Biblical story of creation, i.e., in the Genesis 1:27-8. It states:

⁹¹ Daniel A Dombrowski, *The Philosophy of Vegetarianism*. (Amherst: University of Massachusetts Press, 1984), p. 18

⁹² id. at p.19

⁹³ id

⁹⁴ Dombrowski 1984: 87

⁹⁵ Joyce E Salisbury. *The Beast within: Animals in the Middle Ages*. (New York: Routledge, 1994), p.173

⁹⁶ R. D Ryder, *Animal Revolution: Changing Attitudes Towards Speciesism*, Oxford: Basil Blackwell, 1989, p.105

“God created man in his own image, in the image of God created he him, male and female created he them. And God blessed them, and God said unto them, be fruitful, and multiply, and replenish the earth and subdue it: and have dominion over fish of the sea and over fowl of the air, and over every living thing that move upon the earth.”⁹⁷

This creation myth encouraged a lot to the supporters and interpreters of Dominionism, a view which supports human supremacy over nature and allows us to subdue nature for any purposes. Such an interpretation of the Bible considers nature as limitless store-house of resources, which we can use as we like. It is not surprising that such an outlook elicits no compassion for animals. Peter Singer recounts such Dominionistic interpretation as —God gave human beings dominion over the natural world, and God does not care how we treat it. Human beings are the only morally important members of this world. Nature itself is no intrinsic value, and the destruction of plants and animals cannot be sinful, unless by this destruction we harm human beings.⁹⁸ Influenced by such a Dominionistic interpretation, Thomas Aquinas (1225-1274) [the most prominent philosopher of medieval period] encouraged us to use animals for as and when we like with his writings based on Christian theology. Although before Aquinas, Saint Augustine (354-430), another celebrated Christian theologian, interpreted the Christian view on animals, being greatly influenced by Aristotle. He stated that: “When we hear it said, ‘Thou shalt not kill’, we do not take it as referring to trees, for they have no sense, nor to irrational animals, because they have no fellowship with us. Hence it follows that the “Thou shalt not kill” refers to the killing of a man.⁹⁹ Aquinas took this view a step further. He argued that non-human animals are non-rational and —ordered to man’s use. They are just like instrument, as they cannot direct their actions. As instruments exist for the sake of others, animals also exist for the sake of human beings. He proclaimed: —There is no sin in using a thing for the purpose for which it is. Now the order of things is such that the imperfect are for the perfect, even as in the process of generation nature proceeds from imperfection to perfection. Hence it is just as in the generation of a man there is first a living thing, then an animal, and lastly a man, so too things, like the plants, which merely

⁹⁷ The Holy Bible: The Revised Version with Marginal References. Genesis 1:28. (London: Oxford University Press, 1884), p. 2

⁹⁸ Peter Singer, Ethics across the Species Boundary, Global Ethics and Environment. Nicholas Low, ed. (London & New York: Routledge, 2008), p.147

⁹⁹ Tom Regan, and Peter Singer, eds. Animal Rights and Human Obligations. (New Jersey: Prentice Hall, 1976), p.10

have life, are all alike for animals, and all animals are for man. Wherefore it is not unlawful if man uses plants for the good of animals, and animals for the good of man.¹⁰⁰

This need based approach has greatly influenced mankind over the years to have grown into a belief that animals are mere instruments for human use and exploitation. It should be noted here that, in early ages, although animals were treated as mere things; they were very important as social wealth. J. Diamond observes, “Many ways in which big domestic animals were crucial to those human societies possessing them. Most notably, they provided meat, milk products, fertilizer, land transport, leather, military assault vehicle, plow traction, and wool, as well as germs that killed previously unexposed people”.¹⁰¹

Birth of Modern Animal Ethics: A Constitutional Perspective

In the Modern Period From the beginning of the 17th century many significant social changes witnessed in Europe due to scientific inventions, emergence of capitalism and the religious reformation by the Protestant. Scientists, philosophers, as well as religious personalities, put emphasis on the importance of humanity and encouraged to protect human interests by any means. Animals were then thought to be mere resources for us.¹⁰² Many philosophers came to uphold that only human beings deserve moral consideration just because they possess some unique characteristics, like rationality, self-awareness, capacity of using language, understanding duties and responsibilities, and so on.

At the same time, some important social changes took place which gives a platform to criticize our cruel treatment with animals. From that time, pet-keeping seemed to have established itself as a normal feature of the society. Pets were given individual personal names and are allowed into the house as members of the family. The spread of pet-keeping has thus created a psychological foundation of moral consideration of some animals. Even though human-centric moral view has still been the prevailing outlook, some sensibilities towards non-humans have begun to grow. Anti-

¹⁰⁰ id. at p. 11

¹⁰¹ Jared Diamond. *Guns, Germs, and Steel: The Fates of Human Societies*. (New Jersey: W.W. Norton & Co, 1997), p. 158

¹⁰² Keith Thomas. *Man and the Natural World: Changing Attitudes in England 1500-1800*. (Magnolia: Peter Smith, 1983), p. 34

cruelty movement began to start slowly in England from that time, though not united or under any organizing umbrella. Some people targeted bear-bating and bull-baiting, and also campaign against the cruel treatment of horses and cattle. Ryder speculates: —One reason for this moral awakening was the extreme cruelty which had been practiced in England for centuries.¹⁰³ Such campaign against cruel treatment to animals has given the basis of the moral consideration towards animals on the ground of their sensation and feelings.¹⁰⁴

According to Bentham, animals can suffer like us, so their capacity of feeling pain and pleasure is the sufficient ground for getting moral treatment.¹⁰⁵ He rejects the views of those (like Descartes) who maintain that animals are not sentient, and so would have no interests. He also rejects the views of those (like Kant) who declare that animals have interests but those interests are not morally significant, since animals lack the characteristics other than sentience. For Bentham, our treatment to animals matters morally, as they too are sentient creatures, and we have direct duties to them. With this epoch-making contention Bentham has influenced a lot to various legal reformers, and the legal systems of the Great Britain and America, as well as other nations, purported to incorporate the humane treatment principle in animal welfare laws. John Stuart Mill (1806-1873) supported Bentham's viewpoint and opposed animal cruelty. At the end of the 19th century the courts of both Germany and Britain began to punish cruelty against animals. The basis of such legal protection, however, was not directly based on the Benthamite criterion of moral consideration of animals; it was believed that such cruel treatment to other creatures diminish our direct duty to God.

The theory of evolution, advocated by Charles Darwin (1809-1882), not only challenged the religious interpretation of creation but also declared that the differences between humans and non-human animals are not of kind but of degree. For example, Darwin maintains that a greater gap of mental power exist between apes and marine life than between apes and humans. James Rachels nicely points out his position thus: —Darwin stressed that, in an important sense, their [animal] nervous systems, their behaviours, their cries are our nervous systems, our behaviors, and our cries,

¹⁰³ Richard Ryder. *The Political Animal: The Concept of Speciesism*. (Jefferson, NC: McFarland, 1998), p. 16

¹⁰⁴ *id.*

¹⁰⁵ Les Brown. *Cruelty to Animals*. (London: The Macmillan Press, 1998), p.10

with only a little modification.¹⁰⁶ Through his scientific observations and findings, Darwin also demonstrated that there were no discontinuous leaps between species. All animals are bound together. Different animals can appear unlike, and this is not because of the hierarchical order, but because of different adaptations. The impact of Darwin on the later ages is nicely described by Singer: —At least since Darwin, we have known that the forests and animals were not placed on earth for us to use.¹⁰⁷ At the beginning of 19th century, as the result of various liberal democratic movements, the idea developed that all humans are equal and that the role of states is to protect the rights of its entire citizens. But for animals, the idea of rights did not make sense to allow them some privileges. Animal movements at that time concerned only humane treatment of animals; and the aim was seemingly animal welfare, rather than to make room for animal rights. It is, however, noteworthy that from that time, organized movements for the welfare of animals began.

Although an anti-cruelty legislation was passed in Ireland in 1635 against cruelty towards working horses, organized movements for the cause of animals took its course mainly in Britain and Germany. In 1800 a group of British reformists introduced a bill in their parliament to stop bull-baiting, though the bill was not finally passed. But two years later, viz. in 1822, the world's first law for the protection of animals was passed in British parliament, which was known as 'Martin's Act'.¹⁰⁸ Getting the law through both chambers of the parliament was a huge struggle as it was up against strong opposing interests, and a political climate in which many people found concern for animals effeminate and ludicrous (be it noted that at that time women had no role in political life). The formulation of the bill that finally passed through the British parliament in July 1822 was therefore, in many respects, a political compromise. The bill said: —

*“That if any person or persons having the charge, care or custody of any horse, cow, ox, heifer, steer, sheep or other cattle, the property of any other person or persons, shall wantonly beat, abuse or ill-treat any such animal, such individuals shall be brought before a Justice of the Peace or other magistrate.”*¹⁰⁹

¹⁰⁶ James Rachel. *Created from Animals*. (Oxford: Oxford University Press, 1990), p. 131

¹⁰⁷ *Id.* p.134

¹⁰⁸ Richard Ryder, *Animal Revolution Changing Attitudes toward Speciesism*. (Jefferson, NC: Routledge,1989), p. 85

¹⁰⁹ *Id.* at p. 86

Although the bill had some limitations, as it covers only some kinds of animals and emphasis on wanton cruelty, but it encouraged a lot to the supporters of the animal movements. Two years later, viz. in 1824, Martin organized the Society for the Prevention of Cruelty to Animals (SPCA). This is the world's first animal welfare organization to enforce law for animals. In the first year, the society brought —150 prosecutions for cruelty and engaged in campaigns against bull baiting, dog fighting, the abuse of horses and cattle and the cruelties of the main London meat market at Smithfield.¹¹⁰ In 1940, Queen Victoria granted the society the Royal 'prefix, so that the society became known as the Royal Society for the Prevention of Cruelty to Animals (RSPCA). Like Martin, Lewis Gompertz (1783/4- 1861) an early animal rights advocate who is a founding member of the Society for the Prevention of Cruelty to Animals (SPCA). Gompertz acted as the SPCA's second Honorary Secretary till 1833. His two books, Moral Inquiries on the Situation of Man and Brutes (1824) and Fragments in Defence of Animals (1852), are very important to know about the early animal liberation movement in Britain. Anti-vivisection movement started in Britain from that time, in which women participated actively. Descartes niece Catherine, who rejected Descartes '—animal machine theory, played a significant role in this movement. As a result, the Cruelty to Animals Act was passed in England in 1876.

MEASURES AT INTERNATIONAL LEVEL TO PROTECT ANIMAL RIGHTS

Whenever governments gather and agree on environmental policy and animal welfare related issues, animals are affected directly and indirectly. Decisions made in international conventions and agreements often substantially influence wildlife conservation and animal welfare as they guide international and national policy, legislation and budgetary priorities.

On December 10th 1948, the United Nations General Assembly ratified the Universal Declaration of Human Rights. The Declaration enshrined the principle that human beings could no longer be treated in law or public policy as mere tools of the powerful or subjects of the state, but that they possess inherent value, and must be permitted to live their lives according to the priorities they themselves identify, in so far as they do not infringe the rights of others. We believe that the future belongs neither to the entrenchment nor the consolidation of the ideals of 1948 but to their

¹¹⁰ Id. at p. 21

extension. Specifically, we believe that the time has come to recognize the moral imperative to include non-human animals within the sphere of protection that the Declaration establishes.¹¹¹

The human race has long recognized that animals are not merely the instruments of our desires or will, and that the reality of their capacity to experience pleasure and pain, happiness and suffering compels us to recognize that moral limits must apply to our treatment of non-human as surely as to human. The ascription of moral and legal rights to animals, and their enshrinement in a United Nations Declaration of Animal Rights is the logical and inevitable progression of this principle. We introduce, therefore, the Universal Declaration of Animal Rights:

- In as much as there is ample evidence that many animal species are capable of feeling. We condemn totally the infliction of suffering upon our fellow creatures and the curtailment of their behavioral and other needs save where this is necessary for their own individual benefit.
- We do not accept that a difference in species alone (any more than a difference in race) can justify wanton exploitation or oppression in the name of science or sport, or for use and food, or commercial profit or for other human ends.
- We believe in the evolutionary and moral kinship of all animals and declare our belief that all sentient creatures have rights to life, liberty and natural enjoyment.
- We therefore call for the protection of these rights.

The exploitation of animals by human beings is as deeply entrenched in human culture this century as the exploitation of our fellow human beings was in the last century. The progress in human rights that characterized the 20th and 21st century would have appeared no less radical to our ancestors than the abolition of animal exploitation appears now. All such exploitation predates any question of animal or even human rights, and it is our responsibility to seek moral guidance not in tradition or familiarity but in the enlightened principles of justice and compassion that have shaped the ideals of our own time.¹¹² The assumption that animals cannot have rights because we have not yet given them rights belongs to the past. We must seek the truth with open minds, and in the full consciousness that the future has always belonged to those with the courage and vision to question

¹¹¹ James Connelly and Graham Smith Rutledge. *Politics and Environment* (2nd Edition, 2003) p, 219. See also Gary L. Francione, 'Rain without Thunder', *The ideology of the Animal Right Movement* (1996), James M. Jasper and Dorothy Nelkin. *The Animal Rights Crusade. The growth of a Moral Protest* (1992).

¹¹² *Id.* At 329.

the received wisdom of the day. Today, fifty three years after the formal establishment of the rights of human beings, the time is right to bring this argument forward.

The differences between homo sapiens and other animals are legion, but evolution teaches us that we are, at a fundamental level, bound by profound similarities. Genetically almost indistinguishable from our closest primate relative, human beings are not the pinnacle of evolution, but one tiny branch on its great tree.

The lesson of evolution is that we should expect commonalities between human and nonhuman in almost every respect. Science, as much as experience, teaches us that it is no longer possible to assume that animals are mere machines, or bundles of instinct and reflex: they may flourish in freedom or languish under oppression just as we do. We may no longer seek refuge in ignorance. Animals may not be able to express their interest in our language, or explicitly claim their rights from us, but the existence of their interests is beyond question, All animals seek to protect their own lives, preserve their freedom, seek what gives them pleasure and avoid what gives them displeasure or pain - in short to live their lives according to their own priorities.¹¹³ More than this, animals possess and express distinguishing characteristics as individuals. In all these respects, they are akin to human beings, however greatly the details of their lives may differ from ours. If animals suffer pain, and seek to protect their own lives, freedom and pleasures just as we do, on what basis can we continue to deny them the protection that rights grant to our lives, freedom and pleasures. It is claimed that animals forfeit the privilege of rights because they lack our intelligence, our emotional bonds or our sense of morality, or because they cannot accept the responsibilities incumbent on the members of society. While few would deny that almost all humans possess these capabilities to a far greater extent than animals, why this should deny animals protection from exploitation or harm has never been established. Many human beings also lack the qualities the very young or those suffering from mental impairment as a result of illness, congenital handicap or injury. We rightly recognize that these human beings deserve not less protection but more protection: not the denial of their rights, but the reinforcement of them. We owe a social responsibility to those who are unable to reap the advantages of full participation in human society,

¹¹³ Gary L. Francione, 'Rain without Thunder', *The ideology of the Animal Right Movement* (1996), James M. Jasper and Dorothy Nelkin. *The Animal Rights Crusade. The growth of a Moral Protest* (1992).

and who are unable to defend their own interest effectively. To apply opposite to human and non-human in this regard is to be guilty of unjustifiable discrimination.

Animals have been denied rights not because of any meaningful or relevant distinction between human and non-human, but for the same reason that human beings have been and continue to be denied rights: because ascribing them rights threatens the freedom of those in power. The rights of human beings have been won at the expense of the privilege of the rich and the powerful, and in the face of their resistance. The source of resistance to the emancipation of animals is not reason or justice, but a false notion of human self-interest. Ultimately, the rights of animals threaten the freedom of some human beings to use them as they see fit, or to further their own particular ends. The arguments against the rights of animals withstand neither logical nor ethical scrutiny because they are the rearguard action of a defeated, specious philosophy.¹¹⁴

The pretense that human affairs exist in isolation from those of all other living creatures on our planet is no longer sustainable. Evolution teaches us not arrogance but humility, and the greater follies of our technological century serve to reinforce the lesson that the natural world is neither our property nor our servant. The further pretense that the exclusion of others from the benefits of compassion and justice can be justified by our status as the dominant species is untenable. Power is no longer the measure of moral worth. That is the lesson of our age.

Just as the framers of the Universal Declaration of Human Rights acted both in the long established philosophical traditions of the Enlightenment and in response to the horrific events of the first part of the twentieth century, so the framers of the Declaration on Animal Rights were motivated both by the humanist philosophical tradition and by the unprecedented nature and extent of animal exploitation at the end of the 20th Century.¹¹⁵ Factory farming, the destruction of the natural environment and the introduction of novel scientific procedures such as cloning and xenotransplantation represent abuse of the lives and interests of animals unimaginable even half a century ago. The coexistence of the recognition of the principle of individual rights for human beings and of the institutionalized abuse and exploitation of individual animals on a global scale

¹¹⁴ Otto S.K. (2009) Animal Protection Law of the United States of America & Canada, 4th edition.

¹¹⁵ A. Aland & F. Madee, Sustainable Animal Production, the challenges & Potential Development (2009) p.11

represents an ethical challenge that can no longer be ignored, and which, we believe, will determine the progress of morality and, inevitably, civilization in the coming century.

1. Role of United Nations

The Declaration of the Rights of Animals is as much a statement of intent as it is of principle. The challenge facing human society is to redefine our Understanding of progress such that our recognition and protection of the rights of animals is as much a barometer of our level of civilization as our recognition and protection of the rights of human beings. The evolution of human civilization, its principles as well as its practice, will not end with the twentieth century: the citizens of the coming century, who are the children and young people of today, will not fail to grasp the opportunity to mark the moral progress of their time as we have defined ours. For the first time animal welfare has appeared in a United Nations agreed text that is The UN Committee on World Food Security has included language about the welfare of farm animals, in its Principles for Responsible Agricultural Investments.

The inclusion of 'animal welfare' in the UN principles should ensure that animals are not forgotten and help guide agriculture investments to have a greater focus on animal protection. Supporting better animal welfare will help to increase productivity in a sustainable way and contribute to product quality and food safety.

This positive step is unfortunately overshadowed by concerns among civil society organizations that the principles fall short of internationally recognized human rights standards. There are also concerns that the principles fail to represent the Interests of the most important investors in agriculture and food systems: small scale producers and workers.

World Animal Protection will remain committed to ensuring that animal welfare is included in debates on sustainable agriculture and food security, World Society for Protection of Animals is the world's largest alliance of animal welfare societies, with more than 1,000 member organizations in over 150 countries.

The organization strongly believes that how animals are treated matters to animals and to people. Whether we rely on them for food, revenue, companionship, or to help balance our ecosystems,

animals play an important role in our lives and we should respect their intrinsic value. Humane and responsible management of animals can positively impact people, the environment, individual animals, and species, thereby making animal welfare an effective tool to help achieve sustainable development.

In particular, there is great potential for animal's welfare to play a significant role in sustainable livestock farming. As the international finance corporation recognized, enhancing animal welfare within production practices is: likely to win or retain a competitive advantage in the marketplace in a variety of ways such as: costs savings due to more efficient production processes that enhance animal welfare; realizing growing market opportunities for food produced in animal friendly systems; becoming the producer of choice for retailers and consumers concerned with animal health and welfare, food safety and quality, human health and the environment. Livestock farming uses a significant proportion of global land, natural resources and energy and is a vital part of the rural economy and environment. The livestock sector employs 1.3 billion people and about a billion of the world's poorest people depend on animals for food, income, social status or cultural identification, as well as companionship and security. Sustainable agriculture that incorporates animal welfare can help improve market access and the resilience of production models economically and environmentally. Animal welfare is also an integral element that should be considered when addressing key environmental and public health issues impacted by agricultural practices such as climate change, deforestation, pollution, poverty, water scarcity, food security, food safety, gender equality, and the spread of disease.

RECOGNITION OF ANIMAL RIGHTS

i) Position in United States

In the last decade, the protection of animals has become a pervasive goal of federal statutory law. Indeed. Congress has enacted more than fifty statutes designed to protect the well-being of animals. Or these the most prominent is the Animal Welfare Act (AWA) which contains a wide range of safeguards against cruelty and mistreatment, and which creates an incipient bill of rights for animals. If vigorously enforced, the AWA, alongside other documents, would prevent a wide range of abusive practices. As hen, however, there is large gap between statutory text and real

world implementation.¹¹⁶ Many people have criticized the national government enforcement efforts under the statute, in that the executive branch has violated the law by using weak and inadequate regulations, making the relevant statutes symbolic rather than all. These complaints raise a central and largely unexplored question, one that will inevitably increase in prominence over time.

Without much fanfare or advance foresight, America has come to recognize a wide array of protections for animals. Indeed, it would not be too much to say that federal and state law now guarantee a set of animal rights. Some people believe that while animals lack rights, human beings have duties to them, it is not clear what turns on this distinction, a point to which it will return. But it is clear that as a matter of positive law, animals have rights in the same sense that people have rights, at least under those statutes that are enforceable only by public officials. In terms of animal protection, however, by far the most important measure is the Animal Welfare Act, which imposes, on those who deal in or with animals, a wide range of negative constraints and affirmative duties. The Act begins with an elaborate statement of purpose, emphasizing the need for "humane care and treatment" in exhibition of animals, transportation of animals, and is a flat ban on commercial ventures in animals as pets which animals are supposed to fight. Licenses are required for all those who sell animals for exhibition or for 'use as a pet.¹¹⁷ The Secretary is also asked to ensure "human standards with respect the purchase, handling of male of animals by dealers, research facilities, and exhibitors at auction sales.¹¹⁸ The key provision of the statute requires the Secretary to issue standards to govern the humane handling care, treatment, and transportation of animals by dealers, research facilities, and exhibitors¹¹⁹, These are supposed to include "minimum requirements" governing "handling, housing, feeding. Watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care¹²⁰". A separate provision requires minimum requirements for "exercise of dogs" and "for a physical environment adequate to promote the psychological wellbeing of primates." Animals in research facilities must be protected in addition through requirements to ensure that animal pain and distress are minimized." In "any practice

¹¹⁶ Supra. n 25

¹¹⁷ Mathew H. Karmer, N.E. Simmonde, Hillel Steriner, A Debate Over Rights (1998) p. 126

¹¹⁸ Id.

¹¹⁹ Id.

¹²⁰ Id. At 112

which could cause pain to animals," a veterinarian must be consulted in planning, and tranquilizers, analgesics, and anesthetics must be used. An independent provision requires compliance by the national government with the Secretary's standards.¹²¹ Breeder of dogs and cats must allow inspections and may not transport underage dogs. The Act also contains a set of recordkeeping requirements, designed to ensure that dealers, exhibitors, research facilities, and handlers provide records, evidently designed to allow federal monitoring of the treatment of animals. Most state statutes do some of the work of the Animal Welfare Act by forbidding cruelty and requiring adequate nutrition and shelter.¹²² But the Act goes beyond state law by imposing a federal presence and also by imposing numerous requirements not contained in state law. These include requirements of exercise for dogs, minimizing pain and distress to animals used in research, adequate veterinary care in general, recordkeeping, and a physical environment that will promote the psychological well-being of primates. By virtue of its scope, the Animal Welfare Act promises an ambitious set of safeguards against cruel or injurious practices; taken together with Other federal statutes, above all the Marine Mammal Protection Act, it suggests that national law is committed to something not very different from a bill of rights for animals¹²³. But here to there is a question whether statutory law is not largely expressive and symbolic, a statement of good intentions, delivering far more on paper than in the world Many people have complained that these statutes have been indifferent or even unlawfully enforced, not least via regulations that do far less than the statute requires. There are federal laws concerning how animals should be kept. There are two exceptions a ban on gestation crates for sows in Florida, passed in 2002, and a ban on force feeding waterfowl for gas production in California, passed in 2004.

ii.) Position in United Kingdom

The EU has enacted a range of legislation to protect farm animals, underpinned by the Treaty establishing the European and its mandate to harmonies those national regulations which could cause imbalances in the European market. Further legal obligations arise from the 1999 Treaty of Amsterdam and its protocol on animal welfare which explicitly recognizes animals as sentient beings', and no longer merely as agricultural goods. This requires the EU and its member states, in formulating and implementing EU policies on agriculture, transport and research, to pay full

¹²¹ Peter Ratt, *Towards Legal Rights for Animals* (2000) p.362

¹²² *Id.*

¹²³ Mathew H. Karmes, N.E. Simmonds, Hillel Steins *A Debate Once Rights* (Oxford University Press, 1998).

regard to the welfare requirements of animals. Furthermore the EU, as a signatory to the Council of Europe (CoE.), is bound by its Conventions, There are five of these conventions relating to animal welfare, obliging the EU to legislate in line with agreed CoE standards

The Animal Welfare Act 2006 is the principal animal welfare legislation in United Kingdom. Under the Animal Welfare Act 2006, powers exist for secondary legislation and codes of practice to be made to promote the welfare of animals. The government is considering a number of specific issues including updating or bringing in new regulations or codes. Until such new provisions are made, existing law will continue to apply

- Buying a cat or dog
- Protecting the welfare of pet dogs and cats during advice for owners on how to identify and avoid overheating in animals
- Protecting the welfare of pet animals (cats and dogs during journeys, advice for carrier

There are codes of practice for the welfare of dogs, cats, horses and privately kept non-human primates. They provide owners and keepers with information the welfare needs of their animals, as required under the Animal Welfare Act 2006. They can also be used in courts as evidence in cases brought before them relating to poor welfare. The codes apply to England only (Wales and Scotland have their own equivalent codes), and are in force from 6 April 2010. The welfare of performing animals is provided for in the general provisions later it is The Performing Animals (Regulation) Act, 1925, to avoid suffering and ensure welfare in the Animal Welfare Act 2006¹²⁴ In addition the training and exhibition of performing animals in further regulated by the 1925 act which requires trainers an exhibitors of such animals to be registered with the local authority.

Under this act, the police and officers of local councils, who may include a vet, have power to enter premises where animals are being trained and exhibited, and if cruelty and neglect is detected magistrates' courts can prohibit or restrict the training exhibition of the animals and suspend or cancel the registration granted under the act:

The Pet Animals Act 1951 (as amended in 1983), another legislation for protecting animals

This act protects the welfare of animals sold as pets. It requires any person keeping a pet shop to be licensed by the local council¹²⁵. Before granting a license, the council must be satisfied that:

¹²⁴ Ronald Baerminger. Violence towards other Species in Targets of violence and Aggression (1st edn. 1991) p 219.

¹²⁵ See Pet Animals Act 1951

- the animals are kept in accommodation that is both suitable and clean
- that they are supplied with appropriate food and drink
- are adequately protected from disease and fire

The local council may attach any conditions to the license, may inspect the licensed premises at all reasonable times and may refuse a license if the conditions at the premises are unsatisfactory or if the terms of the license are not being complied with.¹²⁶

Councils are responsible for enforcing the law in this area anyone who has reason to believe that a pet shop is keeping animals in inadequate conditions should raise the matter with the council who will decide what action to take within the range of its powers. Under section 2 of this act, pets cannot be sold in the street including on barrows and markets

Animal Boarding Establishments Act 1963

Establishments where the bonding of animals is being carried on as a business are subject to the 1963 act, which requires such establishments to be licensed by the local council. For the purpose of this act the keeping of such establishments is defined as the carrying on at any premises, including private dwelling of a business of providing accommodation for other people's cats and dogs.¹²⁷

The license is granted at the discretion of the local council which may take into account the suitability of the accommodation and whether the animals are well fed, exercised and protected from disease and fire.¹²⁸

Riding Establishments Act 1964 and 1970

Riding establishments are licensed by local councils under the 1964 act. The council can impose conditions on the license. The council, in the exercise of its discretion, may take into account:

- the suitability of the applicant or manager
- the accommodation and pasture
- adequacy of the provision for the horses' health, welfare and exercise

¹²⁶ Id.

¹²⁷ See, Animal Boarding Establishments Act, 1963, Section 14

¹²⁸ Id.

- precautions against Are and disease
- suitability of the horses with regards to the reason they are being kept

Breeding and Sale of Dogs (Welfare) Act 1999, Breeding of Dogs Act 1991 and Breeding of Dogs Act 1973

The Breeding and Sale of Dogs (Welfare) Act 1999, which amended and extended the provisions of the Breeding of Dogs Act 1973 and the Breeding of Dogs Act 1991, already provides protection for dogs used in breeding establishment.¹²⁹

Under this legislation, any person who keeps a breeding establishment for dogs at any premises and carries on at those premises a business of breeding dogs for sale must obtain a license in the local council. Those people who are not in the business of breeding dogs for sale, so called "hobby breeders", and produce less than 5 litters in any period of 12 months do not need a license.

The local council has the discretion whether to grant w oc and, before doing so, must satisfy itself that:

- the animals are provided with suitable accommodation, food, water and bedding material.¹³⁰
- are adequately exercised and visited at suitable intervals
- that all reasonable precautions are taken to prevent and control the spread of diseases amongst dogs

Local councils are responsible for enforcing the legislation.

In addition to ensuring that dogs are kept in suitable accommodation, the law also places limits on the frequency and timing of breeding from a bitch. Bitches cannot be mated before they are a year old, must have no more than 6 litters in a lifetime and can only have one liter every 12 months.

¹²⁹ See Section 2 of Breeding and sale of dogs (Welfare) Act, 1999 Section 3 of Breeding of Dogs Act, 1991 and Section 3 of Breeding Dogs Act, 1973.

¹³⁰ See Section 2 of Breeding and Sale of Dogs (Welfare) Act, 1999 Section 3 of Breeding of Dogs Act, 1991 and Section 3 of Breeding of Dogs Act, 1973.

Breeding records must be kept to ensure that these requirements are adhered to. Puppies that are produced at license breeding establishments can only be sold at the premises of licensed pet shop.¹³¹

Animal Welfare and Role of Non-Governmental Organizations - International Scenario

The decision of the World Organization for Animal Health (OAH) in 2001 to include animal welfare as a new initiative in its third strategic plan was momentous and will have significant implications, particularly with regard to international trade in livestock and livestock products. The resolution included recommendations that key animal welfare stakeholders be included within its communication strategy and that links be established with non-governmental organizations (NGOs) that have broad international representation¹³² Most of the world's largest animal welfare organizations have already developed an international outreach, as so many issues have global implications and require international agreements if progress is to be made. The World Society for the Protection of Animals was formed specifically to give animal welfare organizations in every country an opportunity to have their voice heard on the international stage. It now has 485 member organizations from 126 countries. The Humane Society of the United States (HSUS) has an active international section,

Humane Society international, The oldest and. arguably, the best known animal welfare organizations in the Royal Society for the Prevention of Cruelty to Animals (RSPCA), based in the United Kingdom (UK)¹³³, It has over 200 affiliated overseas organizations from some 70 countries, The RSPCA is also a member of the Euro group for Animal Welfare, which is based in Brussels and has as members the leading animal welfare organizations from the Member States of the European Union (EU). The international Bund for Animal Welfare is based in the United States of America (USA) but has representatives and offices in many countries including Russia and the People's Republic of China. It was logical. Therefore, that these five large and influential animal

¹³¹ Id.

¹³² D.B. Wilking and R. Ahan, Animal Welfare; the role of non- Governmental Organizations. Rec. Science and Technology Epiz (2005) p. 24.

¹³³ Id.

welfare organizations should come together as an international NGO to provide the path with informed, scientific and practical animal welfare comment¹³⁴.

Conclusion

However, it was felt that some more member organizations were necessary to ensure the truly global nature of such an organization. Therefore, the following four organizations were invited to join the five mentioned above: The National Council of Societies for Prevention of Cruelty to Animals (SPCA) in South Africa, the Japan Farm Animal Welfare Initiative, the RSPCA in Australia independent of the RSPCA in the UK) and Compassion in World Farming, which is based in the UK. These nine animal welfare organizations make up the International Coalition for Farm Animal Welfare (IFAW). The primary focus is on farm animals' welfare at present, but within these nine NGOS there is a wealth of expert, scientific and practical knowledge on all aspects of animal exploitation and usage. Thus, paving way to the development of animal rights and animal testing both in an international sphere and on a domestic front.

¹³⁴ See Resolution No. XIV, which outlines the OAH animal Welfare mandate, was agreed unanimously at the final session of the OAH. International Committee in May 2002.

CHAPTER 4
THE PREVENTION OF ANIMAL TESTING AND EXPLOITATION ON AN
INTERNATIONAL SCALE.

“We cannot have two hearts, one for the animals and one for men. In cruelty towards the former and cruelty to the latter there is no difference but in the victim.” -

Alphonse Marie Louis de Lamartine

Introduction

In recent years, animal genetic engineering has increased dramatically, and the use of this technology brings with it ethical problems, some of which relate to animal welfare — described by the World Organization for Animal Health as "the animal's state i.e. how an animal is coping with the circumstances in which it lives."¹³⁵ As a result of the extra challenges posed by genetically modified animals, regulatory bodies have begun designing specific legislation, frequently calling for improved awareness and monitoring of possible impacts on animal welfare.¹³⁶

Genetically engineered animals are defined in different terms: genetically modified, genetically enhanced, genetically manipulated, transgenic and biotechnology-derived, among others. The main technique used in the early stages of genetic engineering was transgenesis, which essentially means the transition of genetic material from one individual to another. However, new technologies emerged with developments in the field that did not actually involve transgenesis. Recent applications enable genetically modified animals to be produced by removing genes or modifying genes that are already present.

Cloning is the replication of certain cell types from a “parent” cell, or the replication of a certain part of the cell or DNA to propagate a particular desirable genetic trait. There are 3 types of cloning: DNA cloning, therapeutic cloning, and reproductive cloning.¹³⁷ Reproductive cloning is used if the intention is to generate an animal that has the same nuclear DNA as another currently,

¹³⁵ World Health Organisation (OIE) Definition of animal welfare, glossary. 2010. Terrestrial Animal Health Code; p. xiv.

¹³⁶ MacArthur JA, Potter M, Harding E. The welfare implications of animal breeding and breeding technologies in commercial agriculture. *Livestock Sci.* 2006; 103:270–281

¹³⁷ United States Department of Energy Genome Projects. Cloning Fact Sheet 2009. [Last accessed March 16, 2020]. Available from www.ornl.gov/hgmis/elsi/cloning.shtml.

or previously existing animal. The process used to generate this type of cloned animal is called somatic cell nuclear transfer (SCNT)¹³⁸

Some key ethical issues, including animal welfare concerns in connection with animal testing are,

- 1) invasiveness of procedures;
- 2) large numbers of animals required;
- 3) unanticipated welfare concerns;
- 4) how to establish ethical limits to genetic engineering.

By inserting genes from sea anemone and jellyfish, zebrafish have been genetically engineered to express fluorescent proteins — hence the commonly termed “GloFish.” GloFish began to be marketed in the United States in 2003 as ornamental pet fish; however, their sale sparked controversial ethical debates in California — the only US state to prohibit the sale of GloFish as pets.¹³⁹ In addition to the insertion of foreign genes, gene knock-out techniques are also being used to create designer companion animals. For example, in the creation of hypoallergenic cats some companies use genetic engineering techniques to remove the gene that codes for the major cat allergen.

Companion species have also been derived by cloning. The first cloned cat, “CC,” was created in 2002.¹⁴⁰ At the time, the ability to clone mammals was a coveted prize, and after just a few years scientists created the first cloned dog, “Snuppy”.¹⁴¹

With the exception of a couple of isolated cases, the genetically engineered pet industry is yet to move forward. However, it remains feasible that genetically engineered pets could become part of day-to-day life for practicing veterinarians, and there is evidence that clients have started to enquire about genetic engineering services, in particular the cloning of deceased pets.¹⁴²

Cloning is the principal method of genetic modification to wild organisms. This technology could be applied to either extinct or endangered species; plans have been made to clone the extinct thylacin and the woolly mammoth for example. Holt et al states that, "Since many conservationists still doubt reproductive technology, cloning methods are unlikely to be readily embraced.

¹³⁸ Wilmut I, Beaujean N, de Sousa PA, et al. Somatic cell nuclear transfer. *Nature*. 2002; 419:583–587.

¹³⁹ West C. Economic and ethics in the genetic engineering of animals. *Harvard J Law Technol*. 2006; 19: 413–442.

¹⁴⁰ Shin T, Kraemer D, Pryor J, et al. Cell biology: A cat cloned by nuclear transplantation. *Nature*. 2002; 415:859

¹⁴¹ Lee BC, Kim MK, Jang G, et al. Dogs cloned from adult somatic cells. *Nature*. 2005; 436:641

¹⁴² West C. Economic and ethics in the genetic engineering of animals. *Harvard J Law Technol*. 2006; 19: 413–442.

Individuals involved in field conservation also harbor concerns that high-tech solutions, funded by high-profile advertisements, will divert funding from their own efforts.” However, cloning may prove to be an important tool to be used alongside other forms of assisted reproduction to help retain genetic diversity in small populations of endangered species.

As reviewed by Laible¹⁴³, there is “an assorted range of agricultural livestock applications [for genetic engineering] aimed at improving animal productivity; food quality and disease resistance; and environmental sustainability.” Productivity of farm animal species can be increased using genetic engineering. Examples include transgenic pigs and sheep that have been genetically altered to express higher levels of growth hormone.¹⁴⁴

Genetically engineered farm animals can be created to enhance food quality¹⁴⁵. For example, pigs have been genetically engineered to express the 12 fatty acid desaturase gene (from spinach) for higher levels of omega-3, and goats have been genetically engineered to express human lysozyme in their milk. Such advances may add to the nutritional value of animal-based products.

Farm species may be genetically engineered to create disease-resistant animals¹⁴⁶. Specific examples include conferring immunity to offspring via antibody expression in the milk of the mother; disruption of the virus entry mechanism (which is applicable to diseases such as pseudorabies); resistance to prion diseases; parasite control (especially in sheep); and mastitis resistance (particularly in cattle).

Genetic engineering has also been applied with the aim of reducing agricultural pollution. The best-known example is the EnviropigTM; a pig that is genetically engineered to produce an enzyme that breaks down dietary phosphorus (phytase), thus limiting the amount of phosphorus released in its manure.¹⁴⁷ Effort has also been made to generate genetically engineered farm species such as cows, goats, and sheep that express medically important proteins in their milk.

Ethical issues, including concerns for animal welfare, can arise at all stages in the generation and life span of an individual genetically engineered animal. At this juncture it is relevant to refer to

¹⁴³ Laible G. Enhancing livestock through genetic engineering — Recent advances and future prospects. *Comp Immunol Microb.* 2009;32: 123–127.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

the principles of the Three Rs (Reduction of animal numbers, Refinement of practices and husbandry to minimize pain and distress, and Replacement of animals with non-animal alternatives wherever possible).¹⁴⁸ Together the Three Rs aim to minimize any pain and distress experienced by the animals used, and as such, they are considered the principles of humane experimental technique. However, despite the steps taken to minimize pain and distress, there is evidence of public concerns that go beyond the Three Rs and animal welfare regarding the creation and use of genetically engineered animals.¹⁴⁹

The generation of a new genetically engineered line of animals often involves the sacrifice of some animals and surgical procedures (for example, vasectomy, surgical embryo transfer) on others. These procedures are not unique to genetically engineered animals, but they are typically required for their production.

During the creation of new genetically engineered animals (particularly mammalian species) oocyte and blastocyst donor females may be induced to superovulate via intraperitoneal or subcutaneous injection of hormones; genetically engineered embryos may be surgically implanted to female recipients; males may be surgically vasectomized under general anesthesia and then used to induce pseudo pregnancy in female embryo recipients; and all offspring need to be genotyped, which is typically performed by taking tissue samples, sometimes using tail biopsies or ear notching. However, progress is being made to refine the genetic engineering techniques that are applied¹⁵⁰ to mammals (mice in particular) so that less invasive methods are feasible. For example, typical genetic engineering procedures require surgery on the recipient female so that genetically engineered embryos can be implanted and can grow to full term; however, a technique called non-surgical embryo transfer (NSET) acts in a similar way to artificial insemination, and removes the need for invasive surgery.¹⁵¹

¹⁴⁸ Fenwick N, Griffin G, Gauthier C. The welfare of animals used in science: How the “Three Rs” ethic guides improvements. *Can Vet J.* 2009;50: 523–530.

¹⁴⁹ Macnaghten P. Animals in their nature: A case study of public attitudes to animals, genetic modification and “nature. *Sociology.* 2004;38: 533–551

¹⁵⁰ Robinson V, Morton DB, Anderson D, et al. Refinement and reduction in production of genetically modified mice. Sixth report of the BVA/AVMA/FRAME/RSPCA/UFAW Joint Working Group on Refinement. 2003. [Last accessed March 16, 2020]. Available from: <http://www.arsal.ro/wpcontent/uploads/members/13.%20Refinement%20and%20reduction%20in%20production%20of%20genetically%20modified%20mice.pdf>.

¹⁵¹ Ormandy EH. The use of genetically-engineered animals in science. A report from the Third Genome BC Knowledge Translation Workshop; Vancouver BC. March 15, 2010; [accessed March 16, 2020]. Available

Other refinements include a method referred to as “deathless transgenesis,” which involves the introduction of DNA into the sperm cells of live males and removes the need to euthanize females in order to obtain germ line transmission of a genetic alteration; and the use of polymerase chain reaction (PCR) for genotyping, which requires less tissue than Southern Blot Analysis.¹⁵²

Little data has been collected on the net welfare impacts to genetically engineered animals or to those animals required for their creation, and genetic engineering techniques have been described as both unpredictable and inefficient. The latter is due, in part, to the limitations in controlling the integration site of foreign DNA, which is inherent in some genetic engineering techniques (such as pro-nuclear microinjection). In such cases, scientists may generate several independent lines of genetically engineered animals that differ only in the integration site¹⁵³, thereby further increasing the numbers of animals involved. This conflicts with efforts to adhere to the principles of the Three Rs, specifically Reduction. With other, more refined techniques that allow greater control of DNA integration (for example, gene targeting), unexpected outcomes are attributed to the unpredictable interaction of the introduced DNA with host genes. These interactions also vary with the genetic background of the animal, as has frequently been observed in genetically engineered mice.¹⁵⁴ Interfering with the genome by inserting or removing fragments of DNA may result in alteration of the animal’s normal genetic homeostasis, which can be manifested in the behavior and well-being of the animals in unpredictable ways. For example, many of the early transgenic livestock studies produced animals with a range of unexpected side effects including lameness, susceptibility to stress, and reduced fertility.¹⁵⁵

A significant limitation of current cloning technology is the prospect that cloned offspring may suffer some degree of abnormality. Studies have revealed that cloned mammals may suffer from developmental abnormalities, including extended gestation; large birth weight; inadequate placental formation; and histological effects in organs and tissues (for example, kidneys, brain,

from:<http://www.genomebc.ca/portfolio/genomics-and-society/events/knowledge-translation-workshops/genetically-engineered-animals/Last>.

¹⁵² Id.

¹⁵³ Verbeek JS. Scientific applications of transgenic mouse models. In: Van Zutphen LFM, Van Der Meer M, editors. Welfare Aspects of Transgenic Animals — Proceedings EC Workshop. Berlin: Springer-Verlag; 1997. pp. 1–17.

¹⁵⁴ Yoshiki A, Moriwaki K. Mouse phenome research: Implications of genetic background. *ILAR*. 2006;47(2):94–102.

¹⁵⁵ Wells DJ, Playle LC, Enser WEJ, et al. Assessing the welfare of genetically altered mice. *Lab Anim*. 2006;40: 11–114.

cardiovascular system, and muscle). One annotated review highlights 11 different original research articles that documented the production of cloned animals with abnormalities occurring in the developing embryo, and suffering for the newborn animal and the surrogate mother.¹⁵⁶

Genetically engineered animals, even those with the same gene manipulation, can exhibit a variety of phenotypes; some causing no welfare issues, and some causing negative welfare impacts. It is often difficult to predict the effects a particular genetic modification can have on an individual animal, so genetically engineered animals must be monitored closely to mitigate any unanticipated welfare concerns as they arise. For newly created genetically engineered animals, the level of monitoring needs to be greater than that for regular animals due to the lack of predictability.

Once a genetically engineered animal line is established and the welfare concerns are known, it may be possible to reduce the levels of monitoring if the animals are not exhibiting a phenotype that has negative welfare impacts. To aid this monitoring process, some authors have called for the implementation of a genetically engineered animal passport that accompanies an individual animal and alerts animal care staff to the particular welfare needs of that animal.¹⁵⁷ This passport document is also important if the intention is to breed from the genetically engineered animal in question, so the appropriate care and husbandry can be in place for the offspring.

With progress in genetic engineering techniques, new methods¹⁵⁸ may substantially reduce the unpredictability of the location of gene insertion. As a result, genetic engineering procedures may become less of a welfare concern over time.

Understanding Animal Empathy, Cruelty and Testing

Industrial Revolution in the 19th century had a lot on impact in the social and economic life. Particularly, in Britain, Industrialization resulted in agricultural development, economic growth and urbanization. With the discovery of various agricultural equipment's, the need of working animals declined, and people became gradually separated from animals in their daily life. However, the increasing demand of meat and egg led to intensive farming methods. Intensification

¹⁵⁶ Weaver SA, Morris MC. Risks associated with genetic modification: An annotated bibliography of peer reviewed natural science publications. *J Agr Enviro Ethic.* 2005;18:157–189.

¹⁵⁷ Wells DJ, Playle LC, Enser WEJ, et al. Assessing the welfare of genetically altered mice. *Lab Anim.* 2006;40:111–114

¹⁵⁸ Miller JC, Holmes MC, Wang J, et al. An improved zinc-finger nuclease technology architecture for highly specific genome editing. *Nat Biotechnol.* 2007;25:778–785

of animal production, at its early stage, was initiated in Europe and America, during and after the Second World War. This farming process helped to increase meat production at cheaper rate. A competition between producers to sell their products as cheap as possible then cropped up. This competitive demand adversely impacted the interest of the animals as less attention regarding its wellbeing including little space to grow became a growing reality putting them in barren environments.

However animal companionship had increased manifold as part of a new development. Moreover, various social movements in the 1960s in favor of peace, for women's rights, etc. fueled the animal liberation movement. Within that time an increase of wealth and income in many countries of Europe and America was noticed. As a result, some people got more time to associate themselves in animal liberation movements. Anyhow, the concern for animals in America is initially derived from its British precedents. America's first animal welfare organization, American Society for the Prevention of Cruelty to Animals (ASPCA), was inaugurated in New York in 1866. With his active founder Henry Berg (1813-1888), the Society achieved some success in prosecutions, including those for cruel treatment of livestock, cock-fighting, and dogfighting. The American Humane Association (AHA), with divisions for children and animals, was founded in 1877, and emerged as the leading national advocate for animal protection and child protection services. However, the anti-vivisection movement in America failed to attract serious attention.

The proponents of animal experimentations formed an effective lobby in the power-circle to continue vivisection. At the same time, Animal Protection Society of New South Wales (1873) was formed in Australia. The society developed successful ties with some environmentalists. Among the early 19th century animal advocates, Henry Stephens Salt (1851- 1939), the English social reformer, was an important personality. He published *Animals' Rights: Consideration in Relation to Social Progress* in 1894, which gave a direction to the future animal rights movements. He was very much influenced by M. K. Gandhi's vegetarianism. Salt was also a famous writer and campaigner for reforms in schools, economic institutions and the condition of prisons.

As the scientific approach to medicine expanded, an opposition grew up against the use of animals in medical laboratory research. Particularly in the days before anesthetics and pain-killers became widely available, animals were brutally abused. The anti-vivisection movement was strong in England and United states in the 1890s (as American Anti-Vivisection Society was formed in

Philadelphia in 1883), but it was overwhelmed by the prestige of scientific medicine by the early twentieth century. Vegetarianism was adopted by some people during this period in both Britain and in America. The term “vegetarianism” itself was coined in 1847 at Ramsgate, England, from the Latin word —vegetarel meaning —to growl. A large section of people, most of them middle-class, began to practice vegetarianism. M K Gandhi, a notable advocate of nonviolence and vegetarianism realizes: —I do feel that spiritual progress does demand at some stage that we should cease to kill our fellow creatures for the satisfaction of our bodily wants.¹⁵⁹ Some other world famous personalities, like George Bernard Show, P. B. Shelly, and Henry David Thoreau restated their commitment to this lifestyle of vegetarianism. In India people belonging to Jainism are vegetarian. They condemn animal sacrifice and meat eating. The Buddhist, too, showed their respect to non-human animals. Not only that, Brahmanical Hinduism also stood against meat-eating, and the practice of vegetarianism is more visible in the Northern parts of India.

Animal Testing and Birth of Activism

The animal liberation movement was not very prominent in between two World Wars. At that period people were more engaged in protecting themselves than animals. Supporters of animal protection were labeled as ‘extremists’. In those days, ignoring the real problems of cruelty meted in the laboratory, in abattoir, animal welfare organizations kept themselves satisfied with charities for lost and abandoned dogs and other cattle. Antivivisection organizations were formed particularly in Britain and America later in the second decade of the 19th century, but no real progress could be seen until its second half.

As for India, Animal Welfare Board of India was established in the year 1960, and in the same year —Prevention of Cruelty to Animals Act¹¹ was passed. Animal Protectionism and the Concept of “Animal Rights” From 1960s onwards, the animal liberation movement experienced a new momentum, a fresh enthusiasm. The organizations, like International Society for Animal Rights, have come up at that time. The discourse of animal suffering was gradually transformed into —animal rights movement. The advocates of animal rights strongly denounced our traditional way of using animals at our will. This approach differs radically from that of the past, as it began to affirm that non-human animals also have some basic rights. The Society for Animal Protection

¹⁵⁹ Peter Singer, ed. In Defense of Animals. (New York: Basil Blackwell, 1987), p. 67

Legislation (SAPL) was established in 1955 to lobby for the first federal Humane Slaughter Act, 1958. Together with the Animal Welfare Institute, under the direction of Christine Stevens, SAPL had lobbied for every important piece of animal legislation, including the Laboratory Animal Welfare Act (1966), the Endangered Species Act (1969), the Horse Protection Act (1970), the Marine Mammal Protection Act (1972) and their various subsequent extensions and strengthening through amendments. Helen Jones incorporated a group in 1959 that later became the International Society for Animal Rights. Cleveland Amory set up his Fund for Animals in 1967 and Belton Muras left HSUS in 1968 in order to form The Animal Protection Institute.

In Britain this humane concern for animals began to transform into the animal rights movement at the beginning of the 1960s. Ruth Harrison published *Animal Machines* in 1964, which drew the attention of public to the cruelty practiced in animal farms. He introduced the term factory farming ‘to label confinement livestock and poultry production. After the publication of *Animal Machines* and its impact on the civil society, the British Government was forced to appoint a committee, namely Brambell Committee, to examine the conditions and the measures available for the welfare of animals in intensive farms. After detailed and intensive observations this committee recommended: —An animal should at least have sufficient freedom of movement to be able without difficulty to turn around, groom itself, get up, lie down, and stretch its limbs.¹⁶⁰

In 1971 *Animals, Men and Morals* was published by a group of young philosophers and sociologists at Oxford, where Richard Ryder coined the term —”speciesism” in criticizing our treatment to animals on the basis of the membership of a species, here *Homo Sapiens*. Ryder wrote *Victims of Science* in 1975 which typically exposed the horrors in the laboratories. In 1965 Brigid Brophy (1929-1995), a distinguished British writer and social reformer, wrote an article in the *Sunday Times*, which helped sparking off the animal liberation movement. He wrote: “The relationship of *Homo sapiens* to the other animals is one of unremitting exploitation. We employ their work; we eat and wear them. We exploit them to serve our superstitions: whereas we used to sacrifice them to our gods and tear out their entrails in order to foresee the future, we now sacrifice

¹⁶⁰ Cass R. Sunstein, and Martha C. Nussbaum, eds. *Animal Rights*. (Oxford: Oxford University Press, 2004), p. 221

them to science, and experiment on their entrails in the hope...that we might thereby see a little more clearly into the present.”¹⁶¹

There was a marked increase in direct action, both legal and illegal, during the 1970s and 1980s. In 1974 Ronnie Lee, along with one of his followers, were sentenced to three years in prison in connection with a pharmaceutical research laboratory arson case. With his followers Ronnie Lee launched the Animal Liberation Front (ALF) in England in 1976, leading to raids on animal laboratories, factories, and arson and direct threats to the hunters. Along with ALF, the Earth Liberation Front (ELF) emerged as the most violent animal rights group in England in 1992 and spread in many countries by 1994. The famous American investigation bureau FBI considered both the organizations as terrorist organizations, since they propose to bring about social and political changes using violent means. The environmental groups, like Greenpeace and the Sea Shepherd Society, two America-based non-profit environmental organizations, expanded their activities to draw attention to marine mammals and other endangered species. People for the Ethical Treatment of Animals (PETA) emerged as the most visible representative of the new militancy, with its demonstrations at the National Institutes of Health and as spokesperson for the underground activities of the Animal Liberation Front (ALF). PETA is actually an international non-profit organization based in USA, which has branches in UK, Germany, the Netherlands, India and the Asia Pacific regions; and now is the largest animal organization in the world. Ingrid Newkirk with Alexander Fernando Pacheco founded PETA in 1980. Newkirk is a British-American animal rights activist. Pacheco introduced her to the concept of animal rights. Animal rights was at that time almost unheard in the United States, although the modern animal rights movement had started in England eight years earlier from the foundation of PETA in 1972, when a group of Oxford University scholars had formed Oxford Group to promote the idea that discrimination against individuals on the basis of their species is arbitrary as is the discrimination on the basis of someone's race or sex. According to Newkirk, animal rights movement is a revolutionary one, and it has been criticized especially for publicizing actions carried out in the name of the Animal Liberation Front (ALF), a more radical and militant animal rights group. This ALF was thought to be the branch of PETA for underground activities.

¹⁶¹ Supra n.1 at p.5

Understanding Animal Testing

Russell and Burch introduced the principles of replacement, reduction, and refinement of animal experimentation in 1959 in their groundbreaking book, *The Principles of Humane Experimental Technique*, to eradicate inhumanity to-wards non-human animals (hereinafter referred to as animals).¹⁶² They utilized the term *inhumanity* to indicate negative mental states experienced by animals used in research and the procedures that cause such mental states. Their goal was to avoid the use of animals wherever possible and to improve significantly the treatment of the animals still deemed indispensable, while improving the quality of scientific and medical research and testing.¹⁶³ Since the 1990s, the 3Rs have slowly gained more acceptance within the animal research community. They have been recognized by organizations such as the Council of Europe (1986) and the World Organization for Animal Health (2018), and they have been implemented in law in several countries, for example in Germany and in the UK¹⁶⁴.

Today, the principles are not only embedded in legislation in the European Union (EU) but around the world.¹⁶⁵ In the EU, Directive 2010/63/EU on the protection of animals used for scientific purposes came into effect in 2013, thereby requiring all EU Member States to implement the 3Rs fully. The EU Directive is more far-reaching compared to other legislation since it promotes a strong shift away from animal experimentation, with its goal being “full replacement of procedures on live animals for scientific and educational purposes as soon as it is scientifically possible”.¹⁶⁶ Furthermore, the EU Directive mandates that replacement should be the first priority, followed by reduction and then refinement to be implemented if animal use is deemed absolutely unavoidable.¹⁶⁷ According to Russell and Burch, they proposed the following hierarchy:

¹⁶² Russell, W.M.S. and R.L. Burch (1959). *The Principles of Humane Experimental Tech-nique*. Potters Bar, Hertfordshire, England: Universities Federation for Animal Wel-fare.

¹⁶³ id.

¹⁶⁴ Herrmann, K., K. Köpernik and M. Biedermann (2009). Ein Leitfa-den für die Teilprü-fung der “Unerlässlichkeit” im Hinblick auf “Refinement”. In: D. Borchers and J. Luy, eds., *Der Ethisch Vertretbare Tierversuch, Kriterien und Grenzen*, Padaborn: mentis, pp. 219–234.

¹⁶⁵ Bayne, K., G.S. Ramachandra, E.A. Rivera and J. Wang (2015). The Evolution of Animal Welfare and the 3Rs in Brazil, China, and India. *Journal of the American Association for Laboratory Animal Science*, 54(2), pp. 181–191.

¹⁶⁶ European Parliament (2010). Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on the Protection of Animals Used for Scientific Purposes. *Official Journal of the European Communities*, L276, pp. 33–79.

¹⁶⁷ id.

“Suppose, for a particular purpose, we cannot use replacing techniques. Suppose it is agreed that we shall be using every device of theory and practice to reduce to a minimum the number of animals we have to employ. It is at this point that refinement starts, and its object is simply to reduce to an absolute minimum the amount of distress imposed on those animals that are still used.”¹⁶⁸

As a result of the incorporation of the 3Rs into legislation, which has mainly been driven by ever-increasing societal concerns¹⁶⁹, it would seem reasonable to expect changes within the research industry, particularly replacement of animals with non-animal models. However, the cumulative effect of any such replacements has not prevented the overall number of animals used from steadily increasing since the 2000s.¹⁷⁰ When looking at the 3Rs and their impact, it seems that refinement, the R of *ultima ratio*, is receiving the most attention by the laboratory animal science community, especially in basic and applied research where the majority of animals are utilized.¹⁷¹ A survey conducted with participants of laboratory animal science training courses in four European countries found that refinement was seen as more feasible and more pressing than replacement and reduction of animal use.¹⁷²

Animal Testing on an International Level

Globally, there are very few countries where animal testing does not take place. Only two countries are known to have banned all experiments on animals: the European Principality of Liechtenstein in 1989 and the little heard of Republic of San Marino (an enclave situated in central Italy) in 2007. These are amongst the very smallest countries in the world.

¹⁶⁸ Russell, W.M.S. and R.L. Burch (1959). *The Principles of Humane Experimental Technique*. Potters Bar, Hertfordshire, England: Universities Federation for Animal Welfare.

¹⁶⁹ Clemence, M. and J. Leaman (2016). *Public Attitudes to Animal Research in 2016*. A re-report by Ipsos MORI for the Department for Business, Energy & Industrial Strategy, Ipsos MORI Social Research Institute

¹⁷⁰ Taylor, K. and L. Rego (2016). EU statistics on Animal Experiments for 2014. *Alternatives to Animal Experimentation Proceedings*, 33(4), pp. 465–468

¹⁷¹ Daneshian, M., F. Busquet, T. Hartung and M. Leist (2015). Animal Use for Science in Europe. *Alternatives to Animal Experimentation*, 32, pp. 261–274.

¹⁷² Franco, N.H., Sandøe, P. and Olsson, I.A.S. (2018). Researchers’ attitudes to the 3Rs—An upturned hierarchy? *PLoS One*, 13(8), p. e0200895

Another of the world's smallest countries, Malta, appears to have reported no animal use for scientific purposes until 2008, when it declared the use of 690 animals;¹⁷³ however, it does seem as though some experiments may have been taking place in Malta for at least a decade before it joined the EU in 2004.¹⁷⁴ There is considerable variation in the availability of data on animal testing in different countries. In some, such as Europe, North America and Australasia, data on numbers of animal tests are available in the form of annual reports published by the national or regional bodies responsible for regulating animal testing.

In many countries (such as China) no such gathering of statistics, or even regulation of animal use in laboratories, exists. Even where data are available they are rarely consistent in their approach, covering varying species and procedures, making comparisons and analysis extremely difficult.

A recent book¹⁷⁵ looking at global regulations on animal testing notes that there are differences in the way principles behind regulatory frameworks of animal testing are defined:

"When principles are enshrined in legislation, legislators inevitably feel the need to provide definition and to establish clear boundaries between what is legal and what is not. This is the reason for the variation in standards that we so frequently find across countries or geopolitical areas."

Given the fact that many countries do not produce data on animal testing, accurately determining the extent of animal experiments on a global scale is no easy task. The most recent reliable source of data on the worldwide use of animals in labs was published in 2008 and based on statistics for 2005.¹⁷⁶ Andrew Knight¹⁷⁷, analyzing the data of Taylor et al., suggests the annual global figure of animal use in labs could be as high as 126.9 million.

¹⁷³ European Commission. Sixth Report on the Statistics on the Number of Animals used for Experimental and other Scientific Purposes in the Member States of the European Union (2010)

¹⁷⁴ Scerri, C. Animal experimentation in Malta: regulatory processes and future perspectives. Malta Medical Journal. Mar2009, Vol. 21 Issue 1, p19-25

¹⁷⁵ Guillen, J. Laboratory Animals: Regulations and Recommendations for Global Collaborative Research. Academic Press Inc., 2013

¹⁷⁶ Taylor, K., Gordon, N., Langley, G., Higgins, W. Estimates for Worldwide Laboratory Animal Use in 2005. ATLA 36, 327-342, 2008

¹⁷⁷ Knight, A. Estimates of Worldwide Laboratory Animal Use. Letters, ATLA 36, 494-495, 2008

Taylor et al.'s study¹⁷⁸ concluded that “the distribution of animal use appears to be concentrated in a relatively small number of heavy user countries”, in particular the USA and Japan.

The USA uses the highest number of animals in labs. It does publish annual figures but these exclude most of the animal species actually used in research and testing as mice, rats, birds, fish, reptiles and amphibians are not covered by its legislation of animal labs. Taylor et al.¹⁷⁹ believe that this results in 93.2% of all animals used being missed from statistics and that the real figure of animals used in lab experiments in the USA may be closer to 17.3 million than the 1.2 million officially reported. The increase in the use of animals in labs has been recognized by de Boo and Knight¹⁸⁰ as being for two main reasons: the production and maintenance of genetically modified animals and use in chemical testing programs.

“Dramatic increases in the use of GM animals”, which also requires “substantial breeding” have reversed otherwise declining numbers of animal tests in some countries. For example, in the UK, animal testing numbers had declined and stabilized until 2007 when they reached their highest peak for 15 years. GM animals were used in 8% of regulated procedures in 1995 in the UK, rocketing to 36% by 2007¹⁸¹.

UK animal testing figures rose by 57% (1.49 million more procedures) between 2001 and 2012. The Government¹⁸² put this rise down to “increases in the use of breeding to produce GM or HM (harmful mutants – animals possessing one or more genes that have undergone mutation) animals” (+1.20 million or +155%) and fundamental biological research (+525,400 or +67%). For the first time, the number of procedures involving GM animals (1.91 million) was greater than the number performed on ‘normal’ animals (1.68 million). So high was this figure, that if the breeding of GM and HM animals was excluded, the total number of procedures actually decreased by 2% (-46,000)

¹⁷⁸ Taylor, K., Gordon, N., Langley, G., Higgins, W. Estimates for Worldwide Laboratory Animal Use in 2005. *ATLA* 36, 327–342, 2008

¹⁷⁹ Taylor, K., Gordon, N., Langley, G., Higgins, W. Estimates for Worldwide Laboratory Animal Use in 2005. *ATLA* 36, 327–342, 2008

¹⁸⁰ de Boo, J. & Knight, A. Increasing the Implementation of Alternatives to Laboratory Animal Use. *AATEX* 13(3), 109-117, 2008

¹⁸¹ *id.*

¹⁸² *id.*

to 2.13 million procedures. Similar increased use has been recorded in Germany and Switzerland.¹⁸³

USA

The Animal Welfare Act, enacted in 1966, is the only Federal law in the United States that regulates the use of animals in research, exhibition (e.g. zoo or circus), transport and by dealers. However, it excludes rats, mice, birds, fish, reptiles and amphibians, as well as farmed animals who are “used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber”.¹⁸⁴

Pro-vivisection groups have lobbied against attempts to widen protection for species not currently covered by the AWA, arguing that rats, mice and birds, which make up about 95% of animal use in US labs, already receive ample oversight through local institutional animal care and use committees and that regulation by the US Department of Agriculture (USDA) would lead to prohibitive increases in the cost of maintaining and using the animals. Statistics produced by the USDA show the number of animals used by species and by category of pain and distress. The species chart lists cats, dogs, hamsters, guinea pigs, nonhuman primates, pigs, rabbits, sheep, other farm animals and all other covered species, each by the State in which the experiments took place.

Canada

In Canada, the federal government does not have jurisdiction to legislate over experiments involving animals as this is a provincial jurisdiction. Of the ten provinces, the only ones to legislate animal testing are: Alberta, Manitoba, Saskatchewan, Ontario, New Brunswick, Nova Scotia and Prince Edward Island. Quebec, British Columbia and Newfoundland and Labrador do not have legislation. The Canadian Council on Animal Care collects national data on animal experiments and produces an annual survey. According to Canadian data¹⁸⁵, in 2011 3,333,689 animals were reported to the Canadian Council on Animal Care (CCAC) as used in science (research, teaching and testing) in CCAC-certified labs. The three most used species were fish (1,300,259), mice

¹⁸³ Ibid.

¹⁸⁴ American Psychological Association. Rats, mice and birds excluded from Animal Welfare Act. *Monitor on Psychology*, July/August 2002, Vol 33, No. 7

¹⁸⁵ Canadian Council on Animal Care. Animal Use Data for 2011

(1,090,730) and rats (225,971). 61% of these animals (2,032,837) were used for studies of a fundamental nature/basic research. Education/training purposes accounted for 4.7% of total animal use. 7.8 % (258,883 animals) were used in ‘studies for regulatory testing of products for the protection of humans, animals, or the environment’. Examples include safety testing and regulatory toxicology.

In the highest Category of Invasiveness, CI E (procedures which cause severe pain near, at, or above the pain tolerance threshold of anaesthetized conscious animals), 128,873 animals were used, representing 3.9% of total reported animal use. The remaining animals were fairly evenly split between the other categories: little or no comfort or stress; minor stress or pain of short duration; moderate to severe distress or discomfort. The three most used species of animals in CI E were fish, mice and guinea pigs.

Australia

In Australia, the Code for the Care and Use of Animals for Scientific Purposes governs how animals used in research must be treated. The Code is enforced at state and territory level, mostly through animal welfare acts. It requires all research involving animals be approved by an Animal Ethics Committee¹⁸⁶.

Under this Code, an animal is classed as: “any live non-human vertebrate (that is, fish, amphibians, reptiles, birds and mammals encompassing domestic animals, purpose-bred animals, livestock, wildlife) and cephalopods”. For any animal species not covered by the Code, individual institutions are responsible for determining when their use requires approval from an AEC, “taking into account emerging evidence of sentience and ability to experience pain and distress. Animals at early stages in their development – that is, in their embryonic, foetal and larval forms – can experience pain and distress, but this occurs at different stages of development in different species. Thus decisions as to their welfare should, where possible, be based on evidence of their neurobiological development. As a guide, when embryos, fetuses and larval forms have progressed beyond half the gestation or incubation period of the relevant species, or they become

¹⁸⁶ National Health and Medical Research Council. Australian code for the care and use of animals for scientific purposes. 8th Edition 2013

capable of independent feeding, the potential for them to experience pain and distress should be taken into account”.

Europe

For the 28 Member States of the European Union, Directive 2010/63/EU (which revised the earlier Directive 86/609/EEC) on the protection of animals used for scientific purposes, regulates the use of animals in experiments. The Directive is transposed into national law by each country. Article 54 of the Directive¹⁸⁷ requires that “Member States shall collect and make publicly available, on an annual basis, statistical information on the use of animals in procedures, including information on the actual severity of the procedures and on the origin and species of non-human primates used in procedures”. These are the only figures collated on a multinational basis.

Europe-wide data was first published in 1994 then again in 1999, covering data collected in 1991 and 1996 respectively. These reports “allowed only a limited amount of statistical analysis due to the absence of a consistent system of reporting the data on the use of experimental animals”¹⁸⁸. In 1997 an agreement was made to submit data for future reports under a format of eight harmonized tables; this was published for the first time in 2007, containing data collected in the 10 Member States which joined the EU in 2004. Other reports were then produced in 2010 (for data from 2008 in 27 Member States) and in 2013 (for data from 2011 in 27 Member States)¹⁸⁹.

Overall there has been a lack of genuine data to effectively understand or formulate the depth and nature of Animal Testing Activities all across the world. Even though principles of Animal Ethics and empathy has increased manifold over the years, man’s vigor for scientific progress and medicinal expansion has only increased the in humane treatment shown towards animals of different breeds. Though various welfare legislations and constitutional protection have been brought about in various country including in India, it has not been enough. Sensitizing the masses to inculcate more empathy towards all living being and strong punitive mechanism to ensure strict

¹⁸⁷ Id.

¹⁸⁸ European Commission. Commission Staff Working Document. Accompanying document to the Report from the Commission to the Council and the European Parliament. Seventh Report on the Statistics on the Number of Animals used for Experimental and other Scientific Purposes in the Member States of the European Union. 2013. Part 1/5

¹⁸⁹ Id.

and firm actions against persons or organizations perpetuating animal cruelty and testing will have a much more impact in curbing this ever-growing menace.

Conclusion

Animal testing in all sense has a huge detrimental impact on the society. The Moral nature and need for exploiting such beings have to be considered with utmost earnestly and the international community has a whole fine an effective solution to decrease the usage of the same. Moreover, all nations have to effectively maintain a data collection system wherein proper information can be collected and processed on a yearlong basis. Only after regular updating of the said data can we identify and isolate the issue regarding the curbing of the matter.

CHAPTER 5

DEVELOPMENT OF ANIMAL LAWS IN INDIA AND CONTEMPORARY ISSUES

“We cannot glimpse the essential life of a caged animal, only the shadow of its former beauty.” -

Julia Allen Field

Introduction

In India the enactment of laws to prevent cruelty, began during British rule. In almost 90 years of British rule in India, as many as 22 important laws were enacted to prevent cruelty to animals.¹⁹⁰ The earliest legislation of all India importance enacted by the British Government was the Prevention of Cruelties to Animals Act 1860. Before that there were a number of enactments mostly enacted by the governor general in council in force in different parts of India but they were very limited in scope.¹⁹¹ Even the Act of 1890 was mere permissive legislation as it left it to the State Government to extend it to any such local areas as it thinks fit. The State Government extended the Act only to big towns leaving out the villages which account for the bulk of the animal population and where all forms of cruelties prevailed. Under the Act, the word animal had a limited connotation and meant only domestic or captive animals. It sought to punish such acts as (1) overriding, beating or otherwise ill-treating animal, (in) keeping, carrying or transporting animals in such a way as to cause suffering to them, (ii) having in one's possession any live animal which is mutilated or suffering from starvation, thirst or overcrowding (iv) killing of animals in an unnecessary cruel manner (v) overloading of animals (vi) abandoning of animals in circumstances which may tender it likely that it will suffer pain by reason of starvation or thirst (vii) practicing phooka (viii) employing the stick of disabled animals to work and fix) baiting animals to fight.¹⁹²

The Act empowered the State Government to appoint infirmaries for the treatment and care of animals involved in prosecution 90. The killing of any animal in a manner required by religion, the religious rites and usages of any race, sect, tribe or class was exempt from provisions of the Act.

¹⁹⁰ “For a more humane world”, The New Indian Express December 31 (2004), Cochin Edition.

¹⁹¹ V.D. Mahajan, Jurisprudence and Legal theory (5th edn. 1987) 288

¹⁹² Id.

The Act however did not contain any safeguard regarding painful entertainment of animals nor did it seek to protect animals from pain, fear or suffering in slaughter house or from the suffering involved in the training of performing animals or from the cruelties involved in the transport of animals inside the country and their export

Origin of PCA Act

In view of the above, with the advent of independence, the need was felt for a comprehensive legislation for the protection of animals. The late Srimati Rukmini Devi Arundale, then a Member of Parliament moved a Bill in the Rajya Sabha on the 5th March, 1954 to prevent infliction of cruelties on animals and for that purpose to amend and codify the laws on the subject. The Principle of the Bill accepted by the Government and they undertook to bring forward a separate legislation on the subject.¹⁹³ The Bill was withdrawn on this assurance and the Government set up a committee on the 16th August 1954 to go into the whole question and make recommendations to the Government. The committee issued an elaborate questionnaire to various humanitarian organizations, state Governments, local bodies, medical colleges, research institutions etc. and then toured the country extensively, took oral evidence and submitted its report appending a draft Bill to give effect to the recommendations. This draft Bill was considered and revised by the Government and it ultimately become the Prevention of Cruelty to Animals Act 1960 (PCA).

The Prevention of Cruelty to Animals Act 1960

The Prevention of Cruelty to Animals Act 1960 (PCA), the comprehensive legislation for the protection of animals comprises VI chapters dealt with 41 sections and 7 concerned rules Its first chapter defines animals in a wide sense i.e., any living creature other than human being.¹⁹⁴ It also claimed that the person having the charge of animals should take all reasonable measures to ensure the wellbeing of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering the long title of the Act as well as the above stated provision makes it clear that the prime objective of the Act is to prevent the infliction of unnecessary pain or suffering.¹⁹⁵ But extend or limit of the unnecessary pain or a well definition of the same is not mentioned in the Act.

¹⁹³ V.A. Kishori Venjuri, "The Prevention of cruelty to animals", 2nd edition (2003), p 231

¹⁹⁴ Id.

¹⁹⁵ Id.

Chapter II of the Act relating to the Animal Welfare Board of India, a body corporate with 28 members and reconstituted by the Government. Once in three years was established first under the Ministry of Environment and now working under the Ministry of Social Justice and Empowerment Decentralization of the power at the grass root level and declension of red tapism may help to take the bull by horns.

As far as the animal rights is concerned special preference must be given to the 3 chapter of the very same Act which deals with cruelty to animals. The chapter II of the Act speak briefly about various common cruelties which are punishable. It may be noted that the specification of cruelties as offences punishable under this section is international and this ensures indirectly the rights of the animals.

There is a reference in the Act that beats, kicks, overrides, overdrives, overloads or other tortures causing unnecessary pain or suffering to the animals are punishable. This ensures a particular right of the animal ie, the right not to be tortured.¹⁹⁶ Likewise diseased, wounded and informed animals are regarded as unfit to be employed and to do so is also a punishable offence. It recommends the right against ill-treatment and right to security in the event of disability.

Offences like close confinement overcrowding of animals in receptacles and vehicles overcrowding due to insufficient cages, conveying or transporting animals in an unhealthy manner, tying them by a short cord or by heavy or short chains, chaining animals for unreasonable time are punishable. This also confirms the right to free movement and right against confinement.

The owner must provide sufficient food, drink or shelter to the animals and the denial of food and shelter is also marked as a punishable offence. The assures the right like the right to food, the right to shelter and the right to live¹⁹⁷ Mutilating or killing animals by using cruel methods such as injecting the heart is also an offence punishable. It ensures the right against molestation and right to live.

¹⁹⁶ Id.

¹⁹⁷ The Prevention of Cruelty to Animals Act 1960, at Section 11(1)(b)

Promoting or taking part in any shooting, match or competition, where animals are released from captivity for the purpose is also regarded as an offence punishable. This also guarantees the right to security.¹⁹⁸ PCA Act provides penalty for practicing phooka or doom dev or any other artificial modes to improve lactation, which is injurious to the health of the animal. Penalty for practicing phooka or doom dev supports the right against Exploitation.¹⁹⁹

Experimentation on animals includes in the 4 chapter of the PCA. The unlawful performance of experiments on animals are prohibited and it endorses the right against experimentation.²⁰⁰

Act ensures that an animals is to be destroyed, if the court is satisfied that it would be cruel to keep the animal alive, and thus provision speaks for the right to die.²⁰¹ PCA provides power to prohibit person or institution from carrying on the experiments on animals²⁰². But at the same time it also assures that person or institution may allow to carry on such experiments subjected to special conditions. This provision diminishes the right not to be experimented.²⁰³

PCA deals with the performing animals, their restriction on exhibition and training of performing animals.²⁰⁴ It confirms that any animal can be kept for training or exhibition by producing the concerned certificate of registration. This provision represses the right to self-esteem and right against degrading treatment Act refers to the treatment and care of animals and it directs that the animal concerned shall be treated and cared for in an infirmity until it is perform its usual work or otherwise fit for discharge. This also recommend the right to medical care and right to live

It may be noted that the punishment provided for the offences and the penalty for practicing phooka or doom dev to improve lactation are not sufficiently deterrent and the punishment for both should be increased in order to have the collective enforcement of the concerned Act. Likewise the Act

¹⁹⁸ Id.

¹⁹⁹ Id. At Section 11(1)(0)

²⁰⁰ Id. At Section 14

²⁰¹ Id. At Section 13

²⁰² Id. At Section 19

²⁰³ Id.

²⁰⁴ Id., See chapter V of PCA Act, 1960

covers most of the common cruelties to the animals and makes a lot of difficulties in enforcing the provisions of the Act.²⁰⁵ The offences are of non-cognizable. These cases require a complaint to be lodged and witness should be available to give evidence. So, offences under the Act should be made cognizable,

Animal Rights are not exactly the same as accorded by humans to humans. Right appropriate for animals can include the right to live freely in the natural state of their choosing to express normal behavior not to be used for entertainment, not to be used for experiments, not to be killed for food, to be free from hunger, thirst molestation, fear, distress, pain injury and so on.

The animal rights govern what people do to animals or it is the benefits that people wish to bestow on animals. The Prevention of Cruelty to Animals Act 1960, is enforced for the promotion of animal welfare generally and for the purpose of protecting animals subjected to unnecessary pain suffering²⁰⁶. In order to achieve the ultimate goals the concerned Act should include some other provision other than the existing ones. From the evaluation of PCA it was found out that there exist no provision for the rights like rights to reproduction, rights to mental health, rights to clean environment and right to security at old age 107. The above-mentioned rights are adequate for the welfare of animals and so it is necessary to have adequate regulation on PCA Act.

To give birth to the young ones is to primary impulse of every animal including man. Mating in the natural habitat at the proper time is an inevitable thing to produce healthy offspring. Now the reproduction period of the domestic and captive animals are decided by their owners and artificial fertilization methods are used for that purpose. The denial of natural impulses and habitat may adversely affect the physical and mental health of the animals. So natural reproductive methods have to be promoted and so the PCA must include the provisions for the right to reproduction.²⁰⁷

Animals may get irritated, provoked, insulted and mimicked by the public while performing or exhibiting or at the time of their training. The provocation, irritation and ludicrous imitation will

²⁰⁵ See Section 29

²⁰⁶ V.D. Mahajan, Jurisprudence and Legal theory (5th edn. 1987) 288

²⁰⁷ Id.

degenerate the mental health of the animals. Thus, there needed provisions for the right to mental health in the Prevention of Cruelty to Animals Act.²⁰⁸

In PCA there were no remarks about the provisions of the right to favorable conditions of work. The provisions regarding the duration of work, conditions for working, the extent of work to be given to an animal etc. are not mentioned in PCA. Cattle's include buffalo, bulls, bullocks, camels, cows, donkeys, goat's horses, pigs, mules and sheep which are employed for various domestic and other purpose. So favorable working conditions must be provided for them to protect and maintain their health and life.

Health efficiency, immunity power and life expectancy of every animal is directly related to cleanliness. Clean food, water, shelter and working atmosphere is needed in order to sustain the health, efficiency and life²⁰⁹. Deficiency of such clean and near environment will cause negative impact on the animals. So provisions for the right to clean environment should also be enclosed in the very same Act. Like woe PCA Act also lacks the provisions for protection of animals at their old age. In order to upgrade the animal welfare, due consideration and care must be given to them at old age²¹⁰. So it is necessary to enter some provisions relating to the security at old age in PCA

Under the Act the following rules have been formulated and framed for the effective implementation of the aims and objectives and provisions of the Act.²¹¹

- The Prevention of Cruelty to Draught and Pack Animals Rules, 1965
- The Prevention of Cruelty to Animals (Licensing of Farriers) Rules, 1965
- The Performing Animals Rules, 1973.
- The Transport of Animals Rules, 1978
- The Prevention of Cruelty to Animals (Application of Fines) Rules, 1978
- The Prevention of Cruelty (Capture of Animals) Rule. 1972.

²⁰⁸ Id.

²⁰⁹ See Section 35 of the Act

²¹⁰ Paul Waldau, *Animal Right: What Everyone Needs to know*, (2011), Oxford University Press, p.256

²¹¹ Id.

- The Prevention of Cruelty to Animals (Registration of Cattle premises) Rules 1978
- Breeding of and Experiments on Animals (Control and Supervision) Rules 1998
- The performing Animals (Registration) Rules, 2001
- The Prevention of Cruelty to Animals (Transport of Animals on zos) Rules, 2001
- The Prevention of Cruelty to Animals (Slaughter House) Rules, 2001
- The Prevention of Cruelty to Animals (Establishment and Regulations of Societies for Prevention of Cruelty to Animals) Rules 2001
- The Animal Birth Control (Dogs) Rules 2001

Indian legal provisions for animal welfare

If property used, the law can be our most effective weapons against animal exploitation. India has one of the most comprehensive set of animal protection law in the world. There are detailed codes of conduct governing over use and treatment of both domestic and wild animals. In fact India is unique in that animal, welfare is enshrined in our constitution and every citizen is required to show compassion to all living beings²¹². Unfortunately, in spite of the importance accorded to animal protection by our founding fathers, animal protection lawn having remained mere pieces of paper.²¹³

Importance Of Constitutional Provisions

Animal welfare legislation falls mainly under Entry 17 of List III in the seventh schedule to the Constitution namely, "Prevention of cruelty to Animals and Entry 15 of List II-state List of that schedule, namely Preservation, protection and improvement of stock and prevention of animal diseases, veterinary training and practice

Entry 17 of the concurrent List will enable both parliament and state legislature to enact laws in the subject of prevention of cruelty to animals. But if parliament makes a law it will prevail. The State legislature can however amend any such law in its application to the state by reserving it for

²¹² See T.U. Mehta, "Some reflection on court decision" Animal Citizen 39 (2000)

²¹³ Id.

the consideration of the President of India and obtaining his assent exercising its powers Parliament has enacted the Prevention of Cruelty to Animals Act, 1960.

Under Entry 15 of the state list, with reference to "Prevention, Protection and improvement of stock the State Legislature can make a law to implement the directive principle contained in Article 48 of the Constitution which provides that the state shall organize agriculture and animal husbandry in modern and scientific lines and shall in particular, take steps for preserving and improving the breeds and prohibiting the slaughter of cows and calves and other milch and draught cattle.

The directive in the latter part of the article enjoins the prohibition of any of the species of cattle mentioned irrespective of their utility from the stand point of agriculture or animal husbandry²¹⁴ and such prohibition cannot be held to be an unreasonable restriction upon the right by the Constitution to practice any profession or to carry on any occupation trade or business²¹⁵, But the protection is confined to cow and calves and such of those animals as are presently and potentially capable of yielding milk or doing work as draught cattle but does not extend to cattle which were at one time draught cattle but have ceased to be such. There are two more provisions which ensures animal welfare.²¹⁶

Since the subject is coming under the state list, there is no central enactment so far the preservation and prevention of cattle including cows, except the Prevention of Cruelty to Animals Act.²¹⁷

States Acts

Apart from the prevention of cruelty to Animals Act. 1960. The other Acts in force in the states relate to:

1. Prohibition of Animals and Birds Sacrifices

²¹⁴ Article 48 of the Consitution reads “*the State shall endeavour to organize agricultural and animal husbandry on modern and scientific lines and shall, in particular, lake steps for preserving and improving the breeds, and prohibiting the slaughter of cows and calves and other milch and draught animals*”

²¹⁵ Mohd Hanif Quareshi v. State of Bihar, AIR 1958 SC 731

²¹⁶ Abdul Hacim Quareshi v. State of Bihar, AIR 1961 SC 448

²¹⁷ Haji Usmanbhai v. State of Gujarat, AIR 1986 SC 1213

2. Prohibition of slaughter of cows
3. Control of slaughter of wither animals so as to check depletion of productive stock and prevent avoidable cruelties thereto.

Birds and Animal sacrifices are prohibited by state Acts in the states of Andhra Pradesh, Tamil Nadu, Kerala, Karnataka and Gujarat.²¹⁸ They generally provide that no person shall sacrifice any animal or bird in any temple and temple is defined as a place of public religions worship officiating at such sacrifices is also prohibited. The Andhra Pradesh Act goes further and prohibits sacrifices not merely in temple premises but also in any religious worship in a public street. Sacrifice of animals is a recognizable offence punishable with fine or imprisonment or with both

Indian Penal Code

As per the Indian Penal Code, the person committing mischief by killing, poisoning, maiming or rendering useless any animal of the value of Rs. 10/ or upwards if the same is committed with respect to any elephant, camel, horse, mule, buffalo, bull, cow or ox is liable punishment²¹⁹ Bestiality means the sexual act either by a male or a female being with an animal.²²⁰

(iv) A critical appraisal of animal protection laws

Although contemporary animal protection statutes have mined away from the view of animal interests as strictly subordinate to human interests they have not fully embraced either of the other two views of animal interests- as being inter related with human interests or as deserving of their own legal protection²²¹. A brief survey of these Acts reveals that many are inadequate by failing to provide a sufficient level of protect for animals and a range of appropriate punishments for animal abusers

The basic scope of a statute forbidding animal cruelty normally depends upon that statutes definition of animal. There are of course advantages and disadvantages to a broadly worded

²¹⁸ Andra Pradesh Animals and Birds Sacrificed Prohibition Act, 1950, Tamil Nadu Animal and Bird Sacrificed Prohibition Act, 1950. Kerala Animals and Birds Sacrifices Prohibition Act, 1968.

²¹⁹ IPC, Section 428

²²⁰ Id. At Section 377

²²¹ Paul Waldau, Animal Right: What Everyone Needs to know, (2011), Oxford University Press, p.256

definition of animal'. Definition of animal as any living creature except human being includes everything from pet dogs and cats to working animals such as horses, to animals held for ultimate consumption, to earthworms in the backyard.

The advantage of the broadly worded statutes is that they encompass cruel acts perpetrated upon all species, not merely the familiar household pet and farm animals²²², Thus deliberate torture and mutilation of an insect or worm could be prosecuted under these statutes. In justifying a broadly worded definition of animal one might argue that the adolescent or adult who pulls the legs off a spider has a similar propensity for cruel and deviant behavior as someone who beats a dog.

But there are some difficulties with all-encompassing anti cruelty laws. First by including invertebrates and other lower animal, the statutes may tend to generalize the crime of animal cruelty by equating the swatting of a housefly with the burning of a cat.²²³ Second, the statutes may end up criminalizing actions that are viewed as socially acceptable such as the capture of butterflies

Anti-cruelty laws prevent inhumane treatment to animals subjecting violators to criminal sanction for causing unjustified harm to other creatures, penalties range from misdemeanor fines in some locations to a recent trend towards making such conduct a felony. Thus much like criminal statutes designed to protect humans, the state has the power to penalize those who hurt animals. This sets animals by giving them special status within the property regime. They are entitled to certain minimum guarantees, namely that they will not be made to suffer unnecessarily

It is important to recognize at the same time, however, that such anti-cruelty regulations do not solely have animal interests at heart. Quite apart from any benefit the animal might receive from being free from cruel treatment such laws also help to protect human investment as property. Moreover, many who support such laws are truly concerned not with the actual harm to the animal, but with what such treatment indicates about the abuser namely a propensity to violence that might ultimately lead to violence against humans. Given these concerns that exist independent of animal

²²² Id.

²²³ Id.

interests it is not surprising that such laws are often vaguely written and are often under enforced.²²⁴

Although there has been an increasing public outcry over individual incidents of animal abuse these acts are seemingly on the rise and are perpetrated by both children and adults. Arguably the flaw in the legal system lies with inadequate penalties for animal abuse and apathetic enforcement of existing laws. Today, only a scant majority of state jurisdictions provide for felony.

While a lot of very detailed and precise legislation on animal welfare has been passed in India, it is still not enforced properly. That is because concerned people and non-governmental organizations still do not prioritize following the legal route to produce results. At the same time, it's important to recognize that the law we currently have in India isn't solid enough and fair enough to make a major change. The general anti-cruelty provisions of Section 11 of the PCAA can be made even more effective by increasing to some degree the penalty and fining.

The legislation should be made stricter and more detailed in order to protect and conserve animals of all sorts, be they street animals, wild animals and animals that live in all types of habitat.

EMPIRICAL STUDY: Analysis

As part of my research an empirical study had been conducted wherein data was collected from 60 participants of varying age and backgrounds. All the participants were asked to fill their answer to 21 questions²²⁵ related to understanding the knowledge on the existing issue on animal abuse and the practical application of animal rights. The various answers have been tabulated and pivotal charts have been created signifying the results of the data collection.

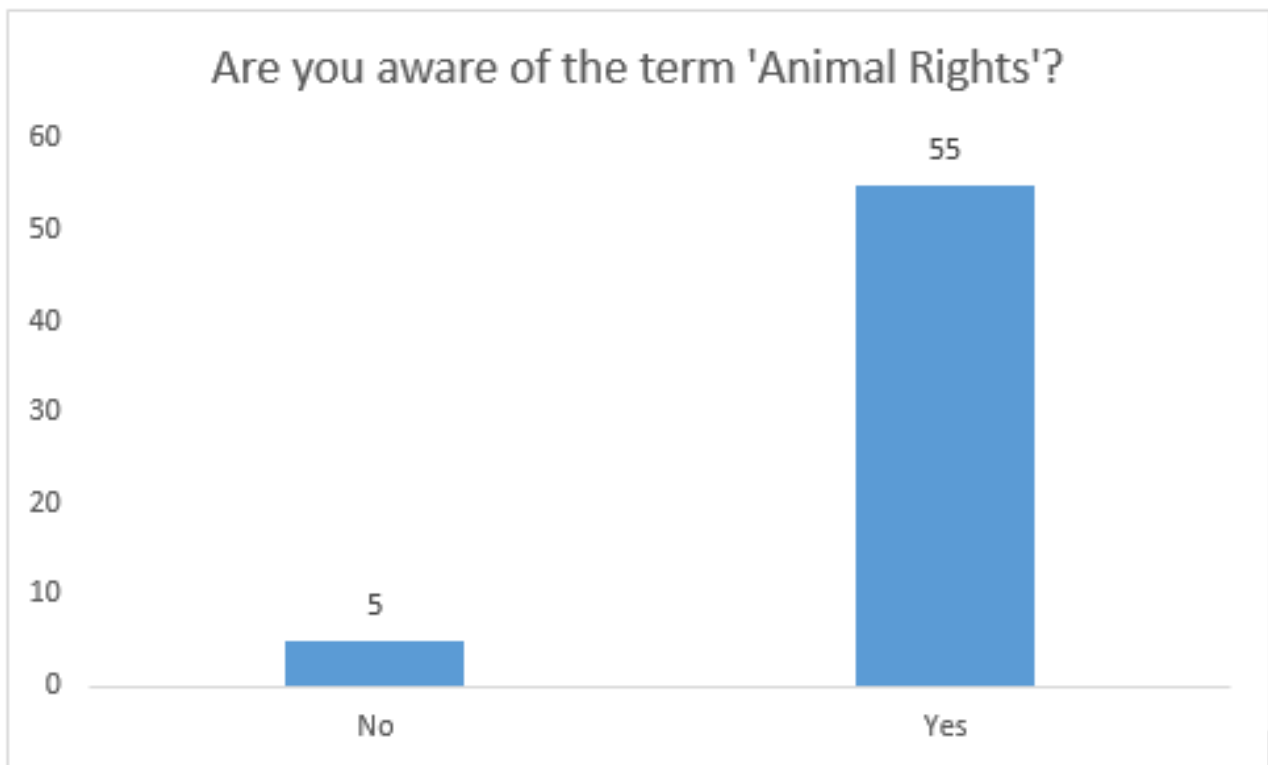
The following table showcases the age range of the 60 participants who have submitted answers to the 21 questions that have been submitted at the time of survey.

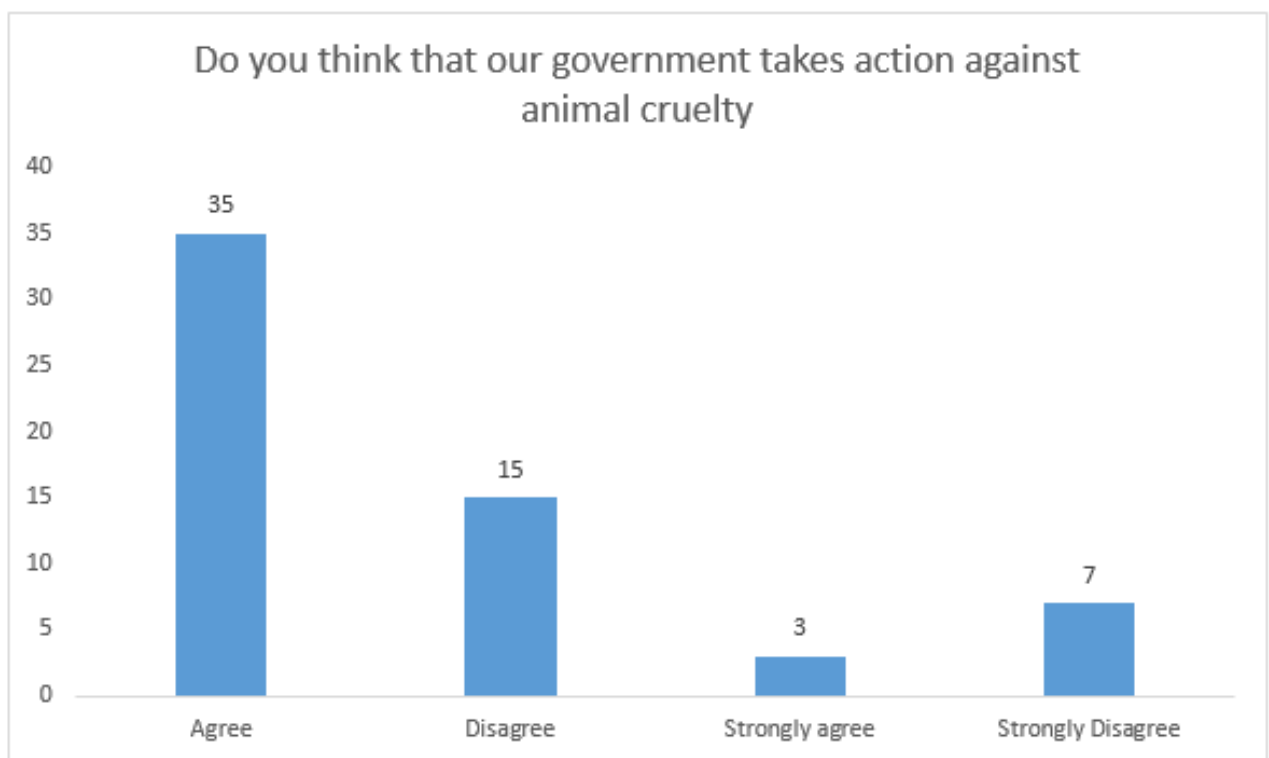
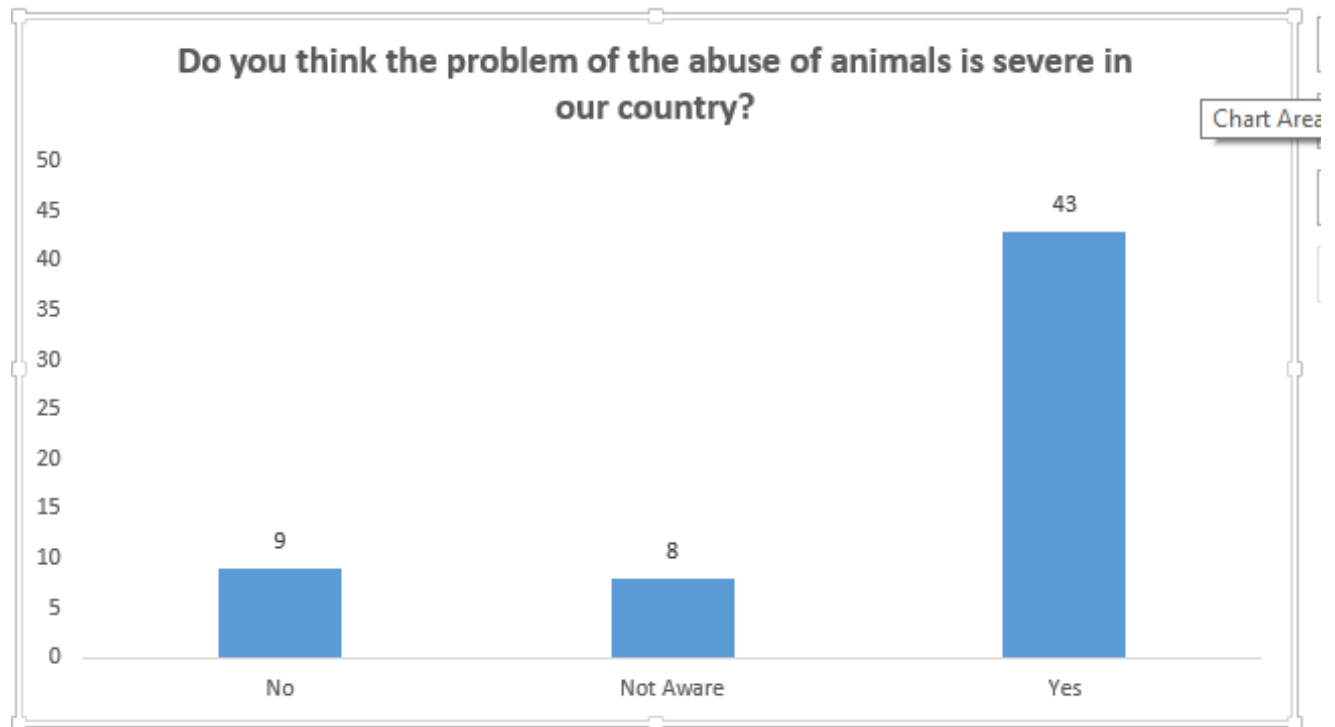
AGE RANGE (Years)	No. of Submissions
10 – 20	14
20 – 30	11
30 – 40	13
40 – 50	13
50 and above	9

²²⁴ Id at 898

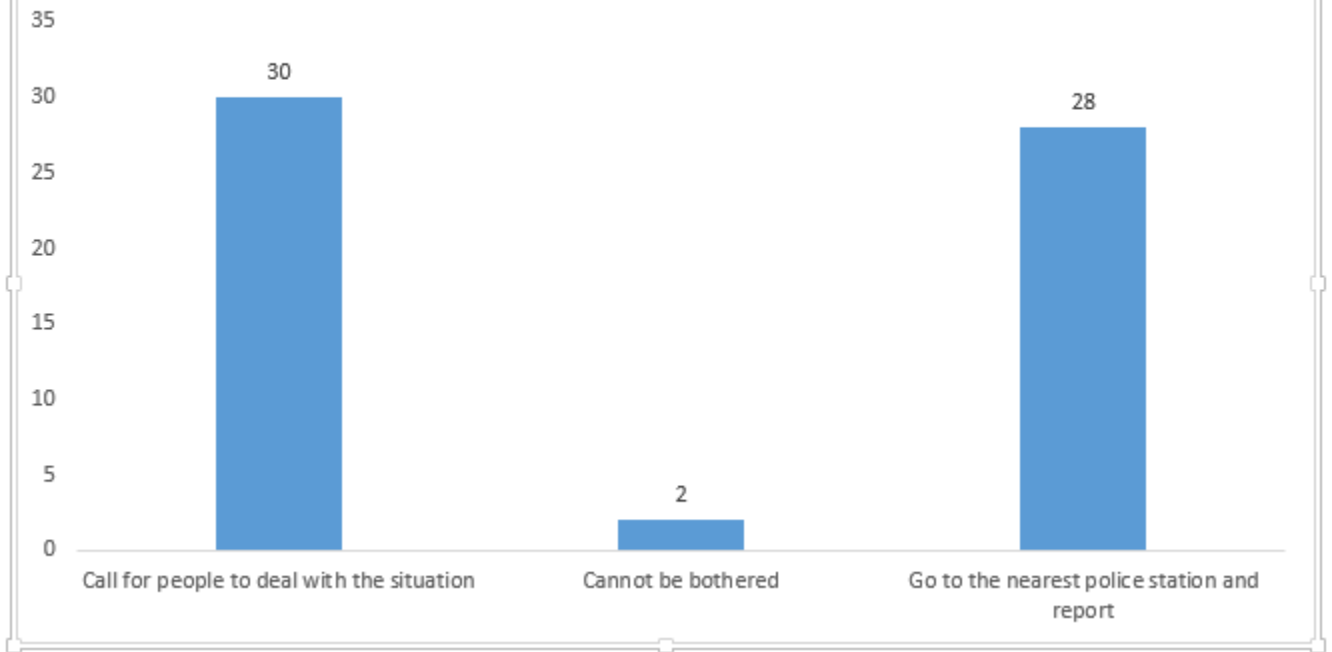
²²⁵ Annexure 1

All participants were sent the 21 questions through a google form link and where asked to submit their answers. It was unable to assess the time duration within which each participant answered their questions. However all questions were duly marked and answered with any default. Based on the answers submitted by the participants, the following pivotal charts have been created analysing the answers given by the 60 participants for each question separately.

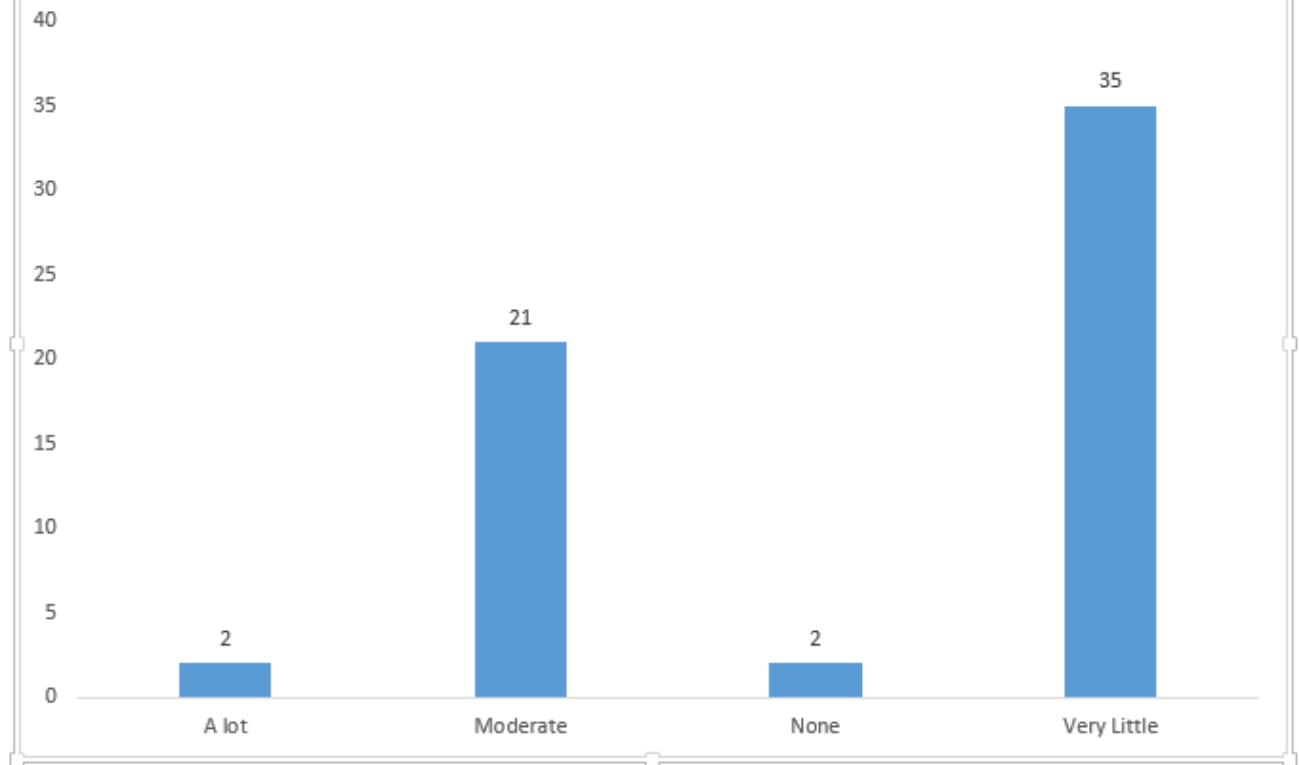


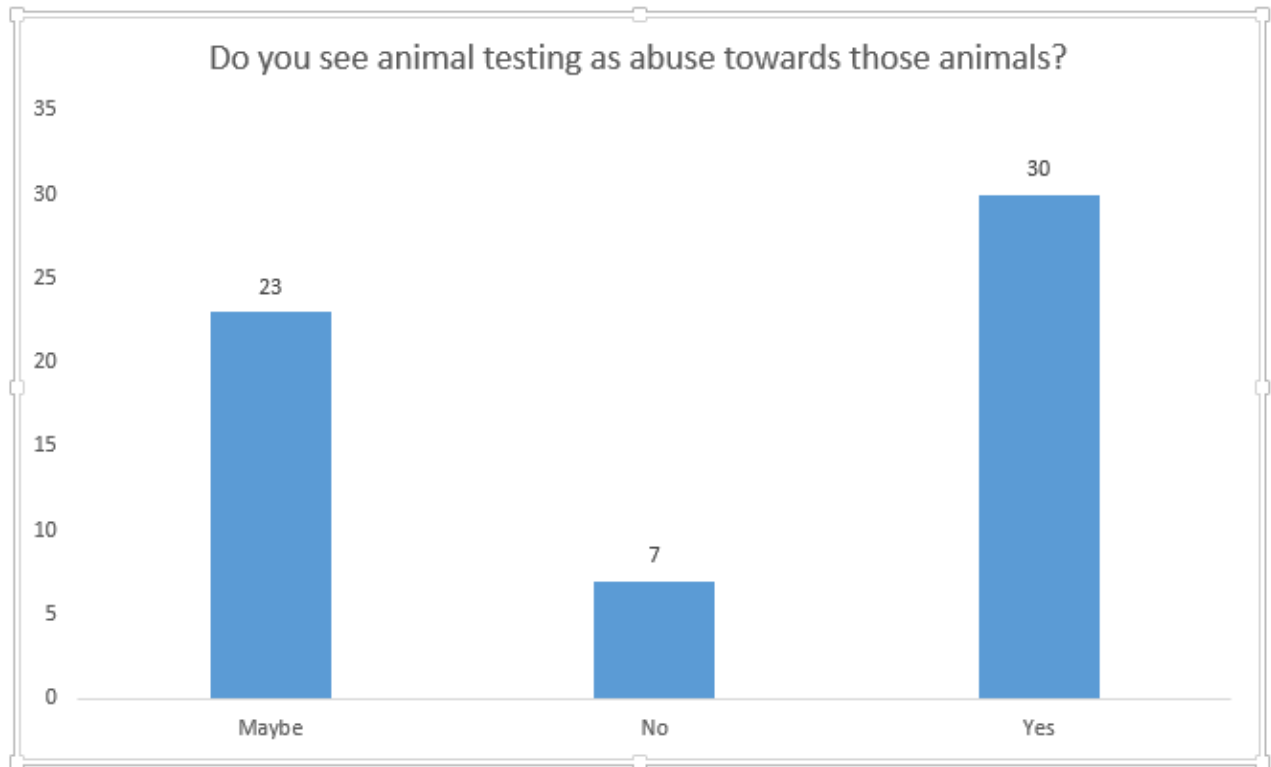
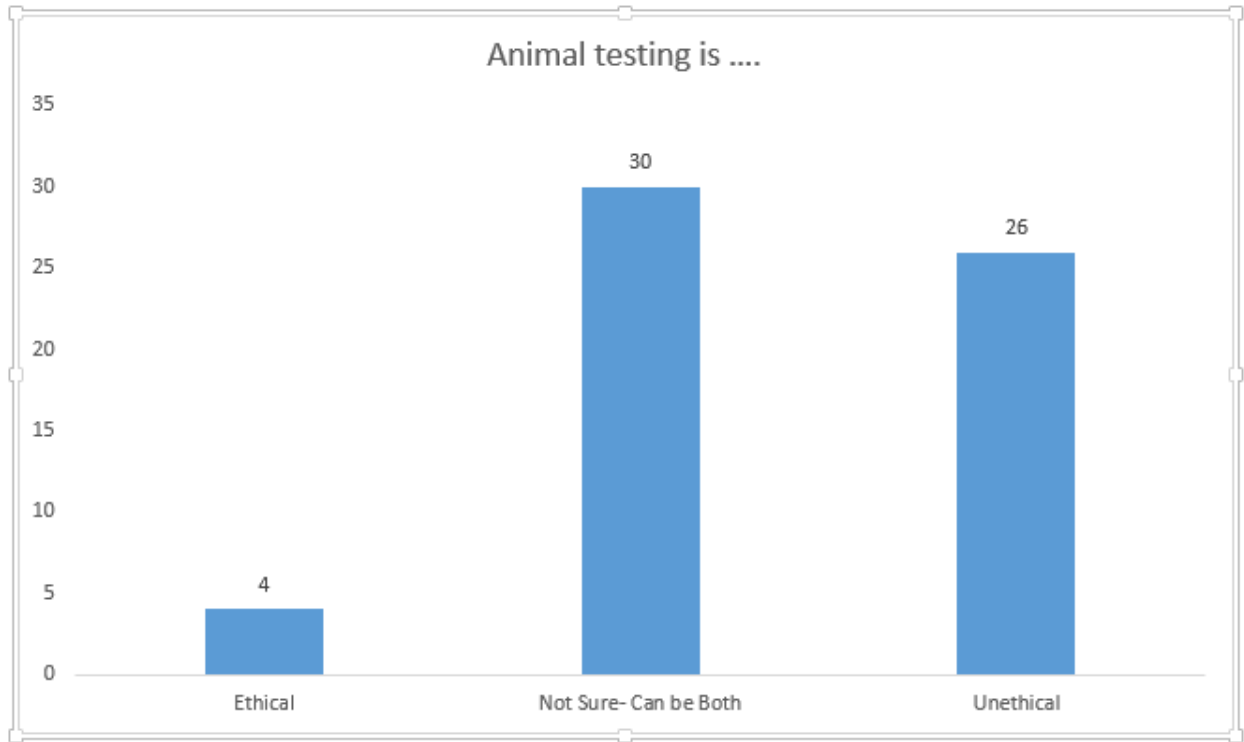


What will you do if you witness an abuse towards animals?

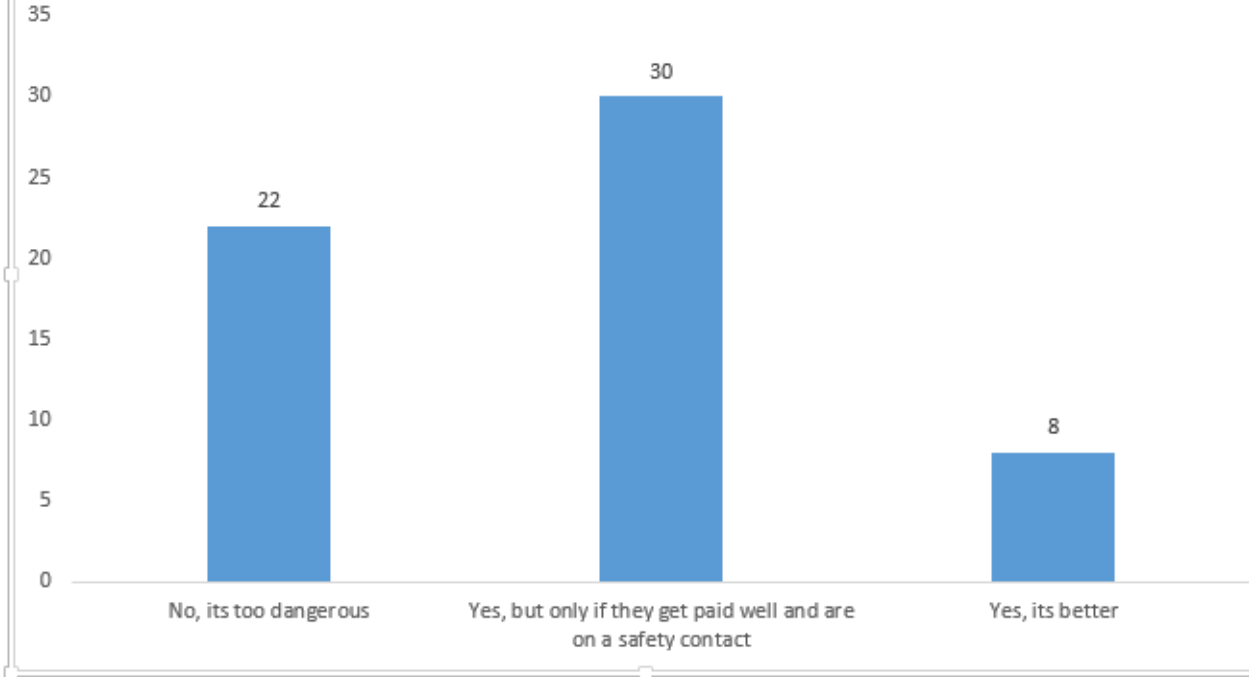


How much do you know about animal testing?

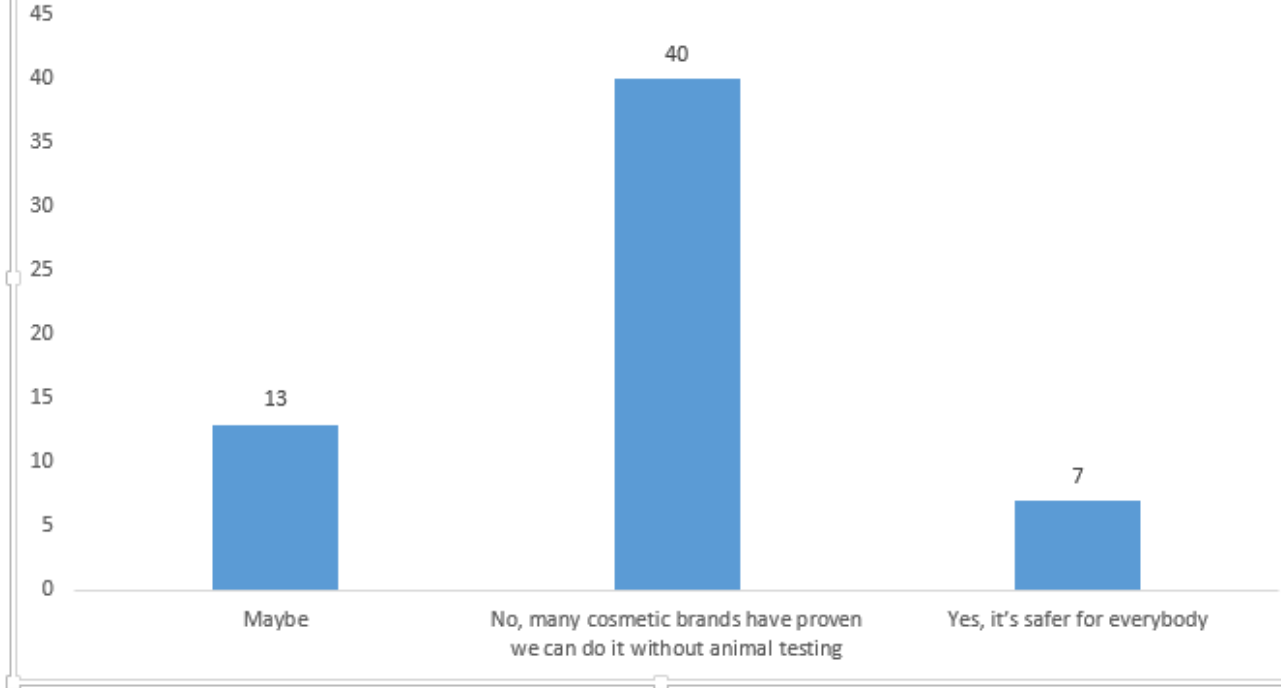


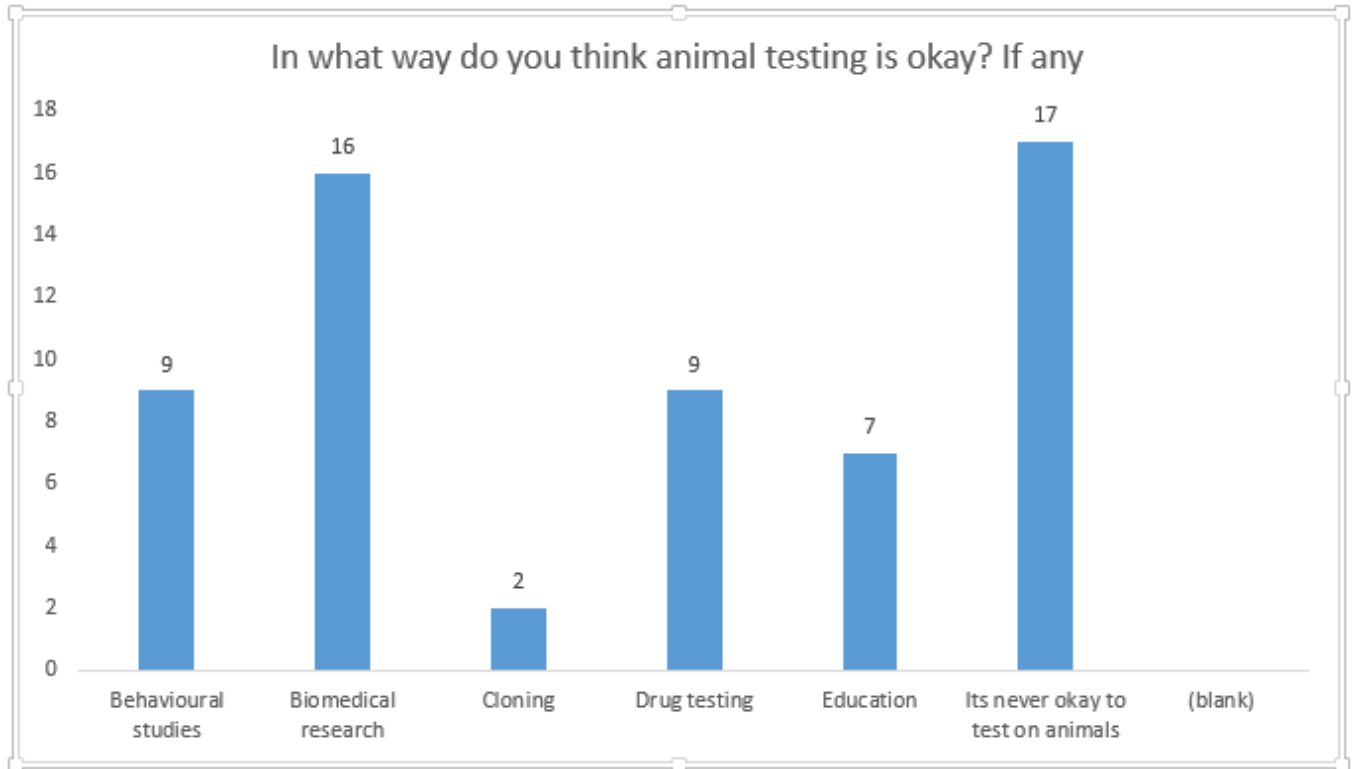


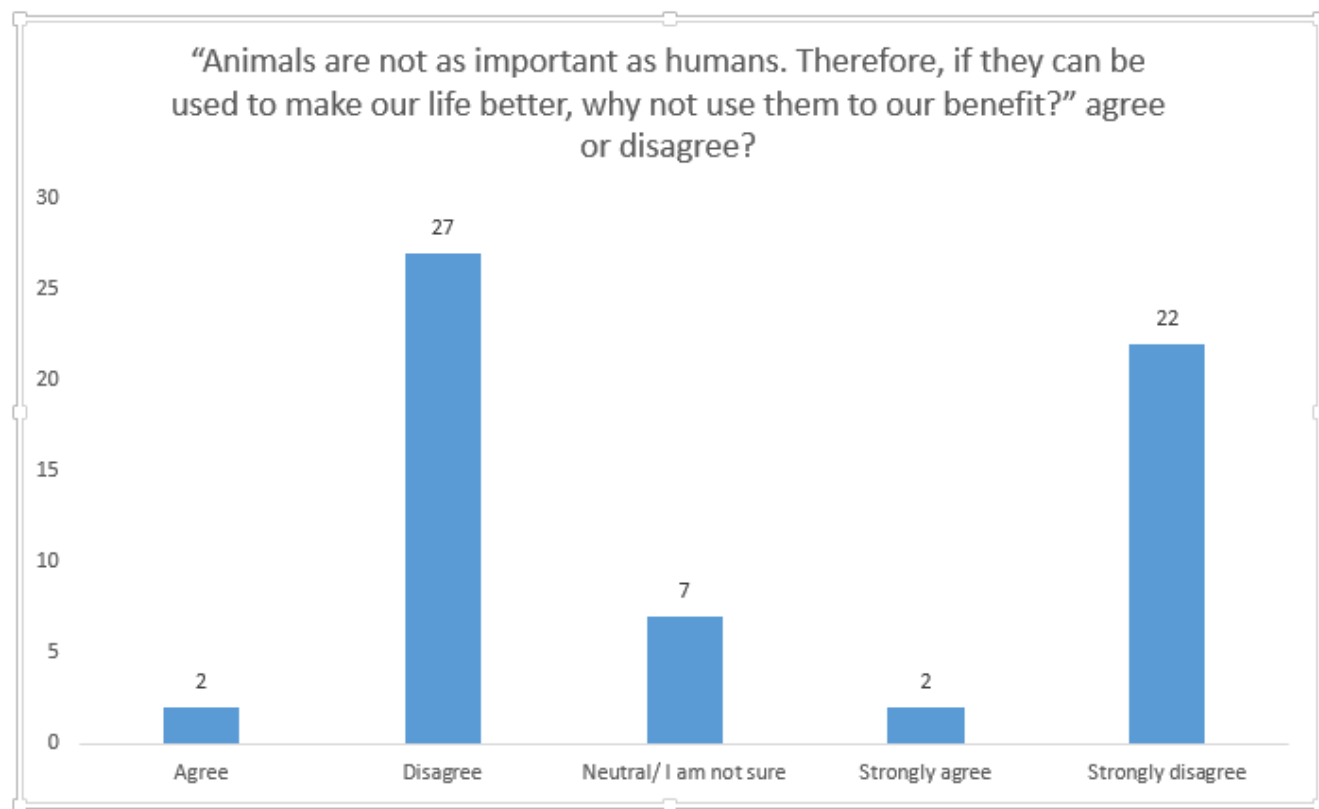
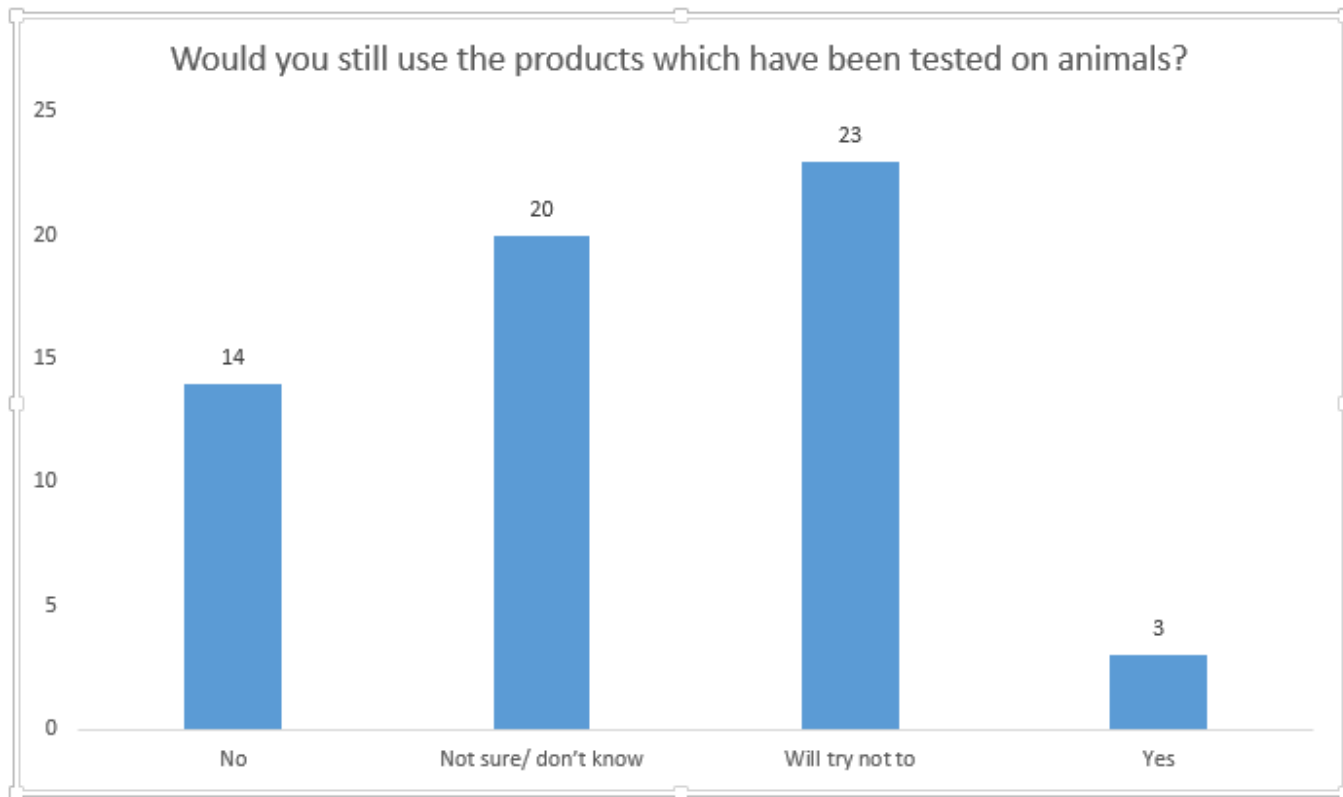
Do you personally believe it would ever be ethical to test the products on people instead of animals?



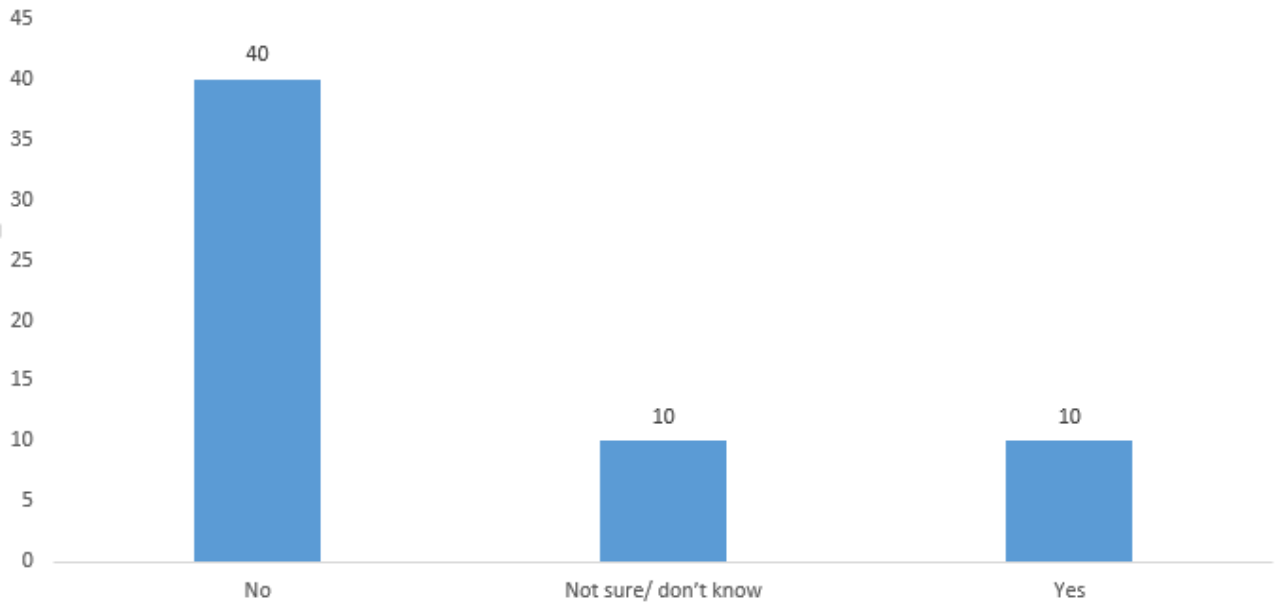
Do you personally believe it is right that we use animals for both medical and cosmetic testing in this day and age?



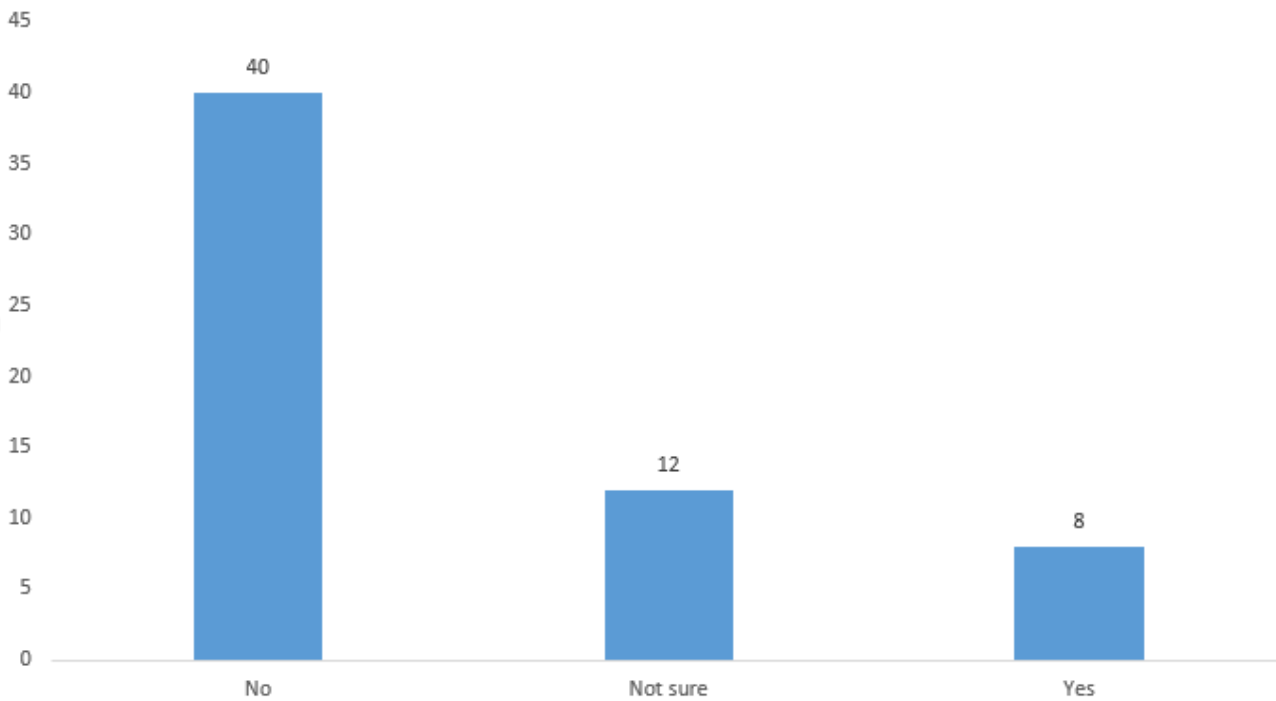


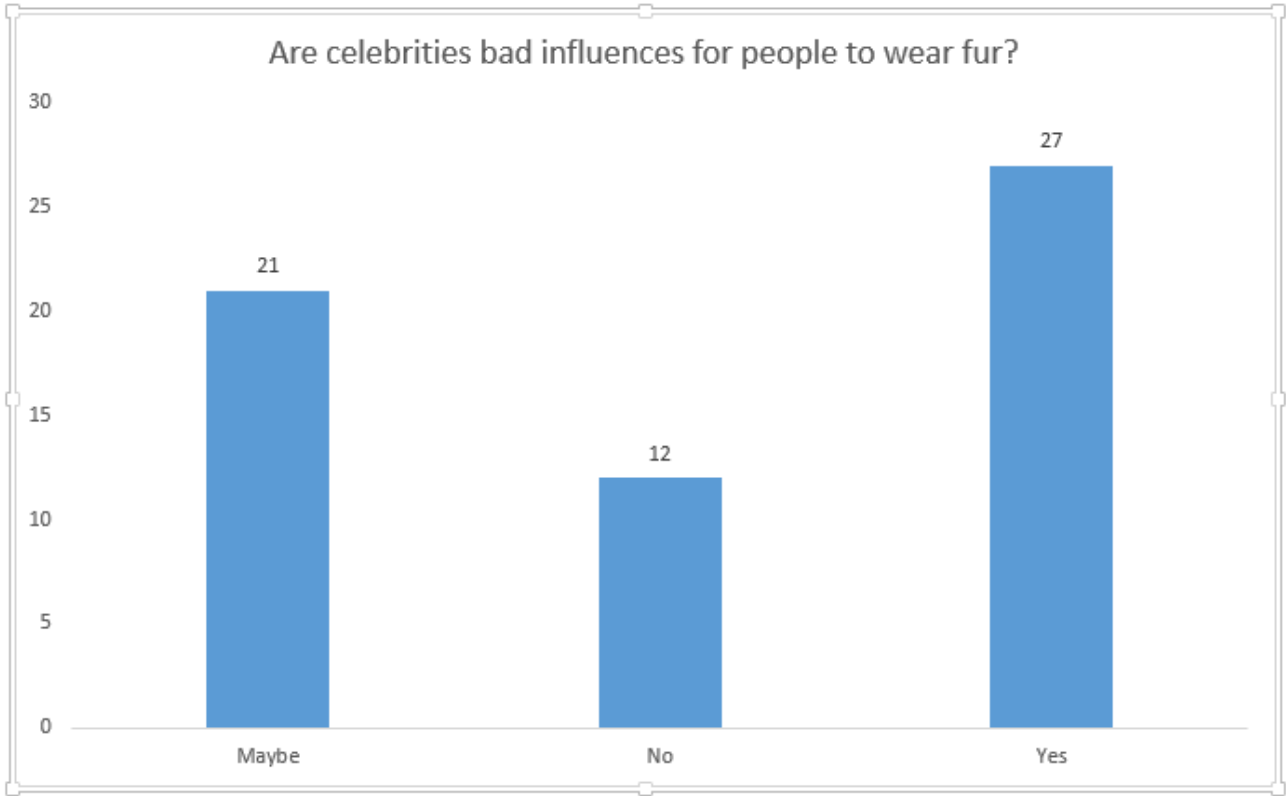
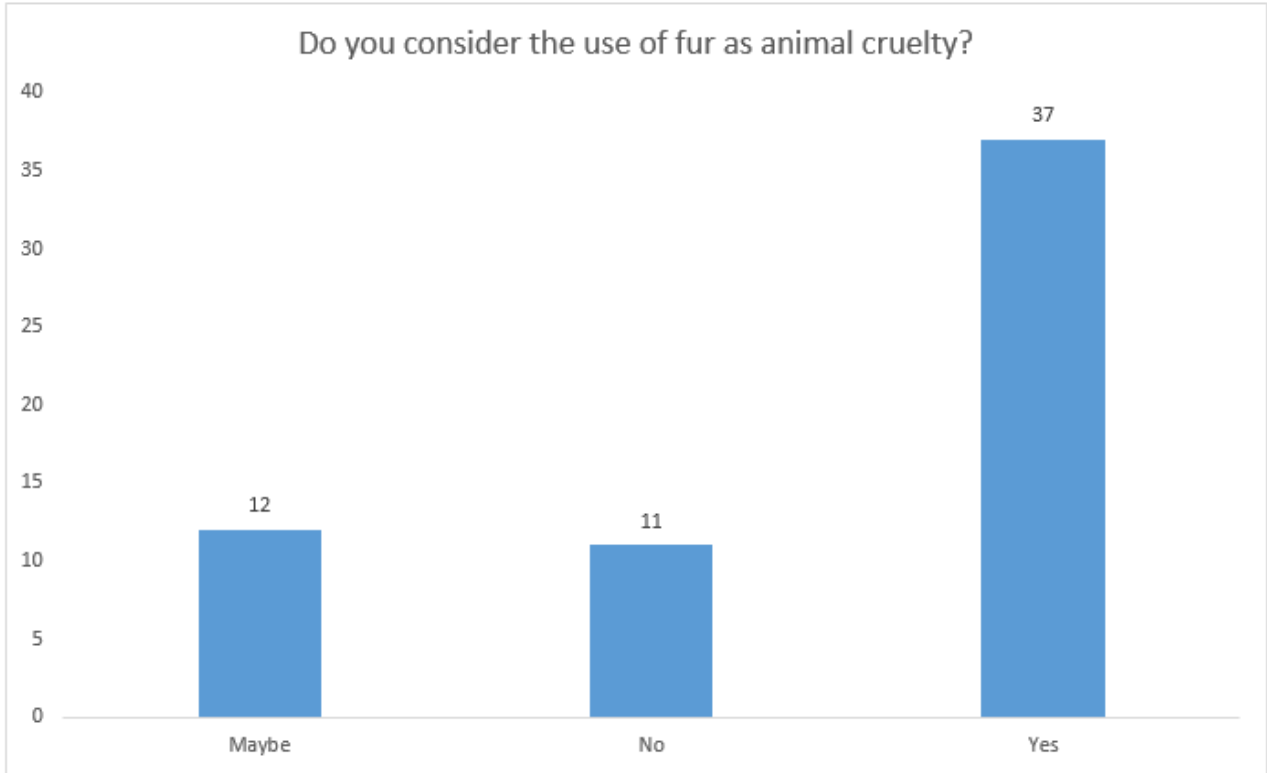


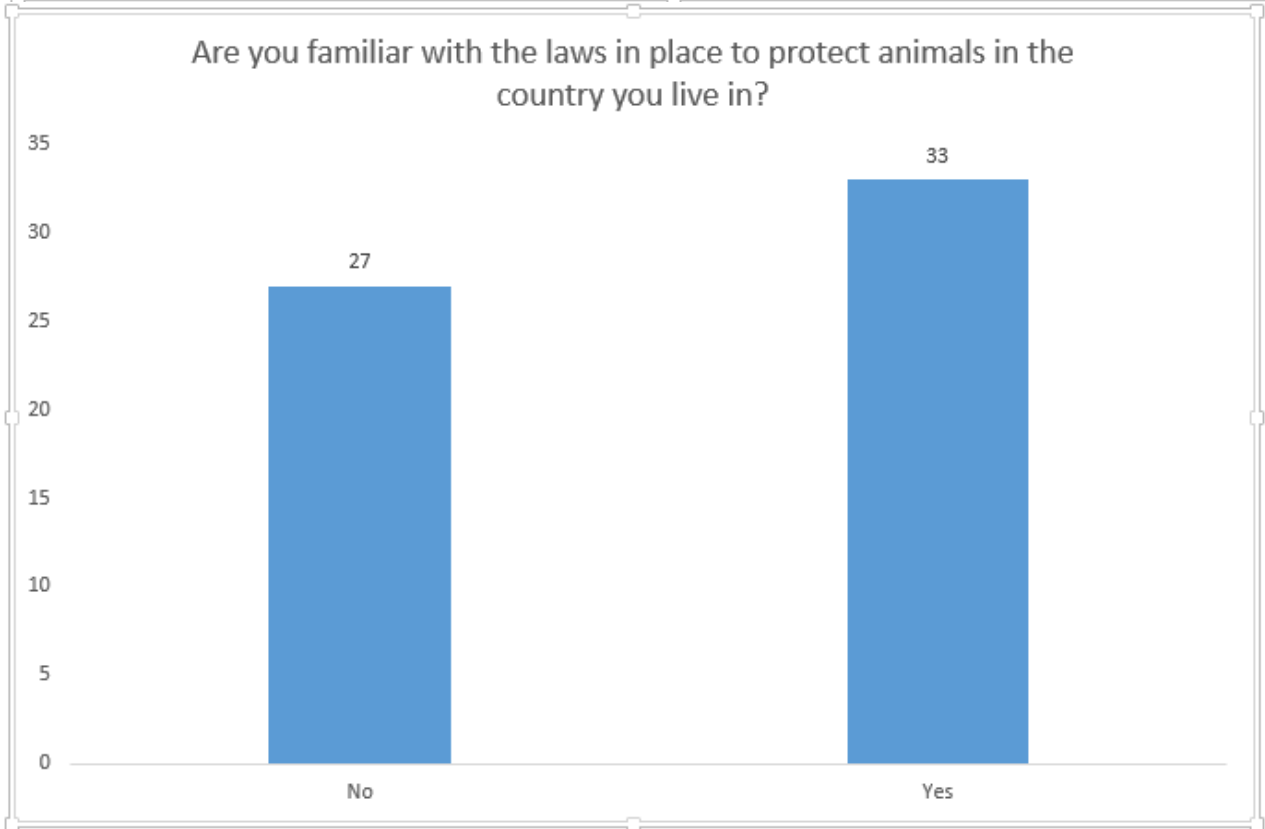
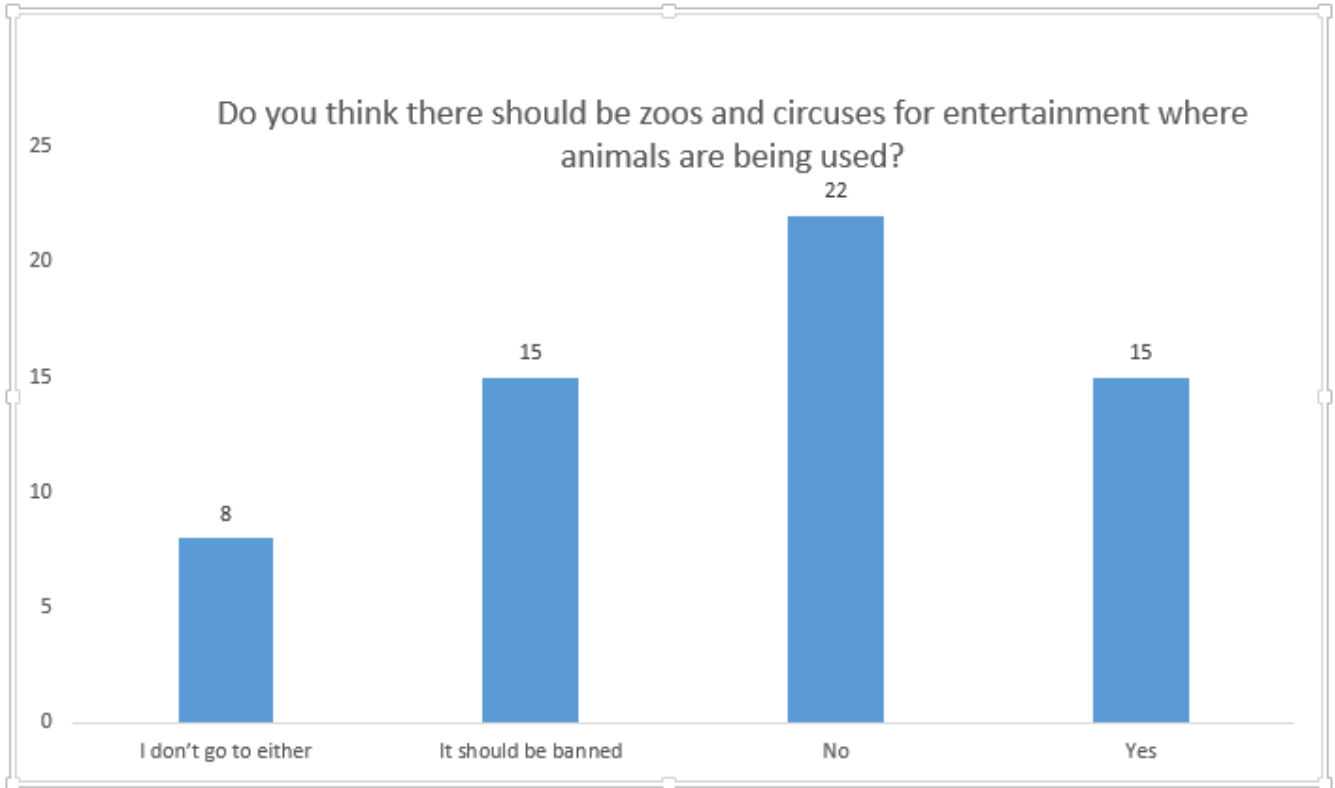
Do you think it is okay to genetically modify an animal? (an organism whose genetic material has been modified or altered, especially through genetic engineering techniques).



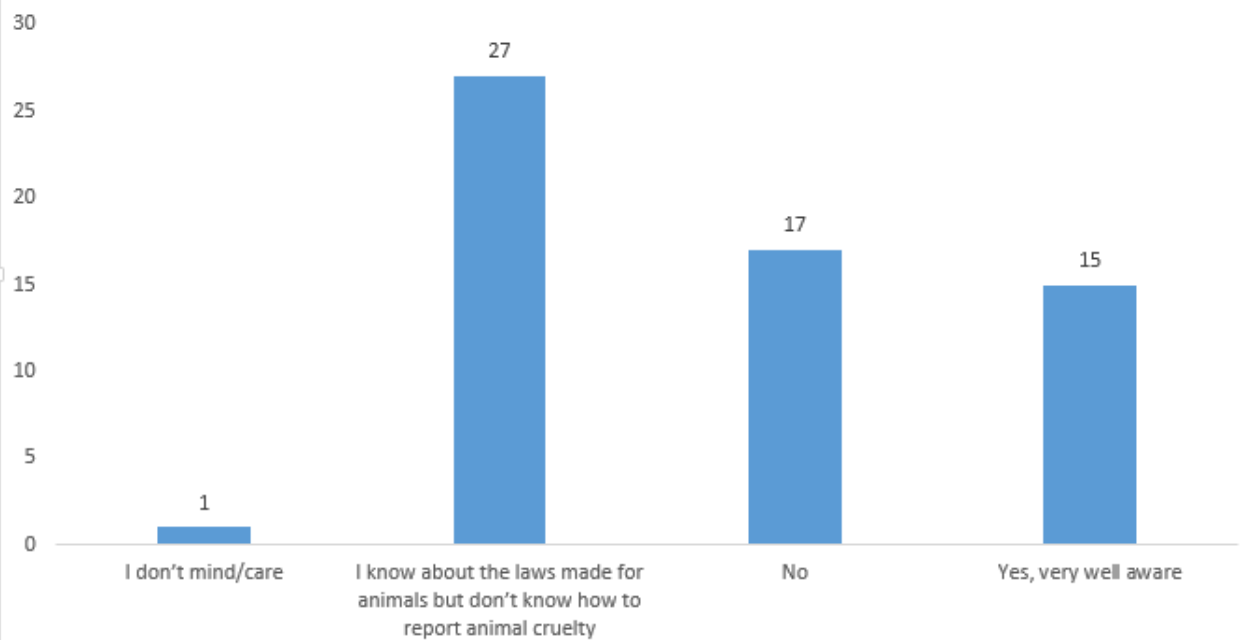
Do you think it is acceptable for people to be wearing real animal fur?



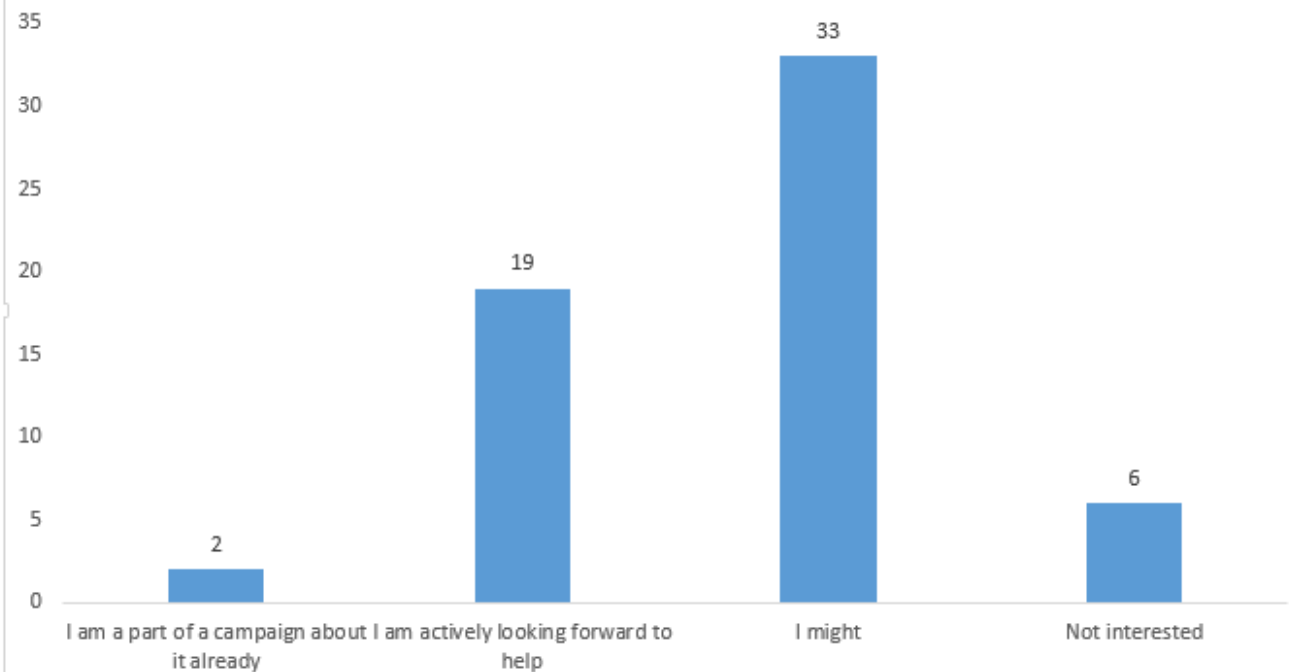




Are you aware of the laws made for the rights of animals, and how to report an act of animal cruelty?



How likely are you to help spread awareness about animal abuse?



Examining the answers submitted by the 60 participants it is evident that most of the participants are aware of the existing of animal rights but are unaware of the extent of abuse and exploitation of animals for various uses and purposes. 55 participants are aware of the existence of animal's rights, however 43 of the participants know very little about how severe is animal abuse prevalent in India. Majority are of the opinion that the government is doing its bit to prevent animal abuse since 38 participants are of the said opinion. It is also interesting to note that the majority answer opposes animal testing but are of the opinion that testing cosmetic products of humans is acceptable provided that there are adequately compensated.

Conclusion

The wide spectrum of answers given by the participants is testament to the fact the social awareness regarding animal rights, animal abuse, prevention of testing on animals are areas where people have some idea especially persons between the age groups of 20 to 40 but there is a total of knowledge regarding the severity of animal abuse prevalent in the society. It is vital that the above short study is also considered in realizing how the society perceives and comprehends issues regarding animals' rights and abuse.

CHAPTER-6

THE ROLE OF JUDICIARY IN PROTECTING ANIMAL RIGHTS

“Men are the devils of the earth, and the animals are the tormented souls.”

- **Arthur Schopenhauer, The Horrors and Absurdities of Religion**

Introduction

The Indian judiciary has provided animal protection by way of some of its various landmark judgments.²²⁶ Several animal related issues have reached India’s apex court, which has invariably responded in favor of halting cruelty. Though the steps taken by the Judiciary has been commendable, the implementation of the said decisions have time and again faltered. Compelling the film industry to seek approval of the animal welfare board of India for scenes involving animals, banning bull fight, halting cattle race sporting event, monitoring slaughter houses are some of its pro-animal welfare directions. Many more issues still await judgement including stray dog issue, battery chicken farming etc. Indian Supreme Court judgement on the conservation of the wild buffalo which set out the need for a major paradigm shift in the way we perceive living creatures apart from human beings.

Environmental justice could be achieved only if we drift away from the principle of anthropocentric to eco-centric.²²⁷ Many of our principles like sustainable development, polluter pays principle and inter-generational equity have their root in anthropocentric principles. Anthropocentric is always human interest focused and non- human has only instrumental value to humans²²⁸. In other words, humans take precedence and human responsibilities to non-human based benefit to humans. Eco-centrism is nature-centered where humans are paid if nature and non-humans has intrinsic value. In other words, human interest does not take automatic precedence and humans have obligations to non-humans, independently of human interest. Eco-centrism is therefore life centered, nature-centered, where nature includes both human and non-humans.²²⁹

The Supreme Court was restoring the significance of a principle found in an ancient Indian sacred list. The Isha-upanishads written as early as 1500-600 BC declares “universe along with its

²²⁶ Julian Palmer, Animal law, 2001, Shaw’s publications, p 231

²²⁷ Id.

²²⁸ B.D Mahajan, Jurisprudence and legal theory (5th edition)1987, 288

²²⁹ See, T N Godavarman Thirumulpad v. Union of India and Ors. (2012) 3 SCC, 277

superior to any other. Human beings should be above nature. “*let no one species encroach over the right and privileges of other species*”²³⁰. So also the words of Mahavira is “*All beings are fond of themselves, they like pleasure, they hate pain, they stun destruction, they want life and want to live long*”.²³¹ To all life is dear, hence their life should be protected. The words of Mahatmaji can also take in this that is “*greatness of a nation and its moral progress can be judged by the way its animals are treated*”. Justice Saidanha of A.P’s High Court opined that, the fundamental right which refer to the right to life should mean the “*light to life of all forms*”²³². It is very urgent necessity to protect animal rights and to recognize the same in order to prevent cruelties depicted on them.

Various Case Laws Pertaining To Animal Cruelty

(i) Ban on Bullock Race and Camel Rides

Regarding bullock race, in **Anandoppally Karshaka Samithy v. The District Collectors**²³³, it was a situation that, there existed an event called Maramadi as part of traditional agricultural fair. A wooden piece fixed at the bottom of the plough is carried by a pair of bullocks in the paddy field. The battle race would amount to cruelty to animals. Such cruelty to animals is prohibited under S. 11(1)(a) of the Prevention of Cruelty to Animals Act, 1960. So the court held that no 'Maramadi' competition, shall therefore be permitted to be conducted by anybody claiming the credentials or desirous of holding such competitions. Through its landmark judgment²³⁴ of 2014, the Supreme Court of India made clear that spectacles that harm bulls, such as bullock cart races, violate The Prevention of Cruelty to Animals (PCA) Act, 1960, and the provisions of the Constitution of India. Following investigations in 2013 of bullock cart races under Supreme Court–imposed regulations in Maharashtra, PETA released a detailed report and video footage documenting the systemic abuse of bullocks in an apparent direct violation of the PCA Act. The report stated that participants deprived bullocks of food, water, and shade; forcibly yanked them by nose ropes, causing their noses to bleed; and physically abused them in order to force them to

²³⁰ Paul Waldau, *Animal Rights: What Everyone Needs to Know*, (2011), Oxford University Press, p.256

²³¹ id

²³² See, *Mr. Jasraj Shri Shrimkal v. govt of A.P by prvt. Secretary Hyderabad*, AIR 2002 A.P 167

²³³ AIR 2009 Ker. 189

²³⁴ *Animal Welfare Board of India v. A. Nagaraj and Ors*, AIR 2014 SC 362

run – even when exhausted – by biting and twisting their tails, striking them, and rubbing irritants into their mouths.

The next case arise on ban on camel rides by the High Court of Judicature at Mumbai in **People for Animals and Anr. v. Animal Welfare Board and Ors**²³⁵. For several years' heeds of camels have been and continue to be transported to Mumbai from the State of Rajasthan and Gujarat. These camels are brought into the city of Mumbai solely be purpose of entertainment and joy ride for human. Also, the humid and saline climate of Mumbai in has detrimental effect on the health and survival of theme can. They develop respiratory disorders and skin diseases due to humidity. Their lungs are prove to be infected due to high level of humidity. These camels are biologically adapted to walk on and which is hot and dry, whereas the sand in Mumbai is wet and cold due to which moisture and water seeps through the hooves of these camels. Consequently, the hooves get infected. Since these camels are used for entertainment and joy rides, they are strapped with heavy metals and leather saddles on their backs which are invariably cheap, old and ill-fitted. Due to the weight of the saddle and added to that the weight of the customers these camels get galls. For the purpose of the rides, metal rings to hold the reins are pierced into nostrils or fair nostrils' of these camels. This causes severe bleeding. The cartilages in the nostrils also get form. The camels have also become victims of malnutrition as they are not properly fed. The malnutrition further aggravates their injuries and deteriorates their health severely. They are not provided any shelter. They are instead tied to wooden pegs near the beach or marshy swamps. During high tides these swamps get flooded with sea waters and the camels are compelled to stay overnight in such slushy areas. The court directed the authorities to prevent the joy rides of camels completely and also made it clear that the camel owners will be entitled to use animals for lawful business provided such business is not prohibited either by prevention of cruelty to Animals Act.

(ii) **Ban on Mobile Zoos and Exhibition and Training of Specified Animals in Circuses** In **Maneka Gandhi v. Central Zoo Authority**²³⁶, took up the issue of poor caged animals through a Public Interest Litigation. It was challenged that, all touring/ mobile zoos be prohibited from exhibiting animals, to seize all animals which are protected under the Wild Life Protection Act, 1972 and not to release the animals which had been seized from the Santosh Travelling Zoo. This

²³⁵ AIR 1995 SC 345

²³⁶ AIR 2000 SC 1517

petition achieved its object of bringing to an end the cruel and senseless caging and transportation of old, sick and infirm animals.

In **Mansukhlal Vithaldas v. State of Gujarat**²³⁷, a notification prohibiting training and exhibition of animals by circus was challenged by Indian Circus Federation. The court by its judgment stated that, while rejecting the contentions of the employees that is livelihood and other aspect, it declared that it not only our fundamental duty to show compassion to animal friends, but also to recognize and protect their rights. The Court observed that If humans are entitled to fundamental right, why not animals? In a considered opinion, legal right shall not be exclusive preserve of the humans which has to be extended beyond people thereby dismantling the thick legal wall with humans all in one side and all non-human animals on other side. While law currently protect wildlife and endangered species from extinction, animals are denied right, an anachronism which must necessarily change.

By virtue of the powers conferred under sub-clause (ii) of Section 22 of the Prevention of Cruelty to Animals Act, 1960, the Government of India had issued a notification banning the training and exhibition of fine animals, viz. bears, monkeys, tigers, panthers and dogs. The validity of said notification was challenged by **Indian Circus Federation (ICF) in K.R. Haier and others v. Union of India**²³⁸, that is there exists an unimpeachable credential of the circus community in ensuring proper upkeep and maintenance of the animals under their charge. In case of circuses, the animals are constantly transported from one place to another in varying climate and other factors which have an adverse impact in the animals in display mostly in unnatural environment. Here the Animal Welfare Board of India (AWBI) is very much convinced that in course of training of animals need in circus, they are being subjected to intense suffering, both physical and mental, with the use of electric whip, beating starvation and the like which actually breaks the spirit, disturbs the conditioning of its mind and subjugates it by an external force. All forms of cruelty committed against circus animals very much violate different clauses under Section 11 of the PCA Act at every stage. So the Apex Court upheld the impugned notification and it does not suffer any infirmities, it is a tool which protects the rights of animals²³⁹

²³⁷ (1997) 7 SCC 622

²³⁸ AIR 2000 SC 867

²³⁹ See Ranjit Thakur v. Union of India, AIR 1987 SC 2386

In **Ivory Traders and Manufacturers Association v. Union of India**²⁴⁰, it was held that a notification banning on exhibition and trade of animals not violate of the right to livelihood that is granted along with the right to life under Article 21 of Constitution of India, because its applications cannot be extended or stretched to the Trade, business or vocation which is injurious to public interest or has insidious effect on public moral or public order.

(iii) Prohibition of Trade in Birds

The public interest litigation that is in **Viniyog Parivar Trust V. Union of India**,²⁴¹ challenged to prevent atrocities and inhuman and cruel treatment meted out to birds, despite there being full protection under the provisions of the Wild Life (Protection) Act 1972 and the rules framed there under. It is pointed out that birds brought from all over the country from jungles and forests including the reserved forest or national parks, are transported to Mumbai, where there is a lucrative market for such birds. The birds are transported to the city of Mumbai by trains by Central and Western Railways in the most inhuman and cruel manner, there is no sufficient space for these birds to move in cages or containers in which they are transported. This reveals that instead of showing any compassion for wildlife and birds, it is positive inhumanity and cruelty meted out to such birds by transporters and by persons who purchase or acquire the birds. The court directed to form a committee to implement the provisions of the Act, Rules and directions. It shall visit the sensitive sites of illicit trade of birds/ animals at the appropriate time. Few such place are identified as under:

1. Bombay Central Station
2. CS Terminal, Central Railway
3. Goods Terminal, Western Railway
4. Goods Terminal, Central Railway
5. Bombay Central Bus Station
6. Octroi Posts at Dahisar, Mulund and Vashi
7. Crawford Market, Bandra Market and other places and roadsides where the birds are being brought or kept for sale.

²⁴⁰ AIR 1997 Del 267

²⁴¹ AIR 1997 SC 3217

In **Tarun Bharat Singh v. Union of India**²⁴², the court observed that, "The State to which the ecological imbalances and the consequent environmental damage have reached is so alarming that unless immediate, determined and effective steps were taken the damage might become irreversible". The preservation of the fauna and flora, some species of which are getting extinct at an alarming rate has been a great and urgent necessity for the survival of humanity and these laws reflect a last ditch battle for the restoration in past at least a grave situation emerging from long history of callous insensitiveness to the enormity of the risks to mankind that go with the deterioration of environment. The tragedy of the predicament of the civilized man is that 'Every source from which man has increased his power on earth has been used to diminish the prospect of his successors. All his progress is being made at the expense of damage to the environment which he cannot repair and cannot foresee. In his forward to International Wild Life Law, H.R.H. Prince Philip, the Duke of Edinburgh said:

'Many people seem to think that the conservation of nature is simply a matter of being kind to animals and enjoying walk in the countryside. Sadly, perhaps, it is a great deal more complicated that..'

*"As usual with all legal systems, the crucial requirement for the terms of the conventions to be widely accepted and rapidly implemented. Regretfully progress in this direction is proving disastrously slow"*²⁴³

"Environmentalists conception of the ecological balance in nature is based on the fundamental concept that nature is a series of complex biotic communities of which a man is an inter-dependent part' and that it should not be given in an part to trespass and diminish the whole. The largest single factor in the depiction of the wealth of animal life in nature has been the civilized man' operating directly through excessive commercial hunting or more disastrously indirectly through invading or destroying natural habitats".

(iv) **The Jallikattu Case**

In **Animal Welfare Board of India v. A. Nagaraj and Ors**²⁴⁴, the matter is with an issue of seminal importance with regard to the Rights of Animals under Constitution of India, laws, culture, religion and ethology in connection with the conduct of Jallikattu. In States of Tamil Nadu and

²⁴² (1992) 2 Supp SCC 448

²⁴³ Id. At 452

²⁴⁴ AIR 2014 SC 362

Maharashtra, with particular reference to the provisions of the prevention of cruelty to Animals Act, 1960 and the Tamil Nadu Regulation of Jallikattu Act, 2009. Jallikattu is a Tamil word, which comes from the term 'Callikattu' where 'Calli' means coins and 'Kattu' means a package. Jallikattu refer to silver or gold coins tied on the bull's horns, People, in the earlier time, used to fight to get at the money placed around the bull's horns which depicted as an act of bravery. Later, it become a sport conducted for entertainment and was called "Yeruthu Kattu", in which a fast moving bull was corralled with ropes around its neck. Started as a simple act of bravery, later assumed different forms and shapes like Jallikattu, Bull Race etc. Here the bulls are subjected to extreme cruelty and unmitigated suffering. That is violative of numerous clauses of Section 11(1) of the Prevention of Cruelty to Animals Act, 1960. Ear cuffing/ Mutilation, at least 80% of the bulls observed had their cars cut, with three fourth of the external ear pinna absent. Fracture and dislocation of tail bones, many bulls suffered from dislocated or even amputated tails caused by deliberate pulling and hoisting. Frequent defecation and urination 95% of the bulls were soiled with faeces from below the base of their tails and across the majority of their hind quarters. Forcing bulls to drink liquids. On many occasions, bulls were forced to drink fluids that were, likely liquor. Animal's heads were raised by pulling on the nose ropes, and the fluids were forced into their mouths using plastic bottle. Therefore Jallikattu and other forms of bulls race, causes considerable pain, stress and strain on the bulls. The Apex Court banned such a cruel activity.

NEED FOR PROTECTING THE ANIMAL RIGHTS

In modern times, burgeoning human population and the consequent exploitation of land and forest resources along with hunting and trapping for trade, food and sport on threatened the survival of many species from charismatic and well known species to many other lesser known animals and plants whose status is harder to determine. India is uniquely blessed with wildlife diversity. One of eighteen mega diverse countries, it is home to 7.6% of all mammalian, 12.6% of all avian, 6.2% of all reptilian, 4.4% of all amphibian, 11.7% of all fish and 6.0% of all flowering plant species. This diversity becomes even more remarkable given that our country, with only 2.4 percent of the total land area of the world, contributes 8 percent to the known global biological diversity, while also being the second largest populous nation in the world, with over 1.2 billion people²⁴⁵. It is this unique diversity that the people of India hold in great esteem, are very proud of and have strong

²⁴⁵ G.S. Betra et.d(eds) Globalization and Liberalization (2000) p. 197

cultural and social bonds with. This deep rooted historical and cultural association with wildlife is central to India and its people. Thus wildlife conservation and protection of animals from cruelty are acknowledged as integral to ecological and environmental security of our country rather than being limited to conservation of certain species of plants, animals and birds or their habitats.

As we have already realized, animals are very useful to humans. Many are familiar with their pets, and that meat, milk, cheese, eggs, honey and some other animal's products are used as food, but they may not have thought about other user.²⁴⁶ Most have never seen a horse or ox drawn wagons and ploughs but they probably know about horse racing and riding for fun. Some cowboys still use horses, as do some park rangers and police. They may not have thought about leather, violin bow (made with horsehair) and strings (some made with sheep gut), silk, wool, alligator shoes and purses, snake skin hat bands, fur coats, pearls, glue and gelatin (made from cartilage and bones) fertilizer, for truffle-hunting pigs or the cormorants that some Chinese use for fishing. In broad terms, animals are used in experiments as in vivo models- living, intact biological systems and as sources of tissues, cells, and organs. Animal experimentation is usually defended as a way to solve specific problems, including the understanding and treatment of human disease²⁴⁷. But animals are also used in what is categorized as basic research, which seeks to increase our knowledge of the way organisms behave, develop and function biologically.

It is estimated that at least 100 million animals are used every year in the multibillion dollar research industry that includes university, pharmaceutical and diagnostic laboratories and military, agricultural and marine mammal facilities.²⁴⁸

The scope of animal use in science today includes virtually every field of investigation, including

- As models for human diseases in medical research and drug development.
- In psychological and behavioral research, such as addiction studies and maternal deprivation experiments
- For spare parts" such as heart valves, which may be harvested from a human donor or recovered from a cow or pig as a by-product of the slaughter industry.

²⁴⁶ Kahn P.H, *The Human Relationship with Nature- Development and Culture* (1999), p. 123

²⁴⁷ Id.

²⁴⁸ Bernad E. Rollin, *An ethicist's Commentary in Animal Rights versus Welfare, viz CAW. VETERINARY. J* (2002)

- As living incubator to produce substances such as insulin (although biosynthetic insulin has largely replaced the use of animal insulin) and monoclonal antibodies employed in medicine and biomedical research.
- For military training, weapons development aid to study the effects of space exploration,
- In veterinary Medicine, to study the diseases or conditions common to a given species.
- To study basic anatomy and physiological principles

So in this technological era animals can be used for various purposes therefore the probability of exploiting is very wide. Human ethical practices and attitudes with respect to the other animals exhibit a curious instability²⁴⁹. On the one hand, most people believe that it is wrong to inflict suffering or death on a non-human animal for a trivial reason. On the other hand, we have traditionally feel free to make use of the other animals for our own purposes, and we have treated any use we may have for them, or any obstacle they present to our ends, as a sufficient reason to hurt or kill them 263 Animals are often regarded as commodities, and their well-being is considered important only insofar as it affects productivity and profit, But they are sentient beings, and they require greater consideration. In an era in which natural resources are under unprecedented pressure, it is vital to ask how the human relationships with the natural world might be improved²⁵⁰, One Avenue of inquiry is to explore whether there is a relationship between caring for a non-human animal, for a species, and for an ecosystem and whether this relationship may be a key encouraging resource conservation and environmental protection. In most occidental industrialized societies, interest in domestic and wild animals is intense²⁵¹. Despite a wealth of research on human-wildlife interactions and human-pet interactions there is a dearth of work on the connection between these relationships and interest in environmental protection.

(i) Caring for Animals. A Psychological Concern For Human Development

Intimate association with animals is in fact an attempt to reconnect with our natural world, then it may be possible to heal the human nature split and approach the world in a spirit of cooperation and conservation²⁵². The emotional bond with non-human animals has been discussed by diverse individuals, from poets and philosophers to scientists and practitioners of animal assisted physical

²⁴⁹ Kahn P.H, *The Human Relationship with Nature- Development and Culture* (1999), p. 125

²⁵⁰ Id.

²⁵¹ Id. At 151

²⁵² Id.

therapy and psychotherapy. It is a fact that many of us take comfort from our pets, and to a certain extent from wild animals. Sheldrake whose theories are admittedly a bit controversial, maintains that the emotional bond with animals is what caused us to draw them into our lives in the first place. He suggests that, "Most of us seem to feed animals as part of our lives; our human nature is bound up with animal nature Isolated from it, we are diminished. We lose a part of our heritage."²⁵³ he echoes a suggestion first made by Sir Francis Galton that pet is based on this affinity for nonhuman animals actually receded more utilitarian forms of domestication. The idea that it is our nature to bond with other Irving entities has also been proposed by Wilson. Many mechanisms have been preponed to explain the nature of the human-animal bond:

- Animals offer comfort, companionship, and social support
- Animals are social facilitators
- Animals reinforce self-worth, usually through what is perceived as the unconditional love of the animal
- Animals help humans to develop a sense of self and self esteem
- Animals aid in presentation of the self²⁵⁴
- Humans are social creatures and animals appeal to our propensity to interact socially
- Animals may help to heal psychological and physiological disorders and prolong our lives)
- Animals help humans connect with nature

Levinson, one of the earliest practitioners of companion animal assisted psychotherapy, conducted some of the interesting theorizing on the effects of companion animals in children's development. He suggested that children fantasize about animals and play the role of animals in order to act out the problems of childhood, including the establishment of a relationship with nature²⁵⁵ Based on grounded theoretical work with a group of American children, Myers argues that children's animal role playing actively uses the animal as a reference point for the developing sense of self with a rich emotional relating in the process²⁵⁶ Lasher and Myers have suggested that, through a process of atonement, animals can facilitate the process of feeling and expressing emotions. The unconditional and non-judgmental love that appears to be offered by animals is another mechanism through which we may bolster our sense of worth. Much of the research on and practice of animal-

²⁵³ Id. At 156

²⁵⁴ Maneka Gandhi, Ozair Husain, Raj Panjwani, *Animal Laws of India*, (4th edn., 2011), p. 911.

²⁵⁵ P.H. Khan and S.R. Kellert, *Children and Nature* (2002), p. 156

²⁵⁶ Id.

assisted psychotherapy is based on this principle and there are abundant studies that demonstrate that contact with animals has positive physiological effects as well. Several studies have demonstrated that animals, and natural environment in general, have restorative, calming and focusing effect).²⁵⁷ Friedman determined that the companionship of a pet was a strong predictor of successful recovery from a heart attack showed that watching an aquarium red research participants' blood pressure. In an experimental study of individuals waiting for oral surgery, found that the presence of an aquarium in a waiting room was more effective in reducing stress than a poster of a wooded waterfall or a control situation with blank walls²⁵⁸. Interestingly, the aquarium was as effective as hypnosis, but hypnosis performed in addition to the aquarium did not confer any additional benefits²⁵⁹. Really, Katcher and Wilkins found that, when compared to an outdoor challenge program, a nature study program including animals was more successful in encouraging focused and interested responses from a group of children diagnosed with hyperactivity/attention deficit disorder and conduct disorder.

Myers and Saunders suggest that caring about an individual animal may lead to caring about the natural world: If you care about another- whether human or animal- you are likely to care out what that individual needs and the conditions that affect his or her well-being. This developmentally probable 'natural care' about animals may lead to broader environmental caring. Therefore companionship and care received from animals substitute for the same from humans and animals have similar rights as humans.

(ii) Preservation of wildlife to maintain ecological balance

The need to preserve wildlife to maintain an ecological balance in the world has been emphasized repeatedly in several document and also by the judicial system. It is in that context that the animal Chiru is sought to be protected. There is more than sufficient evidence that it is being slaughtered indiscriminately because its fur is needed for weaving Shahtosh.²⁶⁰

²⁵⁷ Id. At 160

²⁵⁸ Dr. S.K. Kapoor, International Law & Human Rights (11th edn. 200)

²⁵⁹ Id.

²⁶⁰ In 1977, Chiru has been included as protected animal under the Wild life (Protection) Act, 1972. The Convention on International Trade Endangered species on Wild Fauna and Flora (CITES) also emphasized the need to protect this animal by its Convention which was amended to include Chiru in 1979. See also Ashok Kumar v. State of J&K, AIR 2005 SC 267.

In Cottage Industries Exposition Ltd. v. Union of India²⁶¹, an instance came that seizure of 12 piece of shawls, suspected to be made of Santosh Wool'. The main question raised here is whether the phrase 'animal article excludes animal hair. Animal Article does not refer to 'hair', whereas Trophy specifically use the word in its original form Animal Article' requires making and therefore involve human skill. To prohibit the illicit trade of ivory. The words Ivory imported in India' were added in 1991 to the definition of animal article' The Act that is Wild Life Protection Act 1972, a law which has been enacted in later public interest and in consonance with Articles 48A and 51A(g) of the Constitution of India as also International Treaties and Conventions.²⁶²

In order to protect ecological balance, it is necessary to ban a trade in elephant ivory to create a blockade of the activities of poachers and others so that a complete prohibition on trade in ivory is achieved.²⁶³ It is essential to implement the existing laws to implore a ban on trade in ivory so that while purporting to trade in imported ivory and earnings there from, poaching of Indian elephants and resultant illegal trade by extracting their tusks may not continue

Wildlife is one of our basic and natural resources that satisfies the needs or want of civilization. Therefore, this resource must be conserved, preserve and protected for the existence of mankind²⁶⁴. Wildlife is also an illiterate part of our ecosystem the green plant producers and animals are members of the trophic level in which man is at the top. Thus, conservation of animals is crucial for existence and development of mankind. To save the number and diversity of species and their ecosystem in an indispensable prerequisite for sustainable development²⁶⁵. The World Commission on Environment and Development in its report biological diversity and ecosystems. "Our common future" (1987), emphasized the preservation of our biological diversity and ecosystems.

India is endowed with an immense variety of natural resources in its rich animal and plant heritage, which sustain millions of its people. While the maintenance of the country's basic biological

²⁶¹ AIR 2007 SC 267

²⁶² See in State of Tamil Nadu v. Kayper Industrial Chemical Pvt Ltd, AIR 2005 Mad 304.

²⁶³ See the Amendment in the Acts in 1986, 1991 and 2003.

²⁶⁴ See Indian Handicraft Emporium v. Union of India, (2003) 7 SCC 589.

²⁶⁵ Prof. Satish C. Shastri, Environmental Law, (4th edn., 2012), p. 34`

productivity through proper land and water management is of vital ecological concern, the preservation of its scientific diversity and conservation of its species and ecosystems for sustainable utilization is of crucial importance for the future survival and development of our people.²⁶⁶ Hundreds of species have become extinct and many others are in the verge of extinction as they are listed as endangered species. The extinction of species is an irreversible loss of a potential natural resource. It has rightly been observed that "the preservation of the fauna and flora. Some species of which are getting extinct at an alarming rate, has become a great and urgent necessity for the survival of humanity and these law reflect a last ditch battle for the Preservation of natural resources."²⁶⁷

In **State of Bihar v. Murad Ali Khan**²⁶⁸, the Supreme Court of India cautioned: "Environmentalist conception of the ecological balance in nature is based on the fundamental notion that nature is 'a web of complex biotic communities of which man can't exist independently without depending the flora and fauna". In **Sansar Chand v. State of Rajasthan**²⁶⁹, Hon'ble Markandey Katju, J. while highlighting the importance of wildlife stated: Preservation of wildlife is important for maintaining the ecological balance in the environment and sustaining the ecological chain. It must be understood that there is interlinking in nature. To give an example, snakes eat frogs, frogs eat insect and insect eat other insect and vegetation. If we kill all the snakes, the result will be that number of frogs will increase and this will result in the frogs eating more of the insect and when more insects are eaten, then the insect which are the prey of other insect will increase in number to disproportionate extent. This will upset the delicate ecological balance in nature. If we kill the frogs the insect will increase and it will require more insecticides. Use of much insecticide may create health problems. To give another example, destruction of dholes (wild dogs) in Bhutan was intended to protect livestock, but this led to a greater number of wild bear and to resultant crop devastation causing several cause of abandonment by humans of agricultural fields. Destruction of carnivorous animals will result in increase of herbivorous animals, and this can result in serious loss of agricultural crops and other vegetation

²⁶⁶ See Planning Commission (6th Five Year Plan 1980-1985), (1981), 343

²⁶⁷ See Tarun Bharat Singh v. Union of India, 1992 Supp. (2) SCC 440.

²⁶⁸ (1988) 4 SCC 655

²⁶⁹ (2010) 10 SCC 604

The status of wildlife in a region is an accurate index of the state of ecological resources, and thus of the natural resource base of human well-being. This is because of the interdependent nature of ecological entities, ("the web of life") in which wildlife is actual link. Moreover, several charismatic species of wildlife embody incomparable values", and at the same time, comprise a major resource base for sustainable eco-tourism. Conservation of wildlife, accordingly involves the protection of entire ecosystems²⁷⁰. However in several cases, delineation of and restricting access to such Protected Areas (PAs), as well as disturbance by humans on these areas has led to man-animal conflict barriers and better policing may temporarily reduce such conflict, is also necessary to address their underlying causes. These may largely arise from the non-involvement of relevant stakeholders in identification and delineation of PAs, as well as the loss of traditional entitlement of local people, especially tribes, once the PAs. There is also a strong need for creation of corridors to ensure proper genetic flows across habitat. Since wildlife does not remain continued to particular areas, there is also need to ensure greater protection, and habitat enhancement outside the PA's.

Animals are an integral part of the Indian economy. They have been and are being need in various fields, specially agriculture, transportation and amusement etc. To reap maximum gain they have been exploited by human beings by using coercive methods and by inflicting unnecessary pain. On the other hand for Scientific development, the performance of experiment on animals for advancement by new discovery of physiological knowledge or of knowledge which will be useful for saving or for prolonging life or all eviating suffering or for combating any discuss, whether of human beings, animals.²⁷¹

Ex-situ conservation of the component of biological diversity. Genetic resources, as well as wild and cultivated or domesticated species- draws on a diverse, growing body of techniques and facilities²⁷². Some of these include:

- Gene banks such as seed banks, field banks and sperm and ova banks:

²⁷⁰ P.H. Khan and S.R. Kellert, *Children and Nature* (2002), p. 156

²⁷¹ See Section 14 of PCA Act, 1860

²⁷² See Article 9 of Biodiversity Convention, 1998.

- Captive breeding of animals and artificial propagation of plant, with possible re-introduction into the wild, and
- Collecting living organisms for zoos, aquaria for research and public education and awareness.

It cannot be disputed that all animals are born with an equal claim for life without any cruelty to them. Perhaps if this right was given proper recognition by the human beings, there would have been no necessity to bring on the statute book the PCA Act, 1860 unfortunately, even though the said Act has been brought in force estate, still there appears to be either lack of courage or will negligence on the part of concerned authorities as well as people to implement the provisions of the said Act²⁷³

Conclusion

In this context, we are reminded of the words of Justice Krishna Iyer in his Lecturer on Human Rights. While expressing deep anguish and sigh of great displeasure over torture inflicted on innocent animals in this country and that too despite the Vedas, the Bible, the Quran, the Buddha and Mahavira and the Supreme miracle and evolutionary apostle of Ahimsa, Mahatmaji, Justice Krishna Iyer has warned us that we have forfeited the right to be heirs of a culture of Karunia, Samantha and Dharma. Justice Krishna iyer further reminds us that humanism cannot be halved by denying it to pre-human brethren and compassion is beyond division by refusing it to the Darwinian species: all life is too divinely integrate to admit of unnatural dichotomy as man and animal in the wholeness of ecology Justice Krishna Iyer, therefore, reminds us the message of kindness found in Quran which reads as follows :"*There is not an animal in the earth, nor a flying creature on two wings, but they are people like unto you*²⁷⁴".

²⁷³ Paul Waldau, Animal Right: What Everyone Needs to Know, (2011), Oxford University Press, P. 256.

²⁷⁴ P.H. Khan and S.R. Kellert, Children and Nature (2002), p. 156

CHAPTER 7

CONCLUSION & SUGGESTIONS

Religion has played no small part in the animals' unnecessary suffering. The works of theological thinkers and theorists, most notable of Descartes, were taught to humanity to assume that animals is nothing but soulless machines, limitless tools for which we can do what we want to do. However, this kind of opinion is referred to as 'cartesian,' and therefore we surround it for an air of intellectual vigor that science tells us is not worthy of. In fact the view is nothing more than the development of a tale through religious nonsense hike.

Legal dialogue takes form around three issues: acknowledgement of the social interest of non-human animals through litigation, acknowledgement in legislative language and breaking down the barrier between species through criticism and reform between existing doctrines. Society is constantly confronted with legal, economic and ethical dilemmas about the proper place for animals and the degree to which animal interest should be preserved throughout history, animal use and cruelty is well known and animals have acted as a sort of commodity. Many disputes between human animals arise primarily because a proprietor of human property tries to abuse his or her animal property.

Although there are laws that are meant to protect animals, such laws almost always allow courts to adhere to the rights of owners of human property. Thus, while more people are worried about livestock, there is no substantial progress being made. Animal care department was historically considered an arena of idle housewives and old wives. The situation now needs to include competent people from all walks of life including college students, journalists and executives, including judges, police officers and doctors. One of the extraordinary outcomes of these NGO's research has been the extension of a kind of shadow citizenship to animals.

In this country a strong ease can be made that there are no animal rights law in effect. Current animal protection legislations merely protects animals from suffering and dying in public view and from being extinct. Now it is time to develop a radical nonviolent but radical approach to animal rights as part of an overall program of social justice

Given the good intentions with which the PCA Act was passed, animal cruelty has not come to a standstill, nor is it taken seriously either by the government or by the people. It should be noted here that having respect for living beings is what is otherwise referred to as Avoidance of Animal Cruelties in both the State obligator under Article 4(A) and the citizen under Article 51-A(g) of the Constitution. The punitive provisions of the Act, however, are so meager that they do not have any deterrent effect.

This gives the impression that the Act was brought only as an eye wash or to appease certain section of people. The issue of animal welfare is caught in the web of the politics of religion and less from concern to the very cause. Some phrases like necessary pain and suffering, humane way of inflicting pain, etc. raise doubts as to what is necessary pain and what is unnecessary pain and so on. The punishment awarded under the Act clearly indicates the lack of commitment to the cause of animal welfare.

In addition to the suffering of the millions of animals who are exposed to everyday abuse, our police don't bother to deal with animal rights or animal cruelty incidents. Often this thing is the last on their agenda. Under this Act, any police officer above the rank of a constable or any other individual allowed by the government of the state shall deal with those offenses only. Now, SPCA's are bringing cases of animal cruelty to trial because they are approved with very limited powers by the state government. The SPCA inspectors employed by their SPCAs could be anyone who has passed SSLC. Furthermore, the pay structure of the inspectors are so inhuman that their welfare seems to take higher priority than animal welfare in most cases.

If the police show greater concern to the cause of animal welfare and if the penal provisions are enhanced, the odyssey of cruelty can be broken. It is imperative that the current PCA Act of 1960 must be substantially amended. The Scheme of the Act and most of its provisions are inconsistent not only with subsequent developments in the field of animal welfare and animal rights, but as pointed out above, with the fundamental duty to have compassion for living creatures which is now an integral part of our constitution, even though the right to compassion has not as yet been

recognized as "fundamental. For the effective checking of cruelty towards animals some amendments are needed in the current Prevention of Cruelty to Animals Act 1960.

Following are the suggestions for effective checking of cruelty towards animals.

1. Special tribunals should be set up with one judicial and two administrative members, one of whom should always be a representative of non-governmental animal rights welfare organizations. Analysis processes should develop and all cases should be disposed of within 6 months, as far as possible. Alternatively, as they materialize, the authority to entertain, try and dispose of animal-related cases will be conferred on Environment courts or tribunals.
2. Punishment prescribed must actually slap the offenders, not merely pinch them
3. Animals must be given a right to be heard in all matters affecting them adversely. This right would be in harmony with the well-established principles of natural justice and can be exercised through NGOs concerned with animal rights and animal welfare,
4. Enforcement should be entrusted to warden of Societies for Prevention of Cruelty of Animals (SPCAS) or to a special Animal police Force comprising of cadets elected from volunteers sponsored by NGOs: Limited police powers can be conferred upon such volunteers and wardens.
5. By analyzing the PCA Act it was found that no adequate provisions are included in the Act for ensuring rights to reproduction right to mental health, right to clean environment and right to security at old age. Many times, draught animals are uncared after using it for assisting human labor. So, a mandatory provision to be incorporated in the Act which ensures life time protection of animals including animal insurance.
6. The flaw in the legal system lies with inadequate penalties for animal's abuse and apathetic enforcement of existing laws. Police in many jurisdictions are not trained to identify and arrest animal abusers, prosecutors are hesitant to devote their resources to vigorous investigation and prosecution of animal cruelty offences and courts are often reluctant to enforce the available sanctions.

So a Minister of Justice for Animals should be appointed to

1. promote and protect the rights and interests of animals,
2. Initiate court proceedings on their behalf when necessary,

3. Represent them in court where any action affects their future development
4. Liaise with the law commission to introduce a new Bill of Rights with the paramount principle of protecting the life and wellbeing of any animal.

Apart from legislative enactments there are numerous other ways to stop cruelty towards animals which involves people participation

For example

- Make copies of Acts which declare cruelty towards animals.
- as unlawful and distribute in newspapers,
- Take press people to sites of cruelty.
- Place "public interest ads in cinemas and newspapers informing the public that cruelty towards animals is forbidden and penalty font.
- Give awards to people who have helped in stopping cruelty towards animals.
- Form small activist groups in each village and city
- Humane education programs, especially those directed at children can help in create feeling of empathy for pets and inform pet owners of the proper way to care for their animals
- Shelter houses as a part of community development programs to be constructed in each and every village with people's participation,
- Scenes of violence involving animals should be banned from cinema and television expect for human education
- Representatives of movements that defend animal's rights should be given an effective voice at all levels of government.

Once a strong updated law relating to prevention of cruelty to animals is brought into force with adequate infrastructural machinery to enforce it, the number of offences against animals will in all probability decrease. The present PCA Act has proved that animals, when perceived as matter, don't really matter. The new PCA Act should therefore be a legislation whose bark should be as vicious as its.

Some other ways to protect animals from exploitation are

- Animals shouldn't be blinded. Poisoned or burned just for soap. Shampoo or other cosmetics. But in labs across the country, these things happen all the time. Take a stand against animal testing by buying only cruelty free products.

- Animals are alive for their own reasons, not to entertain humans. Animals in Circuses, zoos and movies are denied everything that is natural and important to them. They will never be allowed to hang out with their families graze, or do anything that they would do in the wild. Refuse to support this cruelty by never going to circus which displays animals or zoos.
- In a classroom or research that involves dissecting any animal, suggest for a humane alternative assignment, such as using a computer programme to perform a virtual dissection.
- Even just a "Little bit of fur from animals using in boots and collars caused tremendous suffering for them who was abused and killed on a fur farm or trapped and killed in the wild. Help project animals by refusing to buy or wear any fur. Educate students to rescuing animals in disaster zone
- The use of animals by humans exists for life from time immemorial. But in present scenario of life, approach, attitude and use of animals should be changed.
- Cruelty towards animals can't be continued on the presumption and rationality they are irrationsals not having proper sense and not self-aware. Really it is not so they are being offered the sense, emotion and rationality, to the extent they require to live with in the environment that being offered by nature. As a first step of protection of rights of animals, man should not destroy its natural sites of inhabitance to the possible extent.
- The western liberal tradition makes a belief that animals are created for the foot, use and for material happiness of man.
- The oriental approach of the protection of nature and all living beings became a proper answer to the rights of animals.
- It does not however means the animals should not be used for human welfare. They should be an approach of harmonious synchronization in the use of animals on the one hand and the protection of their rights on the other to the possible extent in the life of man
- The ability of animals include to denote, the capability to fulfill their desires, not having pre-determined enmity etc to be valued in the use of the animal for man
- More basic laws at national and international level should be enacted and found along with vigorous efforts for an awareness an awakening to protect animal-rights along with human rights protection

- A better enforcement agency at National and State level in India, to Co-ordinate the existing agency becomes more necessary. The NGO and Charity institutions can become part of this as agencies that may offer better awareness among people for this purpose.
- Protection of animal rights should be integrated with the principles of prohibition of abuse towards animals, unnecessary acts that prohibits their freedom etc.
- The approach the treatment of animals go beyond the philosophy that animal are the absolute property of humans and they have every freedom to treat and use as they wish, which western philosophy property rights envisions
- The new philosophy and awareness should be propagated the environment and animal kingdom, including all living being on the planet of earth is a basic need for the prosperous existence of man.
- In India a corporative and meaningful efforts as the part of Central and State legislatures can resolve the issue to greater extent.
- A comprehensive statutes for bringing together existing statutes and penal laws together the issue can be resolved to a greater extent. It is to be noted the existing laws and regulations are not in favour of animal interest.
- It is also necessary that animal experimentation should be under strict controls and regulations. It can be allowed by persons with sufficient qualifications according to law. In case of transportation of animals, the existing rules should be strictly enforced
- It must be observed and accepted the animals are also living beings, and integral part of nature. Their existence and rights are to be protected and promoted even for the life of man for the present and future time.

ANNEXURE 1 (EMPIRICAL QUESTIONS)

1. Are you aware of the term 'Animal Rights'?
 - a) Yes
 - b) No
2. Do you think the problem of the abuse of animals is severe in our country?
 - a) Yes
 - b) No
 - c) Not aware
3. Do you think that our government takes action against animal cruelty?
 - a) Strongly Agree
 - b) Agree
 - c) Strongly disagree
 - d) Disagree
4. What will you do if you witness an abuse towards animals?
 - a) Go to the nearest police station and report
 - b) Call for people to deal with the situation
 - c) Cannot be bothered
5. How much do you know about animal testing?
 - a) None
 - b) Very Little
 - c) Moderate
 - d) A lot
6. Animal testing is
 - a) Ethical
 - b) Unethical
 - c) Not Sure- Can be Both
7. Do you see animal testing as abuse towards those animals?
 - a) Yes
 - b) No
 - c) Maybe
8. Do you personally believe it would ever be ethical to test the products on people instead of animals?
 - a) No, it's too dangerous
 - b) Yes, but only if they get paid well and are on a safety contact
 - c) Yes, it's better
9. Do you personally believe it is right that we use animals for both medical and cosmetic testing in this day and age?
 - a) No, many cosmetic brands have proven we can do it without animal testing
 - b) Yes, it's safer for everybody
 - c) Maybe
10. In what way do you think animal testing is okay? If any
 - a) Behavioral studies
 - b) Biomedical research
 - c) Drug testing
 - d) Cosmetic testing

- e) Education
 - f) Cloning
 - g) It's never okay to test on animals
11. How often do you find yourself buying and or using cruelty-free products?
- a) Never
 - b) Sometimes
 - c) Always
 - d) Do not bother to check
12. Would you still use the products which have been tested on animals?
- a) Yes
 - b) No
 - c) Will try not to
 - d) Not sure/ Don't know
13. "Animals are not as important as humans. Therefore, if they can be used to make our life better, why not use them to our benefit?" agree or disagree?
- a) Strongly Agree
 - b) Agree
 - c) Disagree
 - d) Neutral/ I am not sure
 - e) Strongly disagree
14. Do you think it is okay to genetically modify an animal? (an organism whose genetic material has been modified or altered, especially through genetic engineering techniques).
- a) Yes
 - b) No
 - c) Not sure/ don't know
15. Do you think it is acceptable for people to be wearing real animal fur?
- a) Yes
 - b) No
 - c) Not sure
16. Do you consider the use of fur as animal cruelty?
- a) Yes
 - b) No
 - c) Maybe
17. Are celebrities' bad influences for people to wear fur?
- a) Yes
 - b) No
 - c) Maybe
18. Do you think there should be zoos and circuses for entertainment where animals are being used?
- a) Yes
 - b) No
 - c) I don't go to either
 - d) It should be banned
19. Are you familiar with the laws in place to protect animals in the country you live in?
- a) Yes
 - b) No
20. Are you aware of the laws made for the rights of animals, and how to report an act of animal cruelty?

- a) Yes, very well aware
 - b) No
 - c) I know about the laws made for animals but don't know how to report animal cruelty
 - d) I don't mind/care
21. How likely are you to help spread awareness about animal abuse?
- a) I am actively looking forward to help
 - b) Not interested
 - c) I am a part of a campaign about it already
 - d) I might

BIBLIOGRAPHY

- “For a more humane world”, The New Indian Express December 31 (2004), Cochin Edition.
- Aland & F. Madee, Sustainable Animal Production, the challenges & Potential Development (2009) p.11
- Academic Press Inc., 2013
- American Psychological Association. Rats, mice and birds excluded from Animal Welfare Act. Monitor on Psychology, July/August 2002, Vol 33, No. 7
- Andra Pradesh Animals and Birds Sacrificed Prohibition Act, 1950, Tamil Nadu Animal and Bird Sacrificed Prohibition Act, 1950. Kerala Animals and Birds Sacrifices Prohibition Act, 1968.
- Animal Boarding Establishments Act, 1963, Section 14
- Arluke A Levin, Luke C and Ascione, The Relationship of Animal Abuse to Violence and Other forms of Antisocial Behavior, Journal of Interpersonal Violence, (1999), 14 (9), pp.963-975
- Arluke, A., and Lockwood, R. (Eds) (1997). Society and Animals, SpecialTheme Issue: Animal Cruelty, Washington Grove, 54; 112-134.
- B.D Mahajan, Jurisprudence and legal theory (5th edition)1987, 288
- B.K Sharnma “Wide life crime in India myths and realities sanctuary” 100 2004. p.90-111
- Bernad E. Rollin, An ethicist’s Commentary in Animal Rights versus Welfare, viz CAW. VETERINARY. J (2002)
- Bernard E. Rollin, Animal Rights as a Mainstream Phenomenon, Published: 19 January 2011, ISSN 2076-2615
- Bracke, M.B.M., Spruijt, B.M Metz, J.H.M. 1999, Overall animal assessment reviewed, Part 1: Is it possible? Neth J Agri. Sci. 47, 279-291

- Canadian Council on Animal Care. Animal Use Data for 2011 National Health and Medical Research Council. Australian code for the care and use of animals for scientific purposes. 8th Edition 2013
- Cass R. Sunstein, and Martha C. Nussbaum, eds. *Animal Rights*. (Oxford: Oxford University Press, 2004), p. 221
- Clemence, M. and J. Leaman (2016). *Public Attitudes to Animal Research in 2016*. A report by Ipsos MORI for the Department for Business, Energy & Industrial Strategy, Ipsos MORI Social Research Institute
- Council for International Organizations of Medical Sciences/International Council for Laboratory Animal Science (CIOMS/ICLAS). [Internet] 2012. International guiding principles for biomedical research involving animals.
- D.B. Wilking and R. Ahan, *Animal Welfare; the role of non- Governmental Organizations*. *Rec. Science and Technology Epiz* (2005) p. 24
- Daneshian, M., F. Busquet, T. Hartung and M. Leist (2015). *Animal Use for Science in Europe*. *Alternatives to Animal Experimentation*, 32, pp. 261–274.
- Daniel A Dombrowski, *The Philosophy of Vegetarianism*. (Amherst: University of Massachusetts Press, 1984), p. 18
- Dawkins, M.S. 1983. Battery Hens name their price: Consumer demand and the measurement of ethological needs. *Animal Behaviour*. 31, 1195-1205.
- Dr. S.K. Kapoor, *International Law & Human Rights* (11th edn. 200)
- Duel D. (2000). *Violence Prevention and Intervention: A directory of animal related programs*. The Humane Society of the United States: Washington DC. 888-213-0956.
- Duncan, I.J.H. 1996. Animal Welfare defined in terms of feelings. *Acta Agriculturae Scandinavica, Sect.A, Anim. Sci. Suppl.* 27, 29-35
- Eleonora Gullone, *An evaluative Review of Theories Related to Animal Cruelty*, *Journal of Animal Ethics*, Vol 4, No.1 (Spring 2014), pp. 37-57
- Eleonora Gullone, *Risk Factors for the Development of Animal Cruelty*, *Journal of Animal Ethics*, Vol 4, No.2 (Fall 2014), pp. 61-79

- Elisa Galgut, Raising the Bar in the Justification of Animal, *Journal of Animal Ethics*, Vol. 5, No. 1 (Spring 2015)
- European Commission. Commission Staff Working Document. Accompanying document to the Report from the Commission to the Council and the European Parliament. Seventh Report on the Statistics on the Number of Animals used for Experimental and other Scientific Purposes in the Member States of the European Union. 2013. Part 1/5
- European Commission. Sixth Report on the Statistics on the Number of Animals used for Experimental and other Scientific Purposes in the Member States of the European Union (2010)
- FAWC, Farm Animal Welfare Council, 2009. *Farm Animal Welfare in Great Britain: Past, Present and Future*. London, UK.
- Fredrick Polleck and Fredric William Martland, *The History of English Law Before the Time of Edward*, 1st Edition, 1968, p.326
- Fredrick Polleck and Fredric William Martland, *The History of English Law Before the Time of Edward*, 1st Edition, 1968, p.326
- Fenwick N, Griffin G, Gauthier C. The welfare of animals used in science: How the “Three Rs” ethic guides improvements. *Can Vet J*. 2009;50:523–530.
- Franco, N.H., Sandøe, P. and Olsson, I.A.S. (2018). Researchers’ attitudes to the 3Rs—An upturned hierarchy? *PloS One*, 13(8), p. e0200895
- Fraser, A.F, Broom, D.M 1990. *Farm Animal Behaviour and Welfare*, 3rd edition. CAB International, Wallingford, Oxon.
- G.S. Betra et.d(eds) *Globalization and Liberalization* (2000) p. 197
- Gary L. Francione, ‘Rain without Thunder’, *The ideology of the Animal Right Movement*’ (1996), James M. Jasper and Dorothy Nelkin. *The Animal Rights Crusade. The growth of a Moral Protest* (1992).
- Gleyzer, R. Felthouse A.R and Holzer, *Animal Cruelty and Psychiatric Disorders*, *Journal of the Academy of Psychiatry and Law*, 2002, 30, pp.257-265
- Guillen, J. *Laboratory Animals: Regulations and Recommendations for Global Collaborative Research*.

- Immanuel Kant, Lectures on Ethics, trans. Louis Infield (New York: Harper Torchbooks, 1963), at 240
- James Connelly and Graham Smith Rutledge, Politics and Environment, 2nd Edition, 2003, p.219
- James Connelly and Graham Smith Rutledge. Politics and Environment(2nd Edition, 2003) p, 219. See also Gary L. Francione, 'Rain without Thunder', The ideology of the Animal Right Movement' (1996), James M. Jasper and Dorothy Nelkin. The Animal Rights Crusade. The growth of a Moral Protest (1992).
- James Rachel. Created from Animals. (Oxford: Oxford University Press, 1990), p. 131
- Jan Narveson, Animal Rights, Canadian Journal of Philosophy, Vol. 7, No. 1 (Mar., 1977), pp. 161-178
- Jared Diamond. Guns, Germs, and Steel: The Fates of Human Societies. (New Jersey: W.W. Norton & Co, 1997), p. 158
- Jeremy Bentham, The Principles of Morals and Legislation 310-11 n 1 (Prometheus 1988).
- Joyce E Salisbury. The Beast within: Animals in the Middle Ages. (New York: Routledge, 1994), p.173
- Julian Palmer, Animal law, 2001, Shaw's publications, p 231
- Kahn P.H, The Human Relationship with Nature- Development and Culture (1999), p. 123
- Kahn P.H, The Human Relationship with Nature- Development and Culture (1999), p. 125
- Keith festee, Animals and Society. The Humanity of Animal Rights (1st edition, 1991) p.136
- Keith Thomas. Man and the Natural World: Changing Attitudes in England 1500-1800. (Magnolia: Peter Smith, 1983), p. 34
- Kelly Dedel, Animal Cruelty, Community Oriented Policing Services U.S Department of Justice,No.65, ISBN:978-1-932582-05-5, August 2012

- Knight, A. Estimates of Worldwide Laboratory Animal Use. *Letters, ATLA* 36, 494-495, 2008
- Laible G. Enhancing livestock through genetic engineering — Recent advances and future prospects. *Comp Immunol Microb.* 2009;32:123–127
- Lawrence A. Hansen and Kori Ann Kosberge, Ethics, Efficiency and Decision-making in Animal Research, *Animal Experimentation: Working Towards a Paradigm Change*, Vol 22, 2019
- Lawrence, A.B. 2007. What Is Animal Welfare? In: Branson, E. *Fish Welfare*. Blackwell Publishing, Oxford
- Lee BC, Kim MK, Jang G, et al. Dogs cloned from adult somatic cells. *Nature.* 2005;436:641
- Les Brown. *Cruelty to Animals*. (London: The Macmillan Press, 1998), p.10
- Lockwood, R. (2006). *Animal Cruelty Prosecution: Opportunities for early response to crime and interpersonal violence*. American Prosecutor Research Institute; Alexandria. Va. 39; 110-121.
- Lockwood, R. (2006). *Animal Cruelty Prosecution: Opportunities for early response to crime and interpersonal violence*. American Prosecutor Research Institute; Alexandria. Va. 39; 110-121.
- MacArthur JA, Potter M, Harding E. The welfare implications of animal breeding and breeding technologies in commercial agriculture. *Livestock Sci.* 2006;103:270–281
- Macnaghten P. Animals in their nature: A case study of public attitudes to animals, genetic modification and “nature. *Sociology.* 2004;38:533–551
- Maneka Gandhi, Ozair Husain, Raj Panjwani, *Animal Laws of India*, Third Edition, 2006
- Maneka Gandhi, Ozair Husain, Raj Panjwani, *Animal Laws of India*, (4th edn., 2011), p. 911.
- Mary Weideman, Toxicity Tests in Animals: Historical Perspectives and New Opportunities, *Environmental Health Perspectives*, Vol. 101, No. 3 (Aug., 1993), pp. 222-225

- Mathew H. Karmar, N.E. Simmonds, Hillel Steiner, *A Debate Over Rights* (1998) p. 126
- Mathew H. Karmar, N.E. Simmonds, Hillel Steiner *A Debate Over Rights* (Oxford University Press, 1998).
- *Medical Journal*. Mar2009, Vol. 21 Issue 1, p19-25
- Mellor DJ, Schofield JC, Williams VM. 2007. Underreporting of the 3Rs deployment that occurs during the planning of protocols that precedes their submission to animal ethics committees. *AATEX* 14:785–788
- Michael S. Scott, *Disorderly Youth in Public Places*, ISBN: 1-932582-05-3, 2001
- Miller JC, Holmes MC, Wang J, et al. An improved zinc-finger nuclease technology architecture for highly specific genome editing. *Nat Biotechnol*. 2007;25:778–785
- Morton S. Silberman, *Animal Welfare, Animal Rights: The Past, the Present and the 21st Century*, *The Journal of Zoo Animal Medicine*, Vol. 19, No. 4 (Dec 1988), pp. 161-167
- Ormandy EH. The use of genetically-engineered animals in science. A report from the Third Genome BC Knowledge Translation Workshop; Vancouver BC. March 15, 2010; [accessed March16, 2020].
- Otto S.K. (2009) *Animal Protection Law of the United States of America & Canada*, 4th edition.
- P.H. Khan and S.R. Kellert, *Children and Nature* (2002), p. 156
- P.H. Khan and S.R. Kellert, *Children and Nature* (2002), p. 156
- P.H. Khan and S.R. Kellert, *Children and Nature* (2002), p. 156
- Paul Waldau, *Animal Right: What Everyone Needs to know*, (2011), Oxford University Press, p.256
- Paul Waldau, *Animal Right: What Everyone Needs to know*, (2011), Oxford University Press, p.256
- Paul Waldau, *Animal Right: What Everyone Needs to Know*, (2011), Oxford University Press, P. 256.
- Paul Waldau, *Animal Rights: What Everyone Needs to Know*, (2011), Oxford University Press, p.256

- PCA Snyman, Prescription, cosmetic and chemical drug products liability in Australia and some Commonwealth jurisdictions, *The Comparative and International Law Journal of Southern Africa*, Vol. 20, No. 3 (NOVEMBER 1987), pp. 353-376
- Peter Ratt, *Towards Legal Rights for Animals* (2000) p.362
- Peter Singer, *Animal Liberation*, 1990, 6th Edition, *New York Review of Books*, p.121
- Peter Singer, ed. *In Defense of Animals*. (New York: Basil Blackwell, 1987), p. 67
- Peter Singer, *Ethics across the Species Boundary*, *Global Ethics and Environment*. Nicholas Low, ed. (London & New York: Routledge, 2008), p.147
- Peter Singer, *In Defence of Animals: The Second Wave*, Blackwell Publishing, ISBN: 1405119411
- Planning Commission (6th Five Year Plan 1980-1985), (1981), 343
- Prof. Satish C. Shastri, *Environmental Law*, (4th edn., 2012), p. 34
- R. D Ryder, *Animal Revolution: Changing Attitudes Towards Speciesism*, Oxford: Basil Blackwell, 1989, p.105
- Randour, M. I. (2004). "Including Animal Cruelty as a Factor in Assessing Risk and Designing Interventions" Conference Proceedings, Persistently Safe Schools, The National Conference of the Halmilton Fish Institute on School and Community Violence, Washington DC
- Randour, M. L. and Davidson, h. (2008). *A Common Bond; Maltreated Children and Animals in the Home. Guidelines for Practise and Policy*. The Humane Society of the United States, Washington DC. 30, 12-18.
- Resolution No. XIV, which outlines the OAH animal Welfare mandate, was agreed unanimously at the final session of the OAH. International Committee in May 2002.
- Richard Ryder, *Animal Revolution Changing Attitudes toward Speciesism*. (Jefferson, NC: Routledge,1989), p. 6
- Richard Ryder, *Animal Revolution Changing Attitudes toward Speciesism*. (Jefferson, NC: Routledge,1989), p. 85

- Richard Ryder. *The Political Animal: The Concept of Speciesism*. (Jefferson, NC: McFarland, 1998), p. 16
- Robinson V, Morton DB, Anderson D, et al. Refinement and reduction in production of genetically modified mice. Sixth report of the BVAAWF/FRAME/RSPCA/UFAW Joint Working Group on Refinement. 2003. [Last accessed March 16, 2020]. Available from: <http://www.arsal.ro/wp-content/uploads/members/13.%20Refinement%20and%20reduction%20in%20production%20of%20genetically%20modified%20mice.pdf>.
- Rollin, B. 1992. *Animal Rights and Human Morality*. Prometheus Books, Buffalo, New York
- Ronald Baerminger. *Violence towards other Species in Targets of violence and Aggression* (1st edn. 1991) p 219.
- Russell WMS, Burch RL. . 1959. *The principles of humane experimental technique*. London (UK): Methuen
- Russell, W.M.S. and R.L. Burch (1959). *The Principles of Humane Experimental Technique*. Potters Bar, Hertfordshire, England: Universities Federation for Animal Welfare.
- Russell, W.M.S. and R.L. Burch (1959). *The Principles of Humane Experimental Technique*. Potters Bar, Hertfordshire, England: Universities Federation for Animal Welfare.
- Scerri, C. *Animal experimentation in Malta: regulatory processes and future perspectives*. Malta
- Section 2 of Breeding and sale of dogs (Welfare) Act, 1999 Section 3 of Breeding of Dogs Act, 1991 and Section 3 of Breeding Dogs Act, 1973.
- Section 2 of Breeding and Sale of Dogs (Welfare) Act, 1999 Section 3 of Breeding of Dogs Act, 1991 and Section 3 of Breeding of Dogs Act, 1973
- Shin T, Kraemer D, Pryor J, et al. Cell biology: A cat cloned by nuclear transplantation. *Nature*. 2002;415:859

- Stephen W. Baier, The Impact of Animal Rights on the Use of Animals for Biomedical Research, Product Testing & Education, *The American Biology Teacher*, Vol. 55, No. 3 (Mar., 1993), pp. 136-139
- Steve Siegel, Grassroots Opposition to Animal Exploitation, *The Hastings Center Report*, Vol. 19, No. 6 (Nov. - Dec., 1989), pp. 39-4
- T.U. Mehta, “Some reflection on court decision” *Animal Citizen* 39 (2000)
- Taylor, K. and L. Rego (2016). EU statistics on Animal Experiments for 2014. *Alternatives to Animal Experimentation Proceedings*, 33(4), pp. 465–468
- Taylor, K., Gordon, N., Langley, G., Higgins, W. Estimates for Worldwide Laboratory Animal Use in 2005. *ATLA* 36, 327–342, 2008
- Taylor, K., Gordon, N., Langley, G., Higgins, W. Estimates for Worldwide Laboratory Animal Use in 2005. *ATLA* 36, 327–342, 2008
- Taylor, K., Gordon, N., Langley, G., Higgins, W. Estimates for Worldwide Laboratory Animal Use in 2005. *ATLA* 36, 327–342, 2008 de Boo, J. & Knight, A. Increasing the Implementation of Alternatives to Laboratory Animal Use. *AATEX* 13(3), 109-117, 2008
- The Prevention of Cruelty to Animals Act 1960, at Section 11(1)(b)
- Thomas Hartung, *Research and Testing Without Animals: Where Are We Now and Where Are We Heading?*, Publisher: Brill. (2019)
- Tom Regan, and Peter Singer, eds. *Animal Rights and Human Obligations*. (New Jersey: Prentice Hall, 1976), p.10
- United States Department of Energy Genome Projects. Cloning Fact Sheet 2009. [Last accessed March 16, 2020]. Available from www.ornl.gov/hgmis/elsi/cloning.shtml
- V D Mahajan, *Jurisprudence and Legal Theory* (5th edition 1987) 28
- V.A. Kishori Venjuri, “The Prevention of cruelty to animals”, 2nd edition (2003), p 231
- V.D. Mahajan, *Jurisprudence and Legal theory* (5th edn. 1987) 288
- V.D. Mahajan, *Jurisprudence and Legal theory* (5th edn. 1987) 288
- Verbeek JS. Scientific applications of transgenic mouse models. In: Van Zutphen LFM, Van Der Meer M, editors. *Welfare Aspects of Transgenic Animals — Proceedings EC Workshop*. Berlin: Springer-Verlag; 1997. pp. 1–17.

- Weaver SA, Morris MC. Risks associated with genetic modification: An annotated bibliography of peer reviewed natural science publications. *J Agr Enviro Ethic.* 2005;18:157–189.
- Wells DJ, Playle LC, Enser WEJ, et al. Assessing the welfare of genetically altered mice. *Lab Anim.* 2006;40:111–114.
- Wells DJ, Playle LC, Enser WEJ, et al. Assessing the welfare of genetically altered mice. *Lab Anim.* 2006;40:111–114
- West C. Economic and ethics in the genetic engineering of animals. *Harvard J Law Technol.* 2006;19:413–442.
- West C. Economic and ethics in the genetic engineering of animals. *Harvard J Law Technol.* 2006;19:413–442.
- Wilmut I, Beaujean N, de Sousa PA, et al. Somatic cell nuclear transfer. *Nature.* 2002;419:583–587.
- World Health Organisation (OIE) Definition of animal welfare, glossary. 2010. *Terrestrial Animal Health Code*; p. xiv.
- World Organisation for Animal Health (OIE). 2011. *Terrestrial animal health code*, chapter 7.8.
- Yoshiki A, Moriwaki K. Mouse phenome research: Implications of genetic background. *ILAR.* 2006;47(2):94–102.

