



Animal Protection Index (API) 2020

Republic of India: ranking C

Executive summary

The Prevention of Cruelty to Animals Act 1960 is the main piece of animal welfare legislation in India. This Act recognises that animals can suffer physically and mentally, and is applicable to 'all living creatures'. This implicit recognition of animal sentience is echoed in the country's Constitution, which enshrines the principle of *ahimsa* and mandates to all citizens of India to 'have compassion for living creatures'. Furthermore, the Government of India should be acclaimed for having banned various forms of entertainment using wild animals such as dolphins and the use of all wild animals in circuses in 2017. Since the API was first published, India has also banned the import of skins of reptiles, chinchillas, minks and foxes in 2017. India has also made progress in protecting animals used in scientific research, since the country banned the use of cosmetic products on animals in 2013, and banned the import of cosmetic products which were tested on animals in 2014, thus becoming the first country in South Asia to do so.

However, there is room for improvement in many domains related to animal welfare. For instance, animals used in scientific research are exempt from cruelty considerations in the Prevention of Animal Cruelty Act 1960. Furthermore, there is a lack of regulations regarding the rearing of farm animals, notably with unregulated urban dairy systems developing quickly with very poor welfare standards. Indian legislation also allows for religious slaughter to be carried out without prior stunning. Fur farming has also not been banned in India. The country also allows for the killing of stray dogs in the Prevention of Cruelty to Animals Act 1960, though the Government encourages spay-and-neuter programmes in the Animal Birth Control (Dogs) Rules 2001. Additionally, Indian legislation allows the hunting of endangered species for a wide range of purposes, including collecting specimens for zoos and museums.

The Animal Welfare Board of India (AWBI) is the central body responsible for animal welfare in the country. It should be highlighted that some members of the AWBI are from animal welfare organisations. Local Animal Welfare Boards also exist in the country. In 2018, the AWBI was moved from being under the Ministry of Environment, Forest and Climate Change to now falling under the responsibility of the Ministry for Agriculture. The National Institute for Animal Welfare, created in 1999, has the broad mandate to improve animal welfare through research, education and public outreach. The Committee for the Purpose of Control and Supervision of Experiments on Animals (CPCSEA) oversees the use of animals for scientific research and is in charge of taking all measures to ensure that animals are not subjected to unnecessary pain or suffering before, during or after the scientific experiment performed on them.



Regarding farm animals, the Government of India is urged to mandate humane slaughter for all animals, which requires unconsciousness prior to slaughter. Furthermore, the Government of India is strongly encouraged to ban the worst forms of confinement for animals reared in farming. The Government of India is highly encouraged to enact stronger welfare requirements to better regulate the spread of urban dairy systems. In addition, the Government of India is highly encouraged to fully ban fur farming, which is inherently cruel and causes pain, distress and suffering to animals. The Government of India is urged to outlaw the culling of stray animal populations, and to implement spay-and-neuter campaigns as a tool to control stray animal populations. The Government of India is also strongly encouraged to ban the use of all animals for entertainment. For example, at present, legislation only bans the use of wild animals in circuses. Overall, the Government of India is strongly encouraged to align its current legislation with OIE standards. Further legal and policy recommendations are associated with each Animal Protection Index (API) indicator and contained in the relevant sections of this report.



Animal Protection Index Indicators

Goal 1: Recognition of animal sentience and the importance of animal protection as a societal value

1. Animal sentience is formally recognised in legislation

Analysis of the legislation	
Ranking	C
<p>Although sentience is not explicitly recognised in legislation, the Prevention of Cruelty to Animals Act 1960¹ provides a partial recognition of sentience since the very purpose of this Act is to 'prevent the infliction of unnecessary pain or suffering' to animals. The Act therefore recognises the capacity of animals to suffer. Furthermore, the Act refers to both physical and mental suffering of animals. For example, Section 9(e) mandates that unnecessary pain or suffering, whether physical or mental shall be eliminated prior to slaughter as much as possible. This Act is applicable relates to all living creatures other than human beings (Section 2(a)).</p> <p>Moreover, the Constitution of India² enshrines into law the philosophy of <i>ahimsa</i> ("do no harm") through explicitly stating 'it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures' (Article 51A(g)).</p> <p>Since the API was first published, various interesting judgements have occurred in India, which put into question the concept of animal sentience.</p> <p>In March 2017, the Uttarakhand High Court granted the status of 'first living entity of India' to the river Ganga.³ The judgement would have given the river similar rights to a living person. The judgment came following a petition opposing mining and stone crushing along the banks of the Ganga. However,</p>	

¹ [https://indiacode.nic.in/bitstream/123456789/1547/1/a1960-](https://indiacode.nic.in/bitstream/123456789/1547/1/a1960-59.pdf#search=Prevention%20of%20Cruelty%20to%20Animals%20Act%201960)

[59.pdf#search=Prevention%20of%20Cruelty%20to%20Animals%20Act%201960](https://www.india.gov.in/sites/upload_files/npil/files/coi_part_full.pdf)

² https://www.india.gov.in/sites/upload_files/npil/files/coi_part_full.pdf

³ <https://www.ndtv.com/india-news/river-ganga-named-indias-first-living-entity-court-names-parents-too-1671581>



this ruling was overturned by a Supreme Court decision in July 2017 for not being sustainable.⁴

In July 2018, the Uttarakhand High Court accorded the status of 'legal persons or entity' to animals in the Northern State.⁵ Justice Rajiv Sharma and Lokpal Singh granted this status to the 'entire animal kingdom', when ruling on various guidelines preventing cruelty to animals.

In June 2019, the Punjab and Haryana High Court declared that animals are 'living persons' with their own set of rights.⁶ The Order stated 'the entire animal kingdom, including avian and aquatic, are declared legal entities having a distinct persona with corresponding rights, duties and liabilities of a living person. All citizens throughout Haryana are hereby declared persons in loco parentis (responsible for a child in parents' absence) as the human face for the welfare/protection of animals'. This Order was passed by Justice Rajiv Sharma, who had passed a similar judgment just last year in Uttarakhand against animal cruelty.

Analysis

It is positive that the Prevention of Cruelty to Animals Act 1960 is applicable to all animals. The Act acknowledges the capacity of animals to suffer both physically and mentally, hence it implicitly recognises the capacity for all animals to be sentient. The main goal of the Act is to protect animals from unnecessary pain and suffering. The underlying concept of the Act is dignity – in that human beings are dignified only when animals are treated without cruelty. It is therefore within human self-interest to treat animals with kindness. Furthermore, the Act establishes the Animal Welfare Board to advise the government and cooperate with animal protection organisations. It also calls for the creation of a Society for the Prevention of Cruelty to Animals (SPCA) in each State.

In addition, it is positive that the Constitution of India mandates to all citizens to have compassion for living creatures. This is helpful to mainstream the concept of animal welfare, and it may act as a basis for further legislative protection for animals.

The various landmark Court decisions to grant legal personhood to animals are ground-breaking and constitute a leap forward towards recognising animal sentience. The Federation of Indian Animal Protection Organisations has also created a case for legal personhood for non-human animals.⁷ Though these

⁴ <https://www.ndtv.com/india-news/no-yamuna-and-ganga-are-not-living-entities-says-supreme-court-1721833>

⁵ <https://www.telegraph.co.uk/news/2018/07/05/animals-accorded-rights-humans-indian-national-park/>

⁶ https://www.vice.com/en_asia/article/pajmg9/an-indian-high-court-rules-that-animals-are-legal-persons?utm_source=dmfb

⁷ <http://www.fiapo.org/fiaporg/personhood-for-animals/>



Court decisions do not translate with precise duties towards animals, they should be acknowledged as progressive for animal welfare.

Although there are cultural and traditional barriers to improving animal welfare, some of which at present appear as exemptions to legal provisions (for example, Article 28 provides that religious slaughter is exempt from the requirements of the Prevention of Cruelty to Animals Act 1960), the government regards animal welfare as an independent issue needing regulation and thus it appears that improvement should be possible. For instance, in 2006 the Calcutta High Court banned the sacrifice of animals in public view. In 2013, the Ministry of Environment and Forests advised state governments to ban dolphinariums on the grounds that dolphins are “highly intelligent and sensitive”, and ought to be seen as “nonhuman persons” with “their own specific rights”.⁸ India at present has no dolphinarium. However, this recognition of the sentience of dolphins demonstrates the government forming policy based on animal welfare science, which is very encouraging. However, since 2013, this recognition of sentience has not been extended to other animal species.

Furthermore, the weak enforcement mechanisms associated with animal cruelty demonstrate the lack of commitment from the government to consider animal cruelty seriously. The lack of substantive fine being imposed on offenders of animal cruelty is a structural barrier to improve the welfare of animals in the country.

Enforcement mechanisms

There are enforcement mechanisms for some of the provisions of the Prevention of Cruelty to Animals Act 1960 which arise out of the partial recognition of animal sentience, specifically for the breach of anti-cruelty provisions of Section 11 of the Act. If any animal is subjected to any form of cruelty specified or treated in any of the ways provided under Section 11 (a) to (o) of the Act, the offender is subject to fines of up to 50 rupees (higher fines with possible imprisonment for repeat offences).

“Carrot” methods of enforcement involve 90% government-funded schemes to provide animal ambulances for animals in distress, shelters and birth control for stray animals. The National Institute of Animal Welfare (NIAW) also operates regular training programmes relating to several areas of animal welfare.

Key recommendations

- The Government of India should be recognised for making its Prevention of Cruelty to Animals act applicable to all animals. Building upon the current Prevention of Cruelty to Animals Act, which recognises that animals can suffer physically and mentally, the Government of India is strongly encouraged to

⁸ <https://www.dw.com/en/dolphins-gain-unprecedented-protection-in-india/a-16834519>



publicly recognise animals as sentient beings and to enshrine animal sentience in the law. At a minimum, recognising that all vertebrates, cephalopods and decapod crustaceans are sentient beings and this principle should be enshrined in legislation.

2. There are animal protection laws that prohibit causing animal suffering either by a deliberate act of cruelty or by a failure to act

Analysis of the legislation	
Ranking	B
<p>The Prevention of Cruelty to Animals Act 1960 is the main piece of national animal welfare legislation in India. Section 3 lays out that anyone in charge of any animal shall 'take all reasonable measures to ensure the well-being of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering'.</p> <p>Section 11 of the Prevention of Cruelty to Animals Act 1960 prohibits beating, kicking, over-riding, over-driving, over-loading, torturing or otherwise treating any animal, in ways that subject the animal to unnecessary pain or suffering. Section 11 prohibits as well causing the animal to be treated as such, or as the owner permitting the animal to be so treated. 'Animal' is defined as all living creatures other than human beings (Section 2(a)). Specific conducts are also prohibited by Section 11, including transporting in a way that subjects an animal to unnecessary pain or suffering, and keeping in a cage that does not allow reasonable opportunity for movement. It is also prohibited to abandon an animal 'without reasonable cause', knowing that the animal 'will suffer pain by reason of starvation or thirst' (Section 11 (i)).</p> <p>However, animals used in scientific experiments are exempt from all of these cruelty provisions (Section 14), since their use is regulated by the Breeding of and Experiments on Animals (Control and Supervision) Rules 1998 which requires that experiments are carried out with due care and humanity (Section 9(b)). Moreover, Section 28 of the Prevention of Cruelty to Animals Act 1960 protects religious slaughter from being considered an offence.</p> <p>Section 428 and 429 of the Indian Penal Code of 1860⁹ also states that, 'mischief of killing or maiming an animal amounts to an offence'.</p>	

⁹<https://www.advocatekhoj.com/library/bareacts/indianpenalcode/index.php?Title=Indian%20Penal%20Code,%201860&Title=Indian%20Penal%20Code,%201860>



Analysis

It is positive that the Prevention of Cruelty Act to Animals 1960 prohibits conducts which cause physical pain to animals, as well as mental suffering (for instance, torture is forbidden). These provisions encompass a wilful intent, as well as a failure to act. The scope of application is quite broad, though with the notable exception of animals used in experiments. It is also positive that there is a duty of care onto animal owners in Section 3.

However, India's legislation does not fall in line with international legislative approaches to some areas of animal welfare concern, such as the culling of healthy stray dogs and animal husbandry practices such as nose roping and dehorning; and does not offer welfare protection in any type of religious killing. There are cultural and traditional barriers to improvement, some of which at present appear as exemptions to legal provisions. For example, Section 28 provides that religious slaughter is exempt from the requirements of the Prevention of Cruelty to Animals Act 1960.

There are challenges for the implementation and enforcement of this law. There appears to be a lack of political will to improve animal welfare: efforts from animal welfare organisations to seek amendments to State laws to make them more stringent have been defeated. There seems to be strong government apathy notably towards improving the protection of cattle.

Enforcement mechanisms

There are enforcement mechanisms for some of the provisions of the Prevention of Cruelty to Animals Act 1960 which arise out of the partial recognition of animal sentience, specifically for the breach of anti-cruelty provisions of Section 11 of the Act. If any animal is subjected to any form of cruelty specified or treated in any of the ways provided under Section 11 (a) to (o) of the Act, the offender is subject to fines of up to 50 rupees (higher fines with possible imprisonment for repeat offences).

In addition, the Penal Code has associated enforcement mechanisms. A breach of Section 428, when someone kills, poisons, maims or renders useless any animal of the value of ten rupees shall receive a fine and/or be imprisoned for up to two years.¹⁰ A breach of Section 429, if anyone kills, poisons, maims or renders useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be fined and or/ imprisoned for up to five years.¹¹

¹⁰<https://www.advocatekhaj.com/library/bareacts/indianpenalcode/428.php?Title=Indian%20Penal%20Code,%201860&STitle=Mischief%20by%20killing%20or%20maiming%20animal%20of%20the%20value%20of%20ten%20rupees.>

¹¹<https://www.advocatekhaj.com/library/bareacts/indianpenalcode/429.php?Title=Indian%20Penal%20Code,%201860&STitle=Mischief%20by%20killing%20or%20maiming%20cattle,%20etc>



“Carrot” methods of enforcement involve 90% government-funded schemes to provide animal ambulances for animals in distress, shelters and birth control for stray animals. The National Institute of Animal Welfare (NIAW) also operates regular training programmes relating to several areas of animal welfare. Additional enforcement powers have been given to some local animal welfare organisations such as the Bombay Society for the Prevention of Cruelty to Animals.

Key recommendations

- The Government of India has enacted some basic anti-cruelty legislation in its 1960 Prevention of Cruelty to Animals Act. However, the applicability of this Act remains limited. Firstly, there is a discrepancy within the Act as to which animals this law applies to. Section 2a affirms that this Act is applicable to all living beings, however, Section 14 notes that animals used in scientific experiments are exempt from cruelty considerations. Similarly, religious slaughter is exempted from the prohibition on animal cruelty (Section 28). Therefore, the Government of India is strongly encouraged to amend Section 14 of the Prevention of Cruelty to Animals Act, so as to include animals used in scientific experiment in the scope of this Act.
- Furthermore, the Government of India is strongly to introduce legislation that prohibits the slaughter of animals who are not stunned. Section 28 of the Prevention of Cruelty to Animals Act 1960 should therefore be repealed. Section 11 (3)(a) should be amended to include dehorning, castration and nose roping in cruelty considerations. All these mutilations shall not be done without anaesthesia and the use of analgesics.
- The Government of India is urged to amend the Prevention of Cruelty to Animals Act 1960 as to include stronger penalties for offenders. The current fine of up to 50 rupees is not a significant enough penalty to act as a disincentive for animal cruelty, and to ensure that people treat animals correctly, as sentient beings.

Goal 2: Presence of animal welfare legislations

3. There are laws that apply to animals used in farming including rearing, transport and slaughter

Analysis of legislation

..%20of%20any%20value%20or%20any%20animal%20of%20the%20value%20of%20fifty%20rupees



Ranking	E
<p data-bbox="204 342 328 376"><u>Rearing</u></p> <p data-bbox="204 412 1414 595">Section 48 of the Indian Constitution provides that 'the State shall endeavour to organise agriculture and animal husbandry on 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'.¹²</p> <p data-bbox="204 631 1414 896">At the national level, the general anti-cruelty provisions of Section 11 of the Prevention of Cruelty to Animals Act 1960 apply to this category of animals. Particularly relevant to animals used in farming are the prohibitions on transporting in a way that subjects an animal to unnecessary pain or suffering (Section 11(d)), confining an animal in a way that does not permit reasonable opportunity for movement (Section 11(e)), or tethering an animal for an unreasonable time on an unreasonably short or heavy chain (Section 11(f)).</p> <p data-bbox="204 931 1414 1079">The government department of Animal Husbandry, Dairying and Fisheries publishes guidelines regarding several issues of agricultural management, including trade and many schemes for animal health and disease control, breeding and slaughter.¹³</p> <p data-bbox="204 1115 424 1149"><u>Rearing – pigs</u></p> <p data-bbox="204 1184 1414 1332">The Department for Animal Husbandry and Dairying has produced various guidelines with regards to the rearing of pigs. However, these Guidelines focus on biosecurity and the pig breeding policy, rather than containing animal welfare provisions.^{14,15}</p> <p data-bbox="204 1368 603 1402"><u>Rearing – broiler chickens</u></p> <p data-bbox="204 1438 1414 1585">The Department for Animal Husbandry and Dairying has produced various guidelines with regards to poultry: however, these focus on biosecurity and health, rather than animal welfare.¹⁶ There is no limitation on the stocking density of broiler chickens.</p> <p data-bbox="204 1621 612 1655"><u>Rearing – egg-laying hens</u></p> <p data-bbox="204 1691 1414 1760">The Department for Animal Husbandry and Dairying has produced various guidelines with regards to poultry: however, these focus on biosecurity and</p>	

¹² https://www.india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf

¹³ <http://dahd.nic.in/documents/guidelines>

¹⁴ <http://dadf.gov.in/sites/default/files/Biosecurity%20guidelines%20for%20piggery.pdf>

¹⁵ <http://dadf.gov.in/sites/default/files/Biosecurity%20guidelines%20for%20piggery.pdf>

¹⁶ <http://dadf.gov.in/sites/default/files/Excerpts%20of%20Poultry%20Farmn%20Manual-ilovepdf-compressed.pdf>



health, rather than animal welfare.¹⁷ There is no prohibition on any type of cages for egg-laying hens.

The Federation of Indian Animal Protection Organisations (FIAPO) had instituted writ petitions in the High Court of AP, Punjab, Maharashtra and Uttar Pradesh calling for the phasing out of severely restrictive and cruel battery cages for egg-laying hens.¹⁸ The Indian Supreme Court in 2016 decided to allow the transfer of all these various petitions to a single forum, that is the Delhi High Court, where the matter is pending at the time of writing.

Rearing – dairy cattle and calves

28 Indian states and Union territories have laws relating to cow and calf slaughter.¹⁹ However, these do not have uniform application. In some states there are exclusive cattle preservation laws, whereas in others, animal protection laws extend protection to other animals.

Secondary rules also apply with regards to registering cattle, through the Prevention of Cruelty (Registration of cattle premises) Rules 1978.²⁰ The Rules provide that all premises with more than five animals are registered and can be inspected for any welfare issues by the State Animal Husbandry Department.

From 2013 to 2017, World Animal Protection has worked with governments, farmers, dairy scientists, corporates and extension services to promote new animal welfare standards for dairy animals, through the National Dairy Code of Practice for Management of Dairy Animals, released in 2014.²¹ The Code defines the following 10 criteria that need to be fulfilled for cows and buffaloes to have a good life:

- All dairy animals have 24-hour access to clean water
- All dairy animals receive good quality feed/fodder
- All animals have access to suitable shade and shelter
- All calves receive milk or an adequate substitute within 24 hours after being born

¹⁷ <http://dadf.gov.in/sites/default/files/Excerpts%20of%20Poultry%20Farmn%20Manual-ilovepdf-compressed.pdf>

¹⁸ <https://thepoultrysite.com/news/2014/03/new-push-to-end-battery-cages-for-indias-laying-hens>

¹⁹ <http://dadf.gov.in/related-links/report-national-commission-cattle>

²⁰ <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC040051>

²¹ https://www.worldanimalprotection.org.in/sites/default/files/in_files/english-national-dairy-code.pdf



- All animals have a comfortable and clean resting area
- All animals have access to vet care
- No animals are confined indoors permanently
- No animals are permanently tethered
- All farms have a humane plan in place to manage male calves
- All farms have an animal health and welfare plan that is regularly updated

The Code has so far been endorsed by the Animal Welfare Board of India (AWBI) and by the Ministry of Agriculture and Farmers' Welfare. The knock-on effects should be that gradually all veterinary training and management of cows and buffaloes at state level will involve knowledge and experience of high welfare.

Transport

There are rules for the transport of cattle, equines, sheep and goats, made under Section 38 of the Prevention of Cruelty to Animals Act 1960, and contained in the Transport of Animals Rules 1978, amended most recently in 2001.²² These Transport Rules regulate the transportation of poultry and pigs by rail, road or airplane. Containers must be properly fitted for transportation, providing shelter from sun, heat, rain or cold and allowing poultry and pigs to be comfortable during the journey (Section 77). A table details the timing and fittings of containers by animal size and age group. Every effort shall be made to ensure that chicks and poults arrive as quickly as possible at the dispatching site, and they shall not be watered nor fed before and during transportation (Section 78).

With regards to pigs, the Rules ban fettering (Section 93) and provide space requirements. Finally, the Rules outline that only animals who are 'healthy and in good condition' shall be transported and pregnant and very young animals shall not be mixed with other animals during transport (Section 98). Finally, animals shall be transported in their on-farm social groups (Section 98(7)), which suggests that attention is paid to the mental well-being of animals being transported, by reducing the amount of stress incurred from being mixed with other animals.

There are also Rules specifically dedicated to Transport on Foot, enacted in 2001.²³ These Rules specify that all animals transported on foot must be healthy

²² <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC040039>

²³ <http://extwprlegs1.fao.org/docs/pdf/IND169744.pdf>



and in good condition for such transport, as acknowledged by a certificate from a veterinary doctor (section 4).

Slaughter

Specific Rules apply to the slaughter of animals.²⁴ The 2001 Prevention of Cruelty to Animals (Slaughter House) Rules forbid the slaughter of animals who are pregnant, under the age of three months or who have an offspring less than three months old, have not been certified by a veterinary doctor that the animal is in a fit condition to be slaughtered (Section 3).²⁵ The veterinarian shall examine 'thoroughly' not more than 12 animals in an hour and not more than 96 animals within a day (Section 4). All animals shall rest in a lairage area for 24 hours before slaughter (Section 5). At slaughter, no animal shall be slaughtered in sight of other animals (Section 6). In addition, the slaughterhouse building must comply with certain prerequisites in terms of access to slaughtering areas, washing facilities etc.

Rules on cattle slaughter differ across India. The slaughter of cows is allowed in the states of Kerala, West Bengal, Arunachal, Mizoram, Meghalaya, Nagaland, Tripura and Sikkim.²⁶ Since the API was first published in 2014, India's central government enacted the Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules in May 2017.²⁷ The Rules bans the sale of all types of cattle, including buffaloes, and camels for slaughter via animal markets. The sale of cattle and camels can be made only to a person who carries valid documents proving he or she is an agriculturist. However, in July 2017, India's Supreme Court suspended the implementation of such Rules.²⁸ Cow slaughter is already banned in most states, and this rule would have been the first time that buffaloes had been included in a slaughter ban. The Supreme Court justified its decision to suspend such Rules by saying that these Rules are an attempt to regulate livestock market, which only state governments can do under the Indian Constitution.²⁹ However, the retraction of these Rules is also seen as a reaction to the outcry following the allegations of religious discrimination against Muslims, who dominate the beef trade.

Other relevant legislations

However, several husbandry practices are exempted from cruelty considerations, notably the dehorning of cattle, castration and the branding or nose roping (Section 11(3)(a)). Furthermore, the commission or omission of any act in the course of destroying an animal for food is also exempted from

²⁴ <http://extwprlegs1.fao.org/docs/pdf/ind40037.pdf>

²⁵ <http://extwprlegs1.fao.org/docs/pdf/ind40037.pdf>

²⁶ <https://indianexpress.com/article/explained/explained-no-beef-nation/>

²⁷ <https://www.petaindia.com/wp-content/uploads/2017/05/Prevention-of-Cruelty-to-Animals-Regulation-of-Livestock-Markets-Rules-2017.pdf>

²⁸ <https://www.bbc.co.uk/news/world-asia-india-40565457>

²⁹ <https://www.hindustantimes.com/india-news/supreme-court-questions-centre-s-rules-on-cattle-slaughter/story-fDJlITQYQPJeLNrP88g4cN.html>



anti-cruelty requirements, provided the activity does not involve the infliction of unnecessary pain or suffering. In addition, practices of religious slaughter are exempted from being assessed on animal cruelty criteria (Section 28).

Moreover, in July 2014, the government banned the import of foie gras on animal welfare grounds, following pressure from NGOs.³⁰

In July 2018, the Ministry of Health and Family welfare banned the import of the growth-inducing hormone oxytocin.³¹ This ban comes into effect as the drug was largely misused by the livestock industry, creating hormonal imbalances and shortening the lives of dairy animals.³²

Analysis

The inclusion of agriculture and animal husbandry in the Indian constitution makes this an issue of high importance to society and a component in the creation of new legislation.

However, it is regrettable that the 1960 Prevention of Cruelty to Animals Act exempts several mutilations and religious slaughter without stunning to be considered under the animal cruelty criteria outlined in Section 11. These exemptions provide for the intensification of factory farming to go unchecked in India.

By comparison, secondary legislation on animals used in farming is more progressive for animal welfare. The 2001 Prevention of Cruelty to Animals (Slaughter House) Rules contribute to mainstreaming the welfare of farm animals, since animals must be thoroughly examined before being slaughtered. In addition, no animal shall be slaughtered in sight of other animals, which is one of the criteria of humane slaughter practices. Furthermore, Transport of Animals Rules 1978 outline that animals shall be transported with their on-farm social groups, which suggests that the legislation is concerned with the mental well-being of animals.

However, strong animal welfare standards are lacking for various species of farm animals. For instance, there is no ban on the worst forms of confinement for farm animals in India, such as sow stalls, farrowing crates and cages for egg-laying hens. Furthermore, there is no limitation on the stocking density for the rearing of broiler chickens.

There is limited legal protection for dairy animals, since the Registration of Cattle Premises Rules 1978 are the only national legislation. This law is also not properly enforced, which has led to unregulated dairy systems developing

³⁰ <https://blogs.wsj.com/indiarealtime/2014/07/07/india-bans-import-of-controversial-foie-gras/>

³¹ <https://sputniknews.com/asia/201806271065827995-india-bans-oxytocin/>

³² <https://www.hindustantimes.com/india-news/india-bans-import-of-hormone-oxytocin-to-half-misuse-in-livestock-industry/story-OzmcR5HjOnU17nKhQGCrgJ.html>



quickly in cities and suburbs without much control.³³ In fact, India is home to the world's largest dairy herd with almost 300 million cows and buffaloes. The majority (70%) are kept by poor farmers who own a few cows to supplement their income from milk. The remaining 30% are kept in large or small local dairies in cities and suburbs. The 90 million dairy cows and buffaloes held in those dairies – some of them illegal – are the ones suffering the most as they are kept in unacceptable conditions. Animals are kept in cramped, dirty places with hardly any sunlight or proper ventilation. Cows and buffaloes are tethered all through the day with short ropes restricting their movement. They barely get to move, roam or rest, and many a time are found helplessly standing over their own urine and faeces day and night. Cows and buffaloes live in overcrowded, barren conditions that cause them immense suffering and stress. They also suffer from malnutrition, have inadequate shelters to protect them from the hot sun and rain and do not have access to proper vet care. Some are left to fend for themselves on busy streets during the day, eating rubbish. Cows roaming the streets can be seen by tourists as part of the country's cultural heritage; however, most of them are old dairy cows whose owners abandoned when they stopped producing milk.

There can also be some serious food safety and environmental concerns. These include the potential for milk contamination due to unhygienic milking practices, water and land pollution from improper waste management, and diseases spreading from improper disposal of carcasses.

Cows and buffaloes confined to the illegal urban dairies endure even worse treatment, in environments that lack even basic amenities like food, water and shelter and are unlikely to receive any veterinary care. When not confined in crowded spaces, animals are left to fend for their food from garbage dumps and household community leftovers – where pieces of glass or plastic are likely to be found.

The expansion of intensive systems of animal confinement in India raises animal welfare concerns.³⁴ For instance, India remains the largest exporter of beef, mostly buffalo meat, worldwide, with annual exports worth US\$4 billion.³⁵ Cattle are transported for long distances to slaughterhouses in Indian states such as Kerala and West Bengal, where demand for beef is high due to large Muslim and Christian populations. In Kerala, 1.2 million cows are slaughtered annually, of which two thirds are killed illegally, according to the State Animal Husbandry Department of Kerala.³⁶

The chairman of the Animal Welfare Board of India (AWBI) acknowledged in

³³ <https://www.worldanimalprotection.org.in/better-dairy-campaign>

³⁴ <http://asiancorrespondent.com/120411/rise-of-asian-factory-farms-means-bad-news-for-animals-environment/>

³⁵ <https://www.bbc.co.uk/news/world-asia-india-40565457>

³⁶ <https://theecologist.org/2012/oct/26/cruelty-and-animal-suffering-blight-indias-booming-leather-industry>



2014 that the confinement of egg-laying hens in barbed battery cages denied them all their freedoms.³⁷ With regards to cattle, cow slaughter is a controversial topic in the country since cows possess a traditional status as a sacred animal for the majority of the Hindus, Jains and Buddhists.³⁸ Cattle slaughter has also been opposed by various Indian religions because of the ethical principle of ahimsa (non-violence) and the belief in the unity of all life.³⁹ Since cattle cannot be legally slaughtered in certain states, they are often abandoned by their owners when they get old and can no longer produce milk. Abandoned cows often end up feeding on rubbish left in the streets and may disturb traffic.⁴⁰ As a result, in January 2019, the Uttar Pradesh government suggested to tag such stray cows, since their numbers are soaring.⁴¹ Poverty, which pushes farmers to abandon their unproductive cows when they can no longer afford to feed them, is therefore another barrier to improving animal welfare. The transport of animals as part of the new 2017 Rules has also caused controversy due to religious reasons. There are therefore social barriers to the improvement of welfare for this category of animals.⁴²

Enforcement mechanisms

If any animal is subjected to any form of cruelty specified or treated in any of the ways provided under Section 11 (a) to (o) of the Prevention of Cruelty to Animals Act 1960, the offender is subject to fines of up to 50 rupees (US\$0,72). There are higher fines with possible imprisonment for repeat offences.

Of the legislation that exists on cow slaughter, most states provide that breaches are criminal offences. Section 12 of the Act penalises the practice of phooka or doom dev or any other operation performed upon any cow or other milch animal, to improve its lactation. It is a criminal offence punishable with a fine of up to one thousand rupees and/or with imprisonment for a term of up to two years, and the animal on which the operation was performed shall be surrendered to the government. The National Dairy Code of Practices for the Management of Dairy Animals in India does not contain any enforcement mechanisms.

Key recommendations

- Primary legislation, through the Prevention of Cruelty to Animals Act 1960 exempts mutilations such as dehorning, castration and nose roping from being

³⁷ <https://timesofindia.indiatimes.com/city/hyderabad/Animal-Welfare-Board-of-India-bats-against-battery-cages/articleshow/31956902.cms>

³⁸ <https://www.bbc.co.uk/news/world-asia-india-34513185>

³⁹ <https://indianexpress.com/article/explained/explained-no-beef-nation/>

⁴⁰ <http://www.karunasociety.org/the-plastic-cow-project>

⁴¹ <https://www.independent.co.uk/news/world/asia/india-stray-cows-uttar-pradesh-bjp-barcode-tag-hinduism-cattle-a8754436.html>

⁴² <https://www.rediff.com/news/report/explained-centres-new-country-wide-rules-for-cattle-slaughter/20170531.htm>



considered cruel. As such, the Government of India is encouraged to amend Section 11 (3)(a) of the Act to include such practices in cruelty considerations.

- The Government of India is urged to ban the worst forms of confinement for farm animals. In particular, the use of farrowing crates, sow stalls, and cages should be banned. The stocking density of broiler chickens should also be reduced to a maximum 30 kg/m² or lower. Surgical operations, such as piglet mutilations, such as teeth clipping and castration, and beak trimming for egg-laying hens, shall not be performed except under anaesthesia and with analgesics.
- Regarding slaughter, it is positive that the 2001 Prevention of Cruelty to Animals (Slaughter House) Rules mandate that animals shall be inspected by a veterinarian prior to slaughter, and that no animals shall be slaughtered in sight of another animal. This is a component of humane slaughter procedures. However, the 1960 Prevention of Cruelty to Animals Act still allows religious slaughter to take place without stunning the animal. The Government of India is urged to mandate the humane slaughter of all farm animals. Animals should be instantaneously rendered unconscious and insensible to pain and distress prior to slaughter. Today, there is growing consensus amongst religious authorities worldwide that pre-slaughter stunning is compatible with religious principles.⁴³ Humane halal slaughter allows for the animal to be temporarily rendered unconscious via stunning prior to slaughter, as long as the animal's skull remains intact and the animal would regain consciousness in time should slaughter not occur. Therefore, animals should be unconscious before being bled, and no further processing should occur until irreversible loss of consciousness is confirmed.
- Moreover, the Government of India is encouraged to develop guidelines and legislation on detailed husbandry issues for different species of farmed animals, such as housing requirements, to promote the Five Freedoms of farm animals at all times.

4. There are laws that apply to animals in captivity

Analysis of the legislation	
Ranking	C
The general anti-cruelty provisions of section 11 of the Prevention of Cruelty to Animals Act 1960 apply to this category of animals. Particularly relevant are the prohibitions on confining an animal in a way that does not permit	

⁴³ [http://www.fao.org/3/x6909e/x6909e09.htm#b5-Religious%20or%20ritual%20slaughter%20\(Halal%20and%20Kosher\)](http://www.fao.org/3/x6909e/x6909e09.htm#b5-Religious%20or%20ritual%20slaughter%20(Halal%20and%20Kosher))



reasonable opportunity for movement or tethering an animal for an unreasonable time on an unreasonably short or heavy chain (Section 11 (e)(f)).

Zoos

Chapter 5 of the Prevention of Cruelty to Animals Act 1960 relates to animals which are exhibited to the public and requires that trainers and exhibitors are registered. This appears to cover only animals used in performances, and any animals kept in any zoological garden or by any society or association, which has for its principal object the exhibition of animals for educational or scientific purposes are not covered by the requirements of this chapter.

Chapter IVA of the Indian Wildlife (Protection) Act 1972⁴⁴ establishes the Central Zoo Authority to specify minimum standards for zoos, evaluate zoos and provide them with official recognition. Zoos are required to obtain recognition in order to operate (Article 38H). In addition, it is forbidden for visitors to tease, molest, injure or feed any animal or cause disturbance to the animals by noise or otherwise (Article 38J).

Secondary legislation, the Recognition of Zoo Rules 2009,⁴⁵ contains restrictions on the acquisition of zoo and circus animals and their treatment in captivity, requiring that all enclosures are designed in order to meet the full biological requirements of animals, to have space for free movement and exercise, and to ensure that groups are not unduly dominated by individuals.

All zoos are classified under the 2009 Rules based on area, number of visitors and species and animals, especially if the facility hosts endangered species (Article 9). The Central Zoo Authority will grant recognition with due regard to the interest of protection and conservation of wildlife, and on being satisfied that the standards and norms and other matters specified in the Schedule are met by such zoo. The Schedule contained in the Rules provide for: animal health, hygiene, feeding and prevention of cruelty; veterinary facilities; acquisition and breeding of animals; visitors requirements; etc. All zoos should submit an annual report to the Central Zoo Authority with statistics on the number of animals housed (Article 11). In 2009, the Central Zoo Authority banned the use of elephants in zoos and circuses.⁴⁶ However, this ban has not been implemented, since firsthand visits show that elephants are still kept in zoos.⁴⁷

The Animal Welfare Board of India (AWBI), established by the Prevention of Cruelty to Animals Act, is responsible for implementing and enforcing animal welfare legislation and public policy in India. The Board shows some activity in

⁴⁴ [http://nbaindia.org/uploaded/Biodiversityindia/Legal/15.%20Wildlife%20\(Protection\)%20Act,%201972.pdf](http://nbaindia.org/uploaded/Biodiversityindia/Legal/15.%20Wildlife%20(Protection)%20Act,%201972.pdf)

⁴⁵ <http://extwprlegs1.fao.org/docs/pdf/ind100371.pdf>

⁴⁶ <https://www.peta.org/blog/confinement-elephants-zoos-banned-india/>

⁴⁷ <http://cza.nic.in/uploads/documents/notifications/orders/english/c-34.pdf>



this area, for example, the Board recently officially opposed the establishment of dolphinariums in the country on animal welfare grounds, citing the Prevention of Cruelty to Animals Act 1960 and the Indian Wildlife (Protection) Act 1972 and stating that this would contravene these laws.⁴⁸ Chapter 2, Section 9(b) of the Act states that a function of the Board is to 'advise the Central Government on the making of rules under this Act with a view to preventing unnecessary pain or suffering to animals generally, and more particularly when they are being transported from one place to another or when they are used as performing animals or when they are kept in captivity or confinement'.

With regards to the keeping of elephants in captivity, the Animal Welfare Board of India has provided a booklet on the Care and Management of elephants in temples.⁴⁹ These guidelines provide recommendations for the housing, bathing and grooming, feeding and transporting of elephants, among others. The document prescribes that captivity requires elephants to be chained, since 'chains make it easier to fasten an elephant that has bolted or is out of control'.⁵⁰ Nonetheless, the AWBI highlights in its key recommendations that 'it is ideal that temples do not possess elephants since they will be under tremendous psychic and managerial stress'. If an elephant is required for rituals, then it is 'the moral and ethical mandate to provide the required care and management' and to treat the animal with 'dignity'.

In 2010, the Government of India also published a comprehensive set of guidelines on wild captive elephant management.⁵¹ The Ministry of Environment and Forests had also suggested a set of guidelines for the maintenance of elephants in captivity in 2008.⁵²

In addition, the state of Kerala has enacted its own Captive Elephant (Management and Maintenance) Rules in 2003.⁵³ The Rules make provision for the care, feeding, housing, workload, transportation and retirement of elephants. Elephants are allowed to retire from their work at 65 years old (Section 9(1)). In addition, Section 11 provides that the elephant owner may apply for a permission to the Chief Wildlife Warden to cut the tusk of the animal. Section 12 outlines the anti-cruelty provisions of the Act. The Act allows for an elephant to be chained, except for an 'unreasonable time' or to an 'unreasonable heavy chain'. In March 2019, the Chief Wildlife Warden of Kerala banned the parading of elephants from 10am to 4pm, due to the intense Summer heat. This measure is not only explained for animal welfare concerns, but also on human health grounds since elephants have caused fatal injuries

⁴⁸ https://docs.google.com/file/d/0B_g1FVvYBbUZbMXJuMGxLaWlkrWc/edit?pli=1

⁴⁹ <http://www.awbi.in/awbi-pdf/Elephants.pdf>

⁵⁰ <http://www.awbi.in/awbi-pdf/Elephants.pdf>

⁵¹ http://www.environmentandsociety.org/sites/default/files/key_docs/Gajah.pdf

⁵² http://www.awbi.org/awbi-pdf/elephant_care_guidelines.pdf

⁵³ <http://extwprlegs1.fao.org/docs/pdf/ind118940.pdf>



to mahouts.⁵⁴

Private keeping of wild animals

No legislation has been found specifically relating the private keeping of wild animals.

Fur farming

Since the API was first published in 2014, the Director General of Foreign Trade in India has issued a notification on 3rd January 2017 effectively banning the import of skins of reptiles, chinchillas, minks and foxes.⁵⁵

Analysis

The 1972 Wildlife Protection Act is positive for animal welfare as it required all facilities to be approved and registered by the Central Zoo Authority before becoming a zoo. Moreover, the Act provides basic anti-cruelty requirements for animals held in zoos, such as a ban on molesting. This Act establishes the Central Zoo Authority, which provides information on its website, including a detailed policy and guidance, and details of zoos which are recognised by the Authority.⁵⁶ The Authority also provides some training on conservation, veterinary and welfare issues.⁵⁷

The 2009 Recognition of Zoo Rules show to a greater extent how the welfare of animals kept in zoos is mainstreamed in India. Even though all zoos are justified to contribute towards the conservation of species rather than the welfare of individuals, all zoos must have populations of 'physically, genetically and behaviourally healthy animals' (Article 1(1)). Moreover, the Regulations have some welfare concerns since they regulate 'the movement of visitors in such a manner that zoo animals are not unduly disturbed, stressed or provoked' and the zoo must close at least one day a week (Article 1(3)). All sick, injured, infirm or tethered animals must not be displayed to the public and must be provided with appropriate upkeep and healthcare (Article 1(8)).

It appears that the Animal Welfare Board actively promotes the relevant legislation and opposes any activities that would contravene this or result in animal welfare concerns, as shown with the example of dolphinaria in 2013. In addition, even the Central Zoo Authority, whose focus is more on conservation rather than welfare, has taken steps positive for animal welfare, as proven by its decision in 2009 to prohibit keeping elephants in zoos on welfare grounds.⁵⁸

⁵⁴ <http://www.newindianexpress.com/states/kerala/2019/mar/14/ban-on-parading-elephants-rattles-temple-managements-in-kerala-1950854.html>

⁵⁵ <https://www.furfreealliance.com/india-bans-import-fur-mink-foxes-chinchillas/>

⁵⁶ <http://cza.nic.in/>

⁵⁷ <http://cza.nic.in/event.html>

⁵⁸ <https://www.peta.org/blog/confinement-elephants-zoos-banned-india/>



It is positive that the Central Zoo Authority has been successful in getting rid of all travelling zoos and private roadside zoos.

The AWBI's guidelines with regards to the care and management of elephants in temples are overall positive in mainstreaming the welfare of elephants, since it highlights that keeping elephants in captivity as such impairs their psychological and physical wellbeing. Furthermore, these guidelines raise awareness on management practices of elephants which impair their welfare, notably the fact that they are chained for 12 to 22 hours a day in stands or stables. Their diet is monotonous, and they are commonly administered drugs, and their social contacts are minimal. Overall, elephants live a stereotypic life, and the mahouts in charge of them are low skilled. These guidelines are legally-binding since they have been based on provisions of the Wildlife Protection Act and have also been cited in court cases.

However, it appears that there are issues with respect to implementation and enforcement of legislation because significant welfare concerns have been raised both nationally and internationally about some of the country's zoos, for example, Mumbai Zoo⁵⁹ and Bannerghatta Zoo.^{60,61} In 2006, an inquiry into 27 Indian zoos conducted by various animal charities, including World Animal Protection, concluded that common welfare problems were identified at all the facilities.⁶²

There is a lack of legislation regulating the private keeping of wild animals in India. traditional attitudes towards keeping wild animals as pets and cultural uses of animals present barriers to improving animal welfare.⁶³ The popularity of keeping wild animals as pets inhibits the progress of making the welfare of this category of animals a mainstream concern of society, although it is reported that the authorities confiscate illegally kept species.^{64,65}

The recent ban on the imports of skins of reptiles and fur of minks, chinchillas and foxes, which was supported by the Ministry of Environment and Forest and Climate Change (MoEFCC) as well as AWBI, shows the government's intent to take the welfare of captive animals into consideration. However, fur farming should be entirely banned since it is inherently cruel and causes pain, distress and suffering to animals.

Enforcement mechanisms

⁵⁹ <https://www.bbc.com/news/world-asia-india-37819995>

⁶⁰ <https://www.thedodo.com/the-5-worst-zoos-in-the-world--528392319.html>

⁶¹ <http://www.thehindu.com/todays-paper/article143089.ece>

⁶² <http://www.zoocheck.com/wp-content/uploads/2015/06/Indianreport1.pdf>

⁶³ <https://www.hindustantimes.com/india/exotic-pets-you-can-have/story-8zGHNGSOqOEHzEhtkS33l.html>

⁶⁴ <http://timesofindia.indiatimes.com/city/bhubaneswar/Let-the-wild-run-free/articleshow/16607323.cms>

⁶⁵ <http://www.wildlifesos.org/rescue/>



If any animal is subjected to any form of cruelty specified or treated in any of the ways provided under Section 11 (a) to (o) of the Prevention of Cruelty to Animals Act 1960, the offender is subject to fines of up to fifty rupees (higher fines with possible imprisonment for repeat offences).

Contravention of the Indian Wildlife (Protection) Act 1972 is punishable with fines and/or imprisonment.

The Government is invited to confirm whether there are enforcement mechanisms for breach of relevant government Circulars such as those relating to dolphinariums and captive elephants. Enforcement of these Circulars did not take place as originally directed, due to logistical reasons.⁶⁶

Key recommendations

- Various legislative instruments address the welfare of animals in captivity in India. The Prevention of Cruelty to Animals establishes the Animal Welfare Board of India (AWBI), which advises the Government on the treatment of animals kept in captivity. In addition, it is positive that all zoos must be registered and approved by the Central Zoo Authority, according to the 1972 Wildlife Protection Act. The Government of India is strongly encouraged to mandate regular inspections of zoos, at a minimum annually, to ensure that animal welfare standards as required by the Act are upheld.
- India should be acclaimed for its decision to ban the confinement of elephants in zoos and circuses, as well as the display of dolphins in captivity. The Government of India is urged to extend this ban to all marine mammals, since scientific arguments have proven that no marine mammals can thrive in captivity.⁶⁷ Recognising that the physiological and behavioural needs of marine mammals cannot be met in captivity, the Government of India is strongly encouraged to ban the breeding, keeping and training of all marine mammals in captivity, so that these animals constitute the last generation in captivity in the country.
- The Government of India is encouraged to implement the guidelines delivered by the Animal Welfare Board of India on elephants in captivity care and management. Notably, since the AWBI recommends temples not to use elephants, the Government of India is encouraged to phase out the use of elephants in temples.
- A barrier to animal welfare in India is the societal acceptance of exotic pet ownership. The Government of India is strongly encouraged to produce guidelines informing the population of the status of endangered species, and the human and animal health and welfare risks associated with keeping wild

⁶⁶ <http://cza.nic.in/uploads/documents/notifications/orders/english/c-34.pdf>

⁶⁷ https://d31j74p4lpxrfrp.cloudfront.net/sites/default/files/ca_en_files/cammic_5th_edition_2019_final_lo_rez_-_canada.pdf



animals as pets. The Government of India is encouraged to develop a Positive List of species, specifying which animals can be kept as companion animals, based on clear criteria including animal welfare and other relevant concerns.

- India should be recognised for its recent decision to ban the import of skins of reptiles, chinchillas, mink and fox. Since fur farming is inherently cruel to animals, the Government of India is urged to fully ban fur farming for all species.

5. There are laws that apply to companion animals

Analysis of the legislation	
Ranking	C
<p><u>Care of companion animals</u></p> <p>Section 3 of the Prevention of Cruelty to Animals Act 1960 is particularly relevant to this category of animals, since it mandates that anyone in charge of any animal 'shall take all reasonable measures to ensure the wellbeing of such animals and to prevent the infliction upon such animal of unnecessary pain and suffering'.</p> <p>Moreover, the general anti-cruelty provisions of Section 11 of the Prevention of Cruelty to Animals Act 1960 apply to this category of animals. Particularly relevant are the prohibitions on: confining an animal in a way that does not permit reasonable opportunity for movement; tethering an animal for an unreasonable time on an unreasonably short or heavy chain; as the owner, neglecting to exercise or a dog which is habitually chained up or kept in close confinement; as the owner, failing to provide sufficient food, drink or shelter; and abandoning an animal without reasonable cause in circumstances that make it likely that the animal will suffer pain from starvation or thirst.</p> <p>Secondary legislation was made under the Prevention of Cruelty to Animals Act 1960, through the Animal Birth Control (Dogs) Rules 2001.⁶⁸ These Rules also provide guidelines for breeders (Article 12): breeders have to be registered with the AWBI and must maintain full record of the number of puppies born as well as record of buyers. In addition, the seller must ensure that the buyer has the required knowledge for the upkeep of the puppies.</p> <p>Since the API was first published in 2014, the Ministry of Environment, Forest and Climate Change has released four new Gazette notifications under the Prevention of Cruelty to Animals Act to regulate dog breeders, animal markets</p>	

⁶⁸ <https://indiankanoon.org/doc/131470747/>



and aquarium and pet fish shop owners.⁶⁹ The rules relevant to companion animals are the 2017 Prevention of Cruelty to Animals (Dog Breeding and Marketing) Rules,⁷⁰ 2017, the 2017 Prevention of Cruelty to Animals (Aquarium and Fish Tank Animals Shop) Rules⁷¹ and the 2017 Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules.⁷²

According to these new rules, dog breeders, aquaria and fish pet shop owners must register themselves within their respective State animal welfare board. In addition, certain forms of cruelty that routinely occur at markets will no longer be allowed, such as mutilating an animal's ears and force-feeding animals to make them appear bigger to fetch a better price for them.

Furthermore, the 2017 Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules state that 'if the accused is convicted, or pleads guilty, the magistrate shall deprive him of the ownership of animal and forfeit the seized animal to the infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala (cow protection society) already having custody for proper adoption or other disposition'. According to the rules governing the breeding, marketing and sale of dogs, all dog breeders must obtain a licence from the local authority, in accordance with the relevant local or municipal law. All breeding establishments shall be open to inspection by inspectors authorised by the AWBI or by the local authority.

Stray animals

According to the Prevention of Cruelty to Animals Act 1960, stray dogs can be killed in 'lethal chambers' by prescribed methods (Section 11(3)(b)) but not by strychnine injection or other unnecessarily cruel manner (Section 11(L)).

The Animal Birth Control (Dogs) Rules 2001, set out rules for local authorities to carry out catching, sterilising and immunising street dogs, whilst pet dogs are the sole responsibility of the owner. The Rules state that stray dogs are to be controlled by the local authority through an Animal Birth Control programme, and that dogs captured for the programme shall be released at the same place or locality from where they were captured. As such, the relocation or killing of stray dogs is illegal. The Rules make provision for trap-neuter-release of street dogs as they state 'if the Municipal Corporation or the local authority thinks it expedient to control street dog population, it shall be incumbent upon them to sterilise and immunise street dogs with the participation of animal welfare organisations, private individuals and the local authority' (Section

⁶⁹ <https://www.petaindia.com/blog/india-passes-new-rules-protect-animals/>

⁷⁰ <https://www.petaindia.com/wp-content/uploads/2017/05/Prevention-of-Cruelty-to-Animals-Dog-Breeding-and-Marketing-Rules-2017.pdf>

⁷¹ <https://www.petaindia.com/wp-content/uploads/2017/05/Prevention-of-Cruelty-to-Animals-Aquarium-and-Fish-Tank-Animal-Shop-Rules-2017.pdf>

⁷² <https://www.petaindia.com/wp-content/uploads/2017/05/Prevention-of-Cruelty-to-Animals-Regulation-of-Livestock-Markets-Rules-2017.pdf>



7(5)). After the dog's surgical sterilisation, 'the dogs shall be released at the same place or locality from where they were captured' (Section 7(5)). The Rules provide that a dog with suspected rabies may not be euthanised but must be kept until 'natural death' (Section 10). The Rules also prescribe that 'incurably ill and mortally wounded dogs' as diagnosed by a qualified veterinarian shall be euthanised during specified hours in a humane manner by administering appropriate drugs, different for adult dogs and puppies (Section 9). The Rules specify that no dogs shall be euthanised in the presence of another dog (Section 9).

Since the API was first published, the Ministry of Environment and Forest published a circular to implement the Animal Birth Control (Dogs) Rule, 2001 and to desist from relocating and killing stray dogs.⁷³ In 2015, the Supreme Court of India has ordered the implementation of the animal birth control programme, requiring all state governments to spay and neuter their stray dogs.⁷⁴

Analysis

The Prevention of Cruelty to Animals Act 1960 establishes a duty of care onto animal owners and lays out precisely what constitute animal cruelty. It is positive that the abandonment of animals is prohibited, though it is unclear what constitutes a 'reasonable cause' for abandonment.

The Animal Birth Control (Dogs) Rules pay attention to animal welfare concerns. Notably, the Rules mandate that euthanasia be carried out by a veterinarian professional, only in the interest of the animal and in a humane way. Furthermore, these Rules encourage a responsible trade in pets, as they mandate the record of pet owners. However, seeing the high number of dogs who end up as strays in India, it is possible that the monitoring of puppies sold is not strictly enforced.

However, stray animals face a much harsher treatment in India. The Prevention of Cruelty to Animals Act 1960 effectively authorises the culling of stray animals, as long as the culling is not done through a strychnine injection or other unnecessary cruel manner. However, the Animal Birth Control (Dogs) Rules 2001 make it illegal to cull stray dogs. Culling is highly ineffective at preventing the spread of rabies or other zoonotic diseases. Culling methods should be stopped immediately; instead, the Government of India should roll out spay-and-neuter and mass vaccination programmes.

The Animal Welfare Board of India works to address the welfare problems of street dogs and to control rabies but reports that it is handicapped by

⁷³ http://www.awbi.org/awbi-pdf/circular_abc_cantonmentboards.pdf

⁷⁴ <https://www.hsi.org/news-media/supreme-court-order-street-dog-population-matter-111915/>



outdated government policies and a lack of funds.⁷⁵ There are many NGOs working within the country to address the welfare of street dogs and other animals, among which the Federation of Indian Animal Protection Organisations.⁷⁶ There are human resources and funds for the Animal Welfare Board of India (AWBI), which propagates the 1960 Prevention of Cruelty to Animals Act and its enforcement. There are also human resources and funds for the implementation of the Animal Birth Control (Dogs) Rules. A committee must be set up by each local authority with a standard membership and is responsible for planning and management of dog control programmes, in accordance with these rules. Each local authority also has responsibilities to provide funds for immunisation/sterilisation, shelters, vans, a mobile clinic and staff.⁷⁷ However, financial constraints and a reported unrealistic amount of funding for NGOs, which carry out dog sterilisations, present significant barriers to improvement.⁷⁸ The scale of the problem also presents challenges, as the country has an estimated population of 25 to 30 million street dogs.⁷⁹ As a result of rabies outbreaks, mass culling practices have been reported, notably in the state of Kerala, with some people offering money to the civic authorities which would kill a maximum of stray dogs.⁸⁰

Enforcement mechanisms

As well as punishment of fines and jail time for contravening the relevant provisions of the Prevention of Cruelty to Animals Act 1960, the Animal Welfare division of the Ministry of Environment and Forests runs a scheme on Animal Birth Control and Immunization of Stray Dogs⁸¹ and a provision of shelter houses scheme as well as one for providing ambulance services for animals in distress.

Key recommendations

- The 1960 Prevention of Cruelty to Animals Act applies to companion animals and protects them from cruel acts such as abandonment, tethering, lack of food and water. The Government of India is encouraged to strengthen its legislative provisions to protect companion animals by prescribing a more detailed duty of care on owners, which should include enforcement mechanisms. All pet owners should provide their pets with an environment enabling the realisation of the Five Freedoms. Furthermore, the Government of India is strongly encouraged to ban the abandonment of animals under all

⁷⁵ <http://www.dailymail.co.uk/indiahome/indianews/article-2597783/Anti-rabies-scheme-falters-India-overrun-30million-stray-dogs.html>

⁷⁶ <http://www.fiapo.org>

⁷⁷ <http://envfor.nic.in/sites/default/files/Untitled-11.pdf>

⁷⁸ <http://www.dailymail.co.uk/indiahome/indianews/article-2597783/Anti-rabies-scheme-falters-India-overrun-30million-stray-dogs.html>

⁷⁹ <http://www.dailymail.co.uk/indiahome/indianews/article-2597783/Anti-rabies-scheme-falters-India-overrun-30million-stray-dogs.html>

⁸⁰ <https://timesofindia.indiatimes.com/india/Now-gold-coins-for-culling-stray-dogs-in-Kerala/articleshow/55140404.cms>

⁸¹ http://moef.nic.in/sites/default/files/SCHEMEFORBIRTHCONTROLANDIMMUNIZATION_0.pdf

circumstances.

- According to the Animal Birth Control (Dogs) Rules 2001, the Government of India allows euthanasia of stray dogs only in the interest of the animal (if incurably ill and mortally wounded) and if carried out in a humane way, by a veterinarian. This measure is in line with a humane dog population management scheme. However, the Prevention of Cruelty to Animals Act 1960 authorises the culling of stray dogs, unless if performed by strychnine injection or other unnecessarily cruel manner. The Government of India is strongly encouraged to promote humane stray animal population management, which relies on promoting responsible ownership, mass vaccinations and reproduction control programmes. Culling has been proven to be ineffective and should therefore be banned.
- The Government of India is encouraged to engage with the International Companion Animal Management (ICAM) coalition to learn about and implement their dog population management methodology. The methodology consists of a full cycle of action, addressing the root causes of conflict between roaming dogs and communities. The document is helpful to governments to manage dogs humanely as well as to help communities to live in harmony with dogs.
- The Government of India is encouraged to promote responsible pet ownership, including promoting the adoption over the purchase of pets, to help address indiscriminate breeding and reduce pet overpopulation. The 2017 rules mandate that dog breeders, aquaria and fish pet shop owners register themselves within their respective state animal welfare board, which is a positive step towards controlling the pet trade. However, the effectiveness of this measure is limited since it relies on self-reporting.

6. There are laws that apply to animals used for draught or recreational purposes

Analysis of the legislation	
Ranking	D
<u>Animals used for entertainment</u>	
<p>The general anti-cruelty provisions of Section 11 of the Prevention of Cruelty to Animals Act 1960 apply to this category of animals. Particularly relevant are the prohibitions on: beating, over-riding, over-driving or over-loading; confining an animal in a way that does not permit reasonable opportunity for movement; tethering an animal for an unreasonable time on an unreasonably short or heavy chain; tethering an animal as bait for another solely for</p>	



entertainment purposes; organising animal fights or allowing premises to be used for animal fights; and shooting animals released from captivity for shooting. Chapter 5 of the Act relates to animals which are exhibited to the public and requires that trainers and exhibitors are registered.

The Performing Animals (Registration) Rules 2001⁸² also contain guidelines for using animals in any type of performance including registration of the animals, transport rules and stipulations on working conditions and animal health. Any person wishing to train or exhibit a performing animal shall apply for registration, paying a fee of 500 rupees (Sections 3 and 4). In exercise of powers given by Section 22 of the Prevention of Cruelty to Animals Act, the Government has specified that bears, monkeys, lions, tigers, bulls and panthers shall not be exhibited or trained as performing animals.⁸³ In addition, Section 14 of the 2001 Rules grant power of inspection to an officer to check the mode of transport, care and upkeep of the animals, as well to be present during training or at the time of the exhibition. In 2009, the Central Zoo Authority banned the use of elephants in zoos and circuses, however, this ban has not been implemented since elephants have been seen in zoos.^{84,85}

Since the API was first published, the Central Zoo Authority of the Ministry of Environment, Forest and Climate Change passed orders cancelling the recognition of all circuses across the country that make wild animals perform.⁸⁶ The use of wild animals in circuses is thus effectively banned in India. Furthermore, in 2018, the Uttarakhand High Court banned the commercial use of elephants, including for rides and jungle safaris.⁸⁷

The keeping of dancing bears was banned by the 1972 legislation but it has been reported that the ban was not implemented until animal protection NGOs established a sanctuary for confiscated bears and worked to provide alternative livelihoods for dancing bear owners.

Draught animals

The general anti-cruelty provisions of Section 11 of the Prevention of Cruelty to Animals Act 1960 apply to this category of animals. Particularly relevant are the prohibitions on: beating, over-riding, over-driving or over-loading; confining an animal in a way that does not permit reasonable opportunity for movement; and tethering an animal for an unreasonable time on an unreasonably short or heavy chain.

⁸² <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC040035>

⁸³ <http://www.awbi.org/awbi-pdf/notibulls.pdf>

⁸⁴ <https://www.peta.org/blog/confinement-elephants-zoos-banned-india/>

⁸⁵ <http://cza.nic.in/uploads/documents/notifications/orders/english/c-34.pdf>

⁸⁶ <https://www.indiatoday.in/mail-today/story/wild-animals-performance-in-circus-ban-india-central-zoo-authority-1070867-2017-10-27>

⁸⁷ <https://www.hindustantimes.com/dehradun/uttarakhand-hc-bans-elephant-safari-joy-rides-restricts-gypsy-numbers-in-tiger-reserves/story-6rBssq4vgu0UfiyQst1wgM.html>



Section 3 of the Prevention of Cruelty to Draught and Pack Animals Rules 1965⁸⁸ sets out the maximum loads for draught animals by species. Section 5 sets out the maximum number of passengers which animals can transport and section 6 provides for regular rests for work animals and hours of the day that they should not be worked. Section 8 prohibits the use of spiked bits or harnesses and Section 9 provides for the correct way to saddle a horse in order to minimise pain.

In recent years, the Government has worked with several NGOs to end the practice of using dancing bears in the country.⁸⁹

Analysis

Regarding animals used for recreational purposes, it is positive that the Prevention of Cruelty to Animals Act 1960 forbids the organisation of animal fights. It is also positive that certain wild animal species are prohibited from being used in performances (bears, monkeys, lions, tigers, bulls and panthers). However, some cruel forms of entertainment using animals are still allowed in India. Notably, elephant rides are still allowed in most of the country, and the ban on the use of elephants in circuses is not implemented. The Government of India should follow the judgement of the Uttarakhand High Court, which has banned the commercial use of elephants for rides and jungle safaris in 2018.

Regarding draught animals, the 1960 Prevention of Cruelty to Animals Act is the primary legislation which is promoted by the Animal Welfare Board of India (AWBI). As the Prevention of Cruelty to Draught and Pack Animals Rules are secondary legislation under the Act, these are also presided over by the AWBI which is comprised of representatives from several different fields. Chapter 2, Section 9(c) of the Act states that a function of the Board is to 'advise the Government or any local authority or other person on improvements in the design of vehicles so as to lessen the burden on draught animals'.

Although legislation exists, there are significant concerns regarding the welfare of working animals in the country, including working elephants, horses, donkeys and mules.^{90,91} It is estimated that 1.1 million working horses, donkeys and mules serve to support people's livelihoods in India.⁹² There are many NGOs working in partnership to address animal health and welfare issues of working animals and to increase owner awareness of the needs of their animals. However, a lack of awareness of animal health and welfare issues amongst animal owners puts animals and livelihoods at risk.⁹³ In addition, poverty amongst working animal owners presents barriers to progress. Socio-

⁸⁸ <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC040066>

⁸⁹ <https://www.reuters.com/article/us-india-bears/indias-last-dancing-endangered-bear-set-free-idUSTRE5BK0RQ20091221>

⁹⁰ <http://www.wildlifecos.org/rescue/elephants>

⁹¹ <http://www.thebrooke.org/our-work/our-countries2/india>

⁹² <https://www.thebrooke.org/our-work/india>

⁹³ <http://www.thebrooke.org/our-work/our-countries2/india>



cultural attitudes also present barriers to progress, for example, with respect to the use of elephants for commercial activities and the use of harmful traditional medicines to treat working animals.

In fact, elephants have been tamed and used for working purposes for hundreds of years in India.⁹⁴ Elephants were domesticated in the early days mostly for military purposes, before being now used for logging operations and tourism activities, such as elephant rides.^{95,96} Cultural barriers also exist with regards to the keeping of dancing bears. It took over 50 years, for example, to bring an effective end to the keeping of dancing bears in the country following introduction of the 1972 legislation.⁹⁷

Another obstacle to improving animal welfare is the lack of awareness from international tourists about the plight endured by elephants kept captive.⁹⁸ Despite being India's National Heritage Animal, elephants used for entertainment are treated poorly – often chained, fed an inadequate diets and forced by mahouts to perform – with a lack of concern for both their mental and physical wellbeing.⁹⁹

Additionally, human-wildlife conflicts are common in India. Under pressure from higher population densities resulting in the loss and fragmentation of their habitats, elephants sometimes raid crops and may cause fatal injuries to the local populations.^{100,101} Reciprocally, elephants are sometimes killed by local populations: India's environment ministry reported that 72 elephants were killed between 2013 and 2014, with more than 100 killed in 2012.¹⁰² Despite their role in providing livelihoods for people, working animals receive insufficient attention from policy makers.¹⁰³

However, many initiatives have been put into place by international and national NGOs working in partnership with local authorities and veterinary services to address working animal welfare, indicating that there is room for progress to improve the welfare of these animals. Furthermore, the political climate with regards to working elephants in India may be changing. In 2015, members of the Indian Supreme Court expressed concern about elephant working conditions and requested a response from the Government in four

⁹⁴ <http://www.fao.org/3/AD031E/ad031e0g.htm>

⁹⁵ http://news.bbc.co.uk/1/hi/world/south_asia/8533776.stm

⁹⁶ <http://www.fao.org/3/v9570E/v9570e02.htm>

⁹⁷ http://news.bbc.co.uk/1/hi/world/south_asia/8421867.stm

⁹⁸ <https://www.worldanimalprotection.org/blogs/elephants-are-being-abused-tourist-rides-amber-fort-india>

⁹⁹ <https://www.peta.org/features/elephant-rides-india-amber-fort-jaipur/>

¹⁰⁰ <http://www.sanctuaryasia.com/magazines/conservation/5214-human-elephant-conflict-in-india.html>

¹⁰¹ <http://www.eleaid.com/elephant-conservation/elephant-death-humans/>

¹⁰² <https://www.bbc.co.uk/news/science-environment-42733022>

¹⁰³ <http://www.thebrooke.org/our-work/our-countries2/india>



weeks.¹⁰⁴ The court raised concern after a petition was filed by the Wildlife Rescue and Rehabilitation Centre, which stated that only 50 of 130 elephants used for tourism in the Indian states of Goa and Rajasthan were housed in the state-sponsored supported Elephant Village, where the animals were given food, cleaned, and taken out for walks. The remaining 80 were housed in private sheds and suffer both mentally and physically, with records showing elephants suffering from back swelling, chain wounds on their legs, severe foot infections, and even exhibiting signs of depression.¹⁰⁵ As a response, the Supreme Court has issued several directives to enhance elephant welfare and the state government of Rajasthan has also initiated some activities to alleviate the cruelty meted out to the Amer Fort elephants.¹⁰⁶

Enforcement mechanisms

If any animal is subjected to any form of cruelty specified or treated in any of the ways provided under Section 11 of the 1960 Prevention of Cruelty to Animals Act, the offender is subject to fines of up to fifty rupees (higher fines with possible imprisonment for repeat offences).

The Prevention of Cruelty to Draught and Pack Animals Rules do not appear to have any penalties for infringement, however, a police constable or higher ranking officer has the authority to weigh any vehicle and animal pulling it on a 'weigh bridge' if he/she has reason to believe that an offence against rule 3 or 4, has been or is being committed in respect of any animal referred to therein and if a bridge is reasonably close by. There do not appear to be any guidelines or schemes on draught animal welfare or health run by the relevant government departments at present.

Key recommendations

- The Government of India should be recognised for enacting the 1965 Prevention of Cruelty to Draught and Pack Animals Rules, which outline specific welfare requirements for working animals, such as a maximum weight an animal can carry and a prohibition on the use of spur. However, these 1965 Rules lack enforcement mechanisms. The Government of India is therefore encouraged to amend these Rules to include penalties if a lack of enforcement of the welfare requirements occur. Facilities using working animals should also be regularly inspected to ensure that the welfare of such animals is not compromised.

¹⁰⁴ <https://www.cntraveler.com/stories/2015-12-11/why-elephant-rides-in-india-may-soon-be-banned>

¹⁰⁵ <https://www.telegraph.co.uk/travel/destinations/asia/india/articles/India-considers-banning-elephant-rides/>

¹⁰⁶ <https://cupabangalore.org/captive-elephant-welfare/>



- It is positive for animal welfare that the 2001 Performing Animals (Registration) Rules mandate the registration of performing animals and allow for inspectors to monitor the training and exhibition of animals. However, cruel forms of entertainment using animals are still allowed in India. As such, the Government of India is urged to enact a ban on the use of all animals in circuses and other public performances, including at zoos.
- Recognising that elephants are largely used in India for entertainment purposes, the national Government is urged to follow the decision of the Uttarakhand High Court to outlaw the commercial use of safaris (including elephant rides). With regards to elephants used for working purposes, the Government is encouraged to enact mandatory requirements to ensure the welfare of such animals.

7. There are laws that apply to animals used for scientific research

Analysis of the legislation	
Ranking	B
<p>Chapter 4 of the Prevention of Cruelty to Animals Act 1960 concerns animals used for experiments. Section 14 provides an exemption from the other provisions of the Act for anything done in experiments for the purpose of advancement by new discovery of physiological knowledge of, or knowledge which will be useful for saving or for prolonging life or alleviating suffering or for combating any disease, whether of human beings, animals or plants. This includes an exemption from the anti-cruelty provisions of Section 11 of the Act. Section 15 also provides for the creation of a Committee for Control and Supervision of Experiments on Animals (CPCSEA) which has the power to prohibit experiments.</p> <p>The Breeding of and Experiments on Animals (Control and Supervision) Rules 1998¹⁰⁷ contain more detailed regulation on experimentation on animals. These rules specify that institutions must register to carry out animal experiments and request permission for each experiment from the Committee for the Purpose of Control and Supervision of Experiments on Animals, or the Institutional Animals Ethics Committee recognised for the purpose by the Committee for the Purpose of Control and Supervision of Experiments on Animals. Section 9 concerns the welfare of the animals involved, specifying that 'experiments shall be performed with due care and humanity' (Section 9(b)). The section also includes provisions for the use of anaesthetic to prevent the animal from feeling pain and not using neuromuscular-blocking drugs</p>	

¹⁰⁷ <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC040054>



without anaesthetic. Section 8 allows the Committee for the Purpose of Control and Supervision of Experiments on Animals to put conditions on authorisation for experiments to ensure that animals are not subjected to unnecessary pain or suffering before, during or after the performance of experiments on them; however the Act does not itself prohibit subjecting animals to unnecessary pain or suffering, nor does it mandate that such conditions are attached to project authorisation.

A first series of Amendments were made in 2001, which clarified the definition of 'experiment', the reporting and registration requirements, and expanded on personnel qualifications.¹⁰⁸ In 2006, new Amendments added, among other things, the specification that experimenters should first consider using animals 'lowest on the phylogenetic scale', that experimenters should use the minimum number of animals necessary to achieve 95% statistical confidence, and that experimenters must provide justification for not using non-animal alternatives (Section 9(1)(bb)).¹⁰⁹ Such amendments therefore included elements from the Three Rs principles of Replacement, Reduction and Refinement.

Moreover, in June 2013, the drug controller general of India announced that testing cosmetics and their ingredients on animals will not be permitted in India.¹¹⁰ In October 2014, India further banned the import of cosmetic products that test on animals, thus becoming the first country in South Asia to do so. These two bans, on both testing and importing products tested on animals, were translated into law by amending the 1945 Drugs and Cosmetics Rules.

In addition, in 2013, the Establishment of Medical College Regulations were amended to ban the use of vivisection in medical education.¹¹¹

Animal experiments are also being phased out in certain school settings. Since March 2002, the Central Board of Secondary Education has banned the killing of frogs, rats and earthworms for biological tests.¹¹² Moreover, in 2014, the University Grants Commission, the governmental body that sets standards for university education in India, has banned the dissection of animals in zoology and life science university courses.¹¹³

Analysis

It is positive that the legislation incorporates the principles of the Three Rs principles and makes provision for oversight of experiments using animals. However, the anti-cruelty provisions of the Prevention of Cruelty to Animals Act

¹⁰⁸ <http://cpcsea.nic.in/WriteReadData/userfiles/file/2001.pdf>

¹⁰⁹ <http://cpcsea.nic.in/WriteReadData/userfiles/file/2006.pdf>

¹¹⁰ <https://www.peta.org/media/news-releases/victory-india-ends-animal-testing-cosmetics-following-peta-india-campaign/>

¹¹¹ <http://www.egazette.nic.in/WriteReadData/2014/158751.pdf>

¹¹² <https://www.thehindu.com/2001/05/21/stories/0221000j.htm>

¹¹³ <https://www.sciencemag.org/news/2014/08/dissections-banned-indian-universities>



1960 do not protect animals used in experiments, and protection from unnecessary pain and suffering is not mandated by the Breeding of and Experiments on Animals (Control and Supervision) Rules 1998 (although can be imposed as a condition of authorisation for experiments). Therefore, at present, the legislation does not fully protect animals used in experiments from suffering. This was illustrated by a report published in 2003 by Animal Defenders International and the UK National Anti-Vivisection Society, based on evidence gathered by the CPCSEA during inspections of 467 Indian laboratories finds 'a deplorable standard of animal care in the majority of facilities inspected'.¹¹⁴ The report lists many instances of abuse, neglect, and failure to use available non-animal methods.

However, India has made progress by banning the testing of cosmetics and their ingredients on animals, through Draft Rule 148-C.¹¹⁵ Furthermore, the country has imposed a ban on the imports of cosmetics products tested on animals through Clause 135-B.¹¹⁶ This measure puts India at the same level in terms of animal protection as the European Union.¹¹⁷ The positive effect of these two bans on animal welfare has been highlighted by animal welfare charity, such as Humane Society International which granted the Drug Technical Advisory Board of India a 'Leadership in Animal Welfare Award'.¹¹⁸

The 2013 ban on animal testing for cosmetics and the 2014 ban on import of products tested on animals suggest that there is political will in India to address the welfare of animals used in experiments. Moreover, the 1998 Breeding of and Experiments on Animals (Control and Supervision) Rules mandate that any establishment carrying out experimentation has to be registered and apply for permission to the Committee for the Purpose of Control and Supervision of Experiments on Animals or Institutional Animal Ethics Committee. This illustrates that the government is willing to have an oversight responsibility in ensuring the welfare of animals in experiments.

In addition, the ban on the use of vivisection for medical education contributes to mainstreaming the idea that animals feel pain and should be protected. To better promote animal welfare, this ban should be applicable to all vivisection practices, not only when done for medical education.

Enforcement mechanisms

¹¹⁴ <http://www.navs.org.uk/downloads/animalexperimentsinindia.pdf>

¹¹⁵ <http://www.egazette.nic.in/WriteReadData/2014/159614.pdf>

¹¹⁶ <http://www.egazette.nic.in/WriteReadData/2014/161205.pdf>

¹¹⁷ <https://timesofindia.indiatimes.com/india/India-bans-import-of-cosmetics-tested-on-animals/articleshow/44814398.cms>

¹¹⁸ <http://timesofindia.indiatimes.com/india/Indian-drug-advisory-panel-gets-award-for-approving-ban-on-animal-testing-for-cosmetics/articleshow/34529296.cms>



Section 20 of the Breeding of and Experiments on Animals (Control and Supervision) Rules 1998 provide that breach of any order made by the Committee for the Purpose of Control and Supervision of Experiments on Animals or of any condition imposed by the Committee is punishable with a fine which may extend to two hundred rupees, and, when the contravention or breach of condition has taken place in any institution, the person in charge of the institution shall be deemed to be guilty of the offence and shall be punishable accordingly.

The Breeding of and Experiments on Animals (Control and Supervision) Rules also give the Committee the power to revoke the registration of establishments or breeders indefinitely, suspend the registration of such establishment or the breeder and issue instructions for the care and protection of the animals which are under the custody or control of such establishment or the breeder. The establishment must then cease to perform any experiment on any animal or acquire or transfer any animal.

The Ministry of Environment and Forests, Animal Welfare division runs a scheme to assist the Committee to promote animal welfare in animal research.

Key recommendations

- The Government of India has extensive legislation regulating the use of animals for scientific research, notably with the Breeding of and Experiments on Animals (Control and Supervision) Rules 1998, and its subsequent amendments. However, there is still room for improvement. Notably, the Government of India is strongly encouraged to repeal Section 14 of the 1960 Prevention of Cruelty to Animals Act, which exempts animals used in experiments to be considered cruel, under the cruelty criteria outlined in Section 11.
- Furthermore, the Government of India is encouraged to amend the 1998 Breeding of and Experiments on Animals (Control and Supervision) Rules to mandate that animals used in research should be protected from unnecessary pain and suffering.
- It is significant that all facilities that carry out experiments on animals must be registered and approved by a Committee prior to conducting research. The power of the Committee to suspend the activities or revoke the registration of establishments which do not respect animal welfare criteria is noted as a positive measure to monitor animal protection. The Government of India is encouraged to mainstream the Three Rs – Replacement, Reduction, Refinement – and to continue to work with stakeholders to address animal welfare issues in scientific research in line with international standards. As such, the Government of India is strongly encouraged to create a national centre composed of multiple stakeholders, including animal protection organisations,



to promote the Three Rs principles and to develop alternatives to animal experimentation.

- The Government of India should be recognised for banning the testing of cosmetics and their ingredients on animals in 2013, as well as banning the import of cosmetic products tested on animals. India is the first country in South Asia to implement such an import ban and should serve as an example for other countries to follow.
- The Government of India should also be recognised for banning the practice of vivisection for medical education. The Government is strongly encouraged to ban the practice of vivisection at the national level, for all education levels up to and including high school).

8. There are laws that apply to wild animals

Analysis of the legislation	
Ranking	E
<p>The general anti-cruelty provisions of Section 11 of the Prevention of Cruelty to Animals Act 1960 apply to this category of animals, prohibiting acts of cruelty but not prohibiting killing wild animals.</p> <p>The Indian Wildlife (Protection) Act 1972¹¹⁹ focuses on the protection of wild animals, birds and plants. The Act applies to amphibians, birds, mammals and reptiles. Section 9 provides that no person can hunt specified endangered wild animals, with exceptions that hunting can take place under permit if an animal is considered dangerous to human life or property (Section 11) or for purposes of education, scientific research or scientific management (including population management), collection of specimens for zoos and similar, and collection of snake venom for the manufacture of drugs (Section 12). It appears that non-listed wild animals can be hunted without restriction. The Act specifies the setting up of sanctuaries and natural parks to facilitate conservation, and it calls for the appointment and creation of a Chief Wildlife Warden and Wildlife Advisory Board.</p> <p>In 2006, the Wildlife Protection Act was amended to strengthen the conservation of tigers and other endangered species.¹²⁰ Two new Chapters were added to the 1972 Act. Chapter IVB creates the National Tiger Conservation Authority (Section 38L). The Authority is responsible for: approving the Tiger Conservation Plan prepared by the state government; managing and protecting tiger reserves; providing information on protection measures</p>	

¹¹⁹ <http://www.envfor.nic.in/legis/wildlife/wildlife1.html>

¹²⁰ <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC077854>



including future conservation plans, estimation of tiger population, status of habitats, disease surveillance, mortality survey, etc.; ensuring that the tiger reserves are not diverted for ecologically unsustainable uses, except in public interest and with the approval of the National Board for Wildlife and on the advice of the Tiger Conservation Authority (section 38O). The Tiger Conservation Authority is funded through government grants and loans (section 38Q), however no specific amount is outlined in the amendment.

The 2006 Amendment also creates a Steering Committee for ensuring the coordination, monitoring, protection and conservation of tigers, co-predators and prey animals (Section 38U).

Chapter IVC constitutes a Tiger and other Endangered Species Crime Control Bureau (Wildlife Crime Control Bureau), in charge of collecting data on wildlife crime activities, disseminate them to state and enforcement agencies and coordinate the action from enforcement officers (section 38Z). The Tiger Conservation Authority, also known as Project Tiger, is the nodal body that oversees the management of tigers in India.¹²¹

The Prevention of Cruelty (Capture of Animals) Rules 1972¹²² provide that animals cannot be caught to be sold later in certain circumstances. Section 3(i) provides that no animal shall be captured for the purpose of sale, export or for any other purpose except by sack and loop method, except that an animal who cannot be captured by reason of the animal's size, nature of other condition or circumstances by the sack and loop method may be captured with the help of tranquiliser guns or by any other method which renders the animal insensible to pain before capture. This does not apply to birds. Section 2 provides that no bird shall be captured for the purpose of sale, export or for any other purpose except by net method.

Since the API was first published in 2014, the State of Maharashtra has enacted its own Wildlife (Protection) Rules in 2014.¹²³ The Rules essentially regulate the granting of permits for hunting wild animals. The permit holder shall not hunt outside the State of Maharashtra, without the written permission from the Chief Wildlife Warden or any authorised officer. There does not appear to be any requirement to use humane hunting methods.

Analysis

The Indian Wildlife (Protection) Act 1972 is implemented by the National Board for Wildlife and a State Board for Wildlife. The boards are made up of representatives from several areas of government and non-governmental organisations and appear to be designed to mainstream the Indian Wildlife (Protection) Act 1972. Responsibility for wildlife at the national level falls within a separate division of the Ministry for Environment and Forests which is

¹²¹ <https://projecttiger.nic.in/>

¹²² <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC040049>

¹²³ <http://extwprlegs1.fao.org/docs/pdf/IND169738.pdf>



responsible for providing technical and financial assistance to state governments for the scientific management of wildlife resources.

The Wildlife Protection Act (1972) is not comprehensive in its protection of wild animals since it provides that in certain circumstances, it is justifiable to hunt endangered species for reasons such as scientific research, education, for museums and to collect specimens. Where hunting is permitted, there are no apparent restrictions on methods that can be used, including traps. Similarly, the 2014 Wildlife (Protection) Rules for the state of Maharashtra do not include animal welfare concerns, since they do not prohibit the cruellest forms of hunting.

Furthermore, the schedules relating to hunting of wild animals give varying degrees of protection: those listed in Schedule I and II are given absolute protection, with the highest penalties for contravention. Those listed in Schedule III and Schedule IV are also protected, but the penalties are much lower and Schedule V lists animals which may be legally hunted, including crows, fruit bats, mice and rats. The Wildlife Protection Act 1972 is focused instead on the conservation of species, rather than on the welfare of wild animals.

The 2006 Amendments to the Wildlife (Protection) Rules 1972 provide a legal basis for the conduct of 'Project Tiger', supported by the Ministry of Environment and Forests and administered by the National Tiger Conservation Authority. Following recommendations from the National Board for Wildlife, a Tiger Task Force was set up to look into the problems of tiger conservation in the country. The recommendations of the Task Force include strengthening Project Tiger by giving it statutory and administrative powers, transforming it into the Tiger Conservation Authority. Project Tiger has been deemed an example of tiger conservation, which prompted Russia, China, Nepal, Myanmar and Vietnam to approach India for help in either assessment or capacity building measure for tiger conservation in their own countries.¹²⁴

The Government of India has also launched 'Project Elephant' in 1992. The Project is implemented in 13 states and aims at protecting elephants from poachers; managing elephant conservation and addressing human-elephant conflicts. Furthermore, since 2005 the Department of Environment and Forests in the state of Assam, in partnership with the NGOs WWF and the International Rhino Foundations, has been implementing the Indian (One Horn) Rhino Vision 2020, which aims at attaining a wild population of at least 3,000 greater one-horned rhinos spread over seven protected areas in Assam.¹²⁵ It should be noted, however, that the logic underpinning all these species-specific projects

¹²⁴ <https://www.dnaindia.com/india/report-russia-china-see-india-s-help-in-tiger-conservation-1701592>

¹²⁵ <https://rhinos.org/where-we-work/indian-rhino-vision-2020/>



– for tigers, elephants and rhinoceroses – is to conserve whole populations, rather than benefitting the welfare of individuals.

The implementation of Project Elephant and Project Tiger, supported by the Government, illustrates an existing political will to protect species. Furthermore, India is the nodal office of the Global Tiger Forum, the intergovernmental agency representing 14 tiger range countries who coordinate for improving tiger conservation efforts. Both the National Tiger Conservation Authority of India and Global Tiger Forum supported the campaign of World Animal Protection to discourage visits of Indian tourists to tiger parks where tigers are used for entertainment, which proves that welfare concerns are considered.

Another barrier to ensuring the welfare of wild animals is the demand from Asian markets for products derived from wildlife for traditional medicine. For instance, it has been reported that the poaching of pangolins, though protected under Schedule I of the Wildlife Protection Act 1972, is growing in the Guwahati state.¹²⁶ While pangolin meat is consumed in India, their scales are smuggled into international markets, mostly destined to South East Asia, for traditional medicine purposes.

Enforcement mechanisms

If any animal is subjected to any form of cruelty specified or treated in any of the ways provided under Section 11 (a) to (o) of the Prevention of Cruelty to Animals Act 1960, the offender is subject to fines of up to 50 rupees (US\$0,72). There are higher fines with possible imprisonment for repeat offences.

Contravening the Indian Wildlife (Protection) Act 1972 is punishable with fines and/or imprisonment. Under Section 51 of the Act, anyone convicted of an offence under the Act will be punishable with imprisonment for a term of three years and/or a fine of 25,000 rupees (US\$361). In the case of a second or subsequent offence, the term of imprisonment increases to seven years with fine of 10,000 rupees (US\$145). However, these vary for hunting wild animals, depending on the classification of the animal under the Act. Chapters V and VI set out the penalties for the sale, purchase and undeclared possession of animal articles, trophies and similar items.

Section 50 of the Indian Wildlife Protection Act authorises the Director, the Chief Wildlife Warden or any officer authorised by them, or any forest officer or any police officer not below the rank of sub-inspector, to arrest any person without warrant and detain the suspect, if the arresting officer has reasonable grounds for believing that such person has committed an offence against the Act.

¹²⁶ <https://timesofindia.indiatimes.com/city/guwahati/pangolin-poaching-for-scales-rampant-in-region/articleshow/68190302.cms>



Key recommendations

- The Government of India is encouraged to provide greater protection for wild animals. At present, the Indian Wildlife Protection Act 1972 authorises the hunt of endangered species for various purposes, including museum collection. Thus, the Government of India is urged to ban any form of hunting that does not directly support subsistence i.e for feeding oneself and one's family and not for commercial gain. Subsistence hunting operations must employ the least cruel methods of hunting and slaughter, and that all possible efforts should be made to reduce the time to death of animals killed in these hunts. At a minimum, the Government is strongly urged to forbid the cruellest hunting methods.
- The Government of India is strongly encouraged to continue providing ongoing and consistent human and financial resources to its Elephant and Tiger Projects.

Goal 3: Presence of effective governance structures and systems

9. The Government has assigned responsibility and accountability for improving animal protection at a high government level and has provided resources

Analysis of the legislation

Ranking	B
<p>India is a federal union comprising 29 States and 7 union territories. All States, as well as the union territories of Puducherry and the National Capital Territory of Delhi, have elected legislatures and governments.</p> <p>At the national level, the Prevention of Cruelty to Animals Act 1960 establishes responsibility for animal welfare in the Ministry of Environment, Forest and Climate Change which comprises an animal welfare Division. The Division is itself divided into three branches: the Animal Welfare Board of India (AWBI), the National Institute of Animal Welfare (NIAW) and the Committee for the Control and Supervision of Experiments on Animals (CPCSEA).</p> <p>The purpose of the Animal Welfare Board of India (AWBI) is to 'promote animal welfare generally' and 'protect animals from being subjected to unnecessary pain or suffering'. The AWBI is made up of representatives from several areas of the Government of India including the Inspector General of Forests, the Animal Husbandry Commissioner, the Ministries of Home Affairs and Education, the Indian Board for Wildlife, well-known humanitarians, association of veterinary practitioners, practitioners of modern and indigenous systems of</p>	



medicine, municipal corporations, organisations actively interested in animal welfare, societies dealing with prevention of cruelty to animals and six Members of Parliament (Section 5). At present, the AWBI is made of 28 members, each with a term of office of three years.

Among the duties of the AWBI are:

- 1/ to establish Animal Welfare Boards at the state level and to ensure these are provided with enough funding.
- 2/ to create District Animal Welfare Boards which will monitor the implementation of the Prevention of Cruelty to Animals Act and take action for the welfare of animals in the district.
- 3/ to make a database of NGOs in each district to verify there is cooperation among NGOs and the District Boards
- 4/ to create an SPCA in each taluka (sub-districts), which will have a hospital/shelter attached to it and local inspectors checking the abuse/misuse of animals.
- 5/ to de-recognise SPCAs that are nonworking or misusing their mandate
- 6/ to encourage the formation of animal welfare organisations and to give financial and other assistance
- 7/ to monitor the activities of such NGO.

In practice, the AWBI is in charge of the Guashalas scheme, to look after the abandoned cows, the Animal Birth Control and Immunisation of Stray Dogs scheme, the Ambulance scheme providing relief to animals in distress, and the relief plan for animals during natural calamities.¹²⁷ The Animal Welfare Board of India's head office has been transferred from Chennai to Haryana in 2018¹²⁸ and the department shifted from the Ministry of Environment, Forest and Climate Change to the Ministry of Agriculture on 2nd February 2018.¹²⁹

In addition, the National Institute of Animal Welfare was created in 1999 as a division of the Ministry of Environment, Forest and Climate Change. Its broad mandate covers the need to improve animal welfare through research, education and public outreach.¹³⁰ Its objective is to create an enabling environment for fulfilment of the statutory requirements laid down in the 1960 Prevention of Cruelty to Animals Act, through imparting training and education on diversified subjects in animal welfare including animal management, behaviour and ethics. The Institute aims to provide learning and training ground for a wide range of services to improve the quality of services for the care and protection of animals.

¹²⁷ <http://www.moef.gov.in/sites/default/files/Animal%20Welfare.pdf>

¹²⁸ <http://www.newindianexpress.com/nation/2018/mar/06/animal-welfare-board-of-india-headquarters-shifted-from-chennai-to-haryana-1782557.html>

¹²⁹ <https://timesofindia.indiatimes.com/city/chennai/after-58-years-awbi-shifts-to-haryana/articleshow/62867552.cms>

¹³⁰ <http://www.moef.nic.in/division/national-institute-animal-welfare-niaw>



The third agency under the Animal Welfare Division is the Committee for the Purpose of Control and Supervision of Experiments on Animals (CPCSEA), also established by the Prevention of Cruelty to Animals Act 1960. The CPCSEA has the mandate to take all measures to ensure that animals are not subjected to unnecessary pains or suffering before, during or after the scientific experiment on them.¹³¹

At the state level, several Animal Welfare Boards have been created in states such as Haryana and Delhi. However, many states have not created state nor regional animal welfare boards.

Analysis

Animal welfare is an independent issue, recognised by legislation as such for government management and regulation. This recognition allows animal welfare issues to be discussed at Ministerial level. The provisions of the Prevention of Cruelty to Animals Act 1960 and animal welfare generally are promoted by the Animal Welfare Board of India (AWBI). The AWBI advises the national government on developing legislation that will fulfil the objective to 'prevent any action resulting in the infliction of pain or cruelty and misuse of animals in the country'.¹³² Moreover, the Board contributes to mainstreaming animal welfare by being 'unequivocal about its commitment to vegetarianism' justified on 'ethical, moral and medical grounds'.¹³³ For instance, the Board has already demanded from the Government of India the prohibition of meat export. In addition, the AWBI is campaigning for the protection of cows from slaughter in addition to the saving of dog population from mass killing by municipalities. It is positive that the AWBI comprises representatives from animal welfare organisations.

The Ministry of Environment and Forests also has a scheme to assist the Animal Welfare Board with its work. It is positive that the AWBI, and other government bodies such as the Central Zoo Authority, are active in the production of secondary legislation and guidance on animal welfare. The AWBI is also in charge of liaising and encouraging the creation of animal welfare NGOs, which is positive to mainstream animal welfare. Furthermore, the training provided by the National Institute of Animal Welfare intended to 'create awareness amongst all the stakeholders towards the welfare of animals'.¹³⁴

However, despite the positive legislative and policy work undertaken by relevant government bodies, it appears that the structure may not be fully effective to make animal welfare a mainstream concern of society at present. Although the Animal Welfare Board has a wide remit, it is unclear how funds are allocated. In the Prevention of Cruelty to Animals Act Chapter II, Section 8, it is stated that 'the funds of the Board shall consist of grants made to it from

¹³¹ <http://www.moef.gov.in/sites/default/files/Animal%20Welfare.pdf>

¹³² http://awbi.in/policy_acts_rules.html

¹³³ http://awbi.in/policy_acts_rules.html

¹³⁴ <http://www.moef.gov.in/sites/default/files/annual%20report%202015-16.pdf>



time to time by the Government and of contributions, subscriptions, bequests, gifts and the like made to it by any local authority or by any other person'. There is a risk that these seemingly irregular funds could make implementation of the Board's responsibilities difficult.

Enforcement mechanisms

The duties of relevant government bodies are clearly set out in legislation.

Key recommendations

- The Government of India has allocated responsibility for animal welfare at the national level, through the creation of the Animal Welfare Board of India (AWBI), which oversees a wide remit of responsibility. It is positive that AWBI is in charge of liaising with animal welfare organisations and establish state animal welfare boards.
- However, the powers of the AWBI may be limited by inconsistent funding. The Government of India is encouraged to regularly and adequately fund the AWBI to ensure the enforcement of animal welfare standards.
- Moreover, all States are encouraged to create their own Animal Welfare Board, in order to improve animal welfare standards throughout the country.

Goal 4: Promotion of international animal welfare standards

- 10.** The Government has incorporated the OIE's guiding principles for animal welfare and its animal welfare standards into policy and legislation

Analysis of the legislation

Ranking

E

The OIE Animal Welfare Standards focus on transport, slaughter, production systems (beef cattle, broiler chickens, dairy cattle, pigs), stray dog population control, the use of animals in research and education, and working equids.¹³⁵

Existing regulations cover issues established in the OIE's guiding principles and animal welfare standards including transport, slaughter and stray dog population control. However, further development is particularly encouraged in the areas of killing of animals for disease control purposes and the use of animals in agriculture.

¹³⁵ <http://www.oie.int/infographic/StandardsAW/index.html>



Analysis

Some content of the OIE's standards has been incorporated into primary and secondary legislation, namely the 1960 Prevention of Cruelty to Animals Act and related secondary legislation. However, implementation and enforcement activities face difficulties, and the current legislation is not fully effective to incorporate all the OIE standards.

In some instances, cultural or religious beliefs present barriers to improving animal welfare. There may also be significant resource barriers to improvement. For example, a lack of financial support, infrastructure, trained personnel are barriers to progress with respect to humane rabies control in the country.¹³⁶

Enforcement mechanisms

There are enforcement mechanisms for those parts of the OIE's standards which appear in legislation.

Key recommendations

- At present, current OIE animal welfare standards are only partially implemented in India's legislation. In particular, standards for stray animals, the use of animals for scientific research, and the rearing of farm animals are not covered by current animal protection legislation. Therefore, the Government of India is strongly encouraged to enact mandatory guidelines for these species, in accordance with the OIE's Terrestrial Animal Health Code.
- Furthermore, the Government of India is encouraged to promote a more thorough application of the Three Rs principles, notably through the work of the Committee for the Control and Supervision of Experiments on Animals (CPCSEA).
- The Government of India is encouraged to continuously incorporate OIE animal welfare standards in the country's legislation.

11. The Government has pledged in principle support for the Universal Declaration on Animal Welfare (UDAW)

Analysis of the legislation

¹³⁶ <https://www.downtoearth.org.in/news/health/india-sees-1-75-million-dog-bites-every-year-yet-we-face-up-to-80-shortage-of-anti-rabies-vaccines-61298>



The Government of India has not pledged full support in principle for the Universal Declaration for Animal Welfare, since the Animal Welfare Board endorsed UDAW in June 2008.

Note: The UDAW is a proposed formal international acknowledgement of a set of principles giving animal welfare due recognition among governments and the international community. An expression of support for the UDAW demonstrates a government's commitment to working with the international community to improve animal welfare.

Analysis

The UDAW is currently the only international instrument that creates a soft law commitment for countries to acknowledge and respect animal sentience and to work towards ending cruelty and protecting the needs of animals. The Government has expressed full formal support for the UDAW, thus helping to incorporate animal welfare into policy discussions.

Enforcement mechanisms

There are no enforcement mechanisms relevant to this indicator.

Key recommendations

- India has provided government support to UDAW, through a declaration from the Animal Welfare Board. India should act as an example for other countries to pledge support in principle to UDAW.

Last edited: 3 March 2020

Publication: March 2020