



EXAMINING THE STRAY DOG MENACE IN INDIA THROUGH A MULTI-PERSPECTIVE APPROACH

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Abstract

The problem of stray dogs has become a significant issue of concern in India, with numerous incidents of dog attacks and fatalities being reported in the media. The issue has sparked intense discussions among the public, government officials, and animal welfare activists, who hold different views on how to tackle the problem. In this paper, we examine the issue of stray dogs in India from multiple perspectives, including legal, social, and ethical. We analyze various sources, including the Constitution of India, the Indian Penal Code, and the works of scholars like Dr. J.N. Pande, to gain a comprehensive understanding of the issue. We also consider the role of media, public opinion, and government policies in shaping the discourse around stray dogs in India. Our analysis reveals that the problem of stray dogs is a complex issue that requires a multi-faceted approach, involving public awareness campaigns, community engagement, and effective implementation of animal welfare laws. We conclude that a sustainable solution to the problem of stray dogs in India can only be achieved by adopting a humane and inclusive approach that takes into account the needs of both humans and animals.

Introduction

The relationship between humans and animals in India is complex and multifaceted, reflecting both cultural beliefs and modern realities. While animals have been revered in customs and religions in India, the issue of stray dogs as a menace has become a significant problem in the country, causing road accidents, disturbing residents, and posing a threat to public health due to rabies. This issue is compounded by the fact that India has fewer resources to deal with stray dogs compared to other countries. The Wildlife (Protection) Act of 1972, the Prevention of Cruelty to Animals Act of 1960, and the Animal Wellbeing Act of 2011 are just a few of the statutes and laws that India has enacted for the wellbeing as safeguards and rights off animal. These laws aim to promote the well-being of animals, both domesticated and wild, and ensure that they are treated humanely and with dignity. In this article, we will explore the human-animal relationship in India and examine the challenges and solutions related to the issue of stray dogs and the legal protection of animals.

Stray Dog: Meaning

A stray dog refers to a domestic animal that is separated from its owner or home and has no fixed abode. The term "stray" is derived from Middle English, which means to move aimlessly from a group or the right course or place¹. Stray dogs are known to wander or roam around aimlessly and can be found in cities, especially in developing countries. They may be pets that have strayed from their owners, feral animals that have never been owned, or free-ranging dogs that are inadequately supervised. Street dogs are not just feral dogs that stay away from humans, but also include dogs that are occasionally or regularly fed by humans. Stray dogs may belong to purebred or mixed breeds, or may be landraces such as the Indian pariah dog.

Human-Animal Relationship In India

In India, humans and animals have had a long-standing relationship. Early humans relied on animals for companionship, wealth, and safety. Dogs were used for protection and hunting. In the absence of laws, animals were vulnerable.

Customs and religions in India revere many animals, such as cows, snakes, and oxen. Philosophical and legal debates surround the rights of animals. "The Animal Welfare Board of India" case cited an ancient religious text, the Isha Upanishads, which states that no species should encroach on the rights of others. Today, the relationship between humans and animals in India is complex and multifaceted, reflecting both cultural beliefs and modern realities.

The relationship between humans and animals has been the subject of legal and philosophical debate in India. "The Animal Welfare Board of India Vs. A. Nagaraja and Others"² case is one such example. The Isha Upanishads are a religious work that dates from 1500–600 BC, and the Supreme Court of India cited from it in this case. No creature is greater to any other, according to the Upanishad, and humans shouldn't be above nature. No species should infringe upon the rights and privileges of another species, the court said.

"Stray Dog": A Menace?

The issue of stray dogs as a menace has become a significant problem in India, where there are over 30 million strays, causing road accidents, disturbing residents, and posing a threat to public health due to rabies. India accounts for 35% of human rabies deaths globally³, and most of the transmission to humans is caused by dogs. However, a study done at a hospital in Kerala revealed that only 25% of dog bite cases were caused by stray dogs and that 75% of them were caused by pet dogs. Despite this, organisations like the Humane Society International think that India's stray dog problem is exaggerated, and many Indian households feed and house stray dogs.

Understanding The Prevalence Of Stray Dogs In India

Stray dogs are a common sight on the streets of India, and their presence can be attributed to two main factors. Firstly, open garbage in cities provides a constant source of food for these scavengers. Unlike in countries with proper garbage disposal systems, stray dogs in India rely on the availability of food on the streets to survive.

Secondly, India has fewer government and non-governmental organizations that deal with stray dogs. While many countries have interventions such as spaying/neutering programs, animal control, and private shelters,

¹ Oxford Advanced Learner's Dictionary (Oxford University Press 2015).

² 2014, 7 SCC 547.

³ Biswas, Soutik. "Do India's stray dogs kill more people than terror attacks?" BBC News, 12 August 2014, <https://www.bbc.com/news/world-asia-india-> (accessed 10 May 2023).

these interventions require significant resources, which are often lacking in India.⁴ As a result, large-scale interventions to manage stray dog populations are limited. The prevalence of stray dogs in India is a result of both environmental and socio-economic factors, and requires a multifaceted approach to address.

A Journey through Statutes

Numerous laws and regulations have been passed in India for the protection and wellbeing of the animal as safeguards and rights. These laws include, among others, The Animal Welfare Act of 2011, The Prevention of Cruelty to Animals Act of 1960, and The Wildlife (Protection) Act of 1972. The primary objective of the laws are in promoting the wellbeing of the animals, both domesticated and wild, and ensure that they are treated humanely and with dignity.

In order to better understand the scope of these laws, it is important to examine how they define the term "animal." In accordance with Section 2(1) of the Wildlife (Protection) Act of 1972, the term "animal" refers to a variety of living things, including birds, mammals, reptiles, amphibians, and their young.. The section further clarifies that reptile and bird eggs are included in the definition of "animal" as well. The Prevention of Cruelty to Animals Act of 1960 similarly defines "animal" as “any living thing other than a human being” in Section 2(a). The term "domestic animal" is also defined in the same section as any animal that has been fully or partially domesticated, or that has been sufficiently domesticated to serve a purpose for humans.

The Animal Welfare Act of 2011 defines "domestic animal" as “any animal that is tamed or has been sufficiently tamed to serve a function for people, or any animal that has become totally or partially tamed”. It further defines "animal" as any living thing other than a human person. Thus, based on these definitions, it is clear that dogs are included in the purview of these laws, and are entitled to the benefits and protections that they provide.

Additionally, the laws themselves explicitly protect dogs and other animals. For instance”The Prevention of Cruelty to Animals Act of 1960”forbids a number of animal abuse methods, including beating, kicking, overloading, torturing, and other ways of causing needless pain or suffering to animals. The section also prohibits keeping animals in cages or other receptacles that do not allow them reasonable movement, or keeping animals chained or tethered for an unreasonable length of time. In addition, the section requires that animal owners provide their animals with sufficient food, drink, and shelter.

Furthermore, the Animal Welfare Act of 2011 explicitly prohibits various forms of animal abuse and cruelty, including confining animals for the purpose of making them prey for other animals, organising or participating in animal fighting, promoting or participating in shooting competitions where animals are released from captivity, and mutilating or killing animals in cruel or unnecessary ways. Violations of these provisions can result in significant fines or imprisonment.

India has implemented a number of statutes and laws designed to protect the rights and welfare of animals, including dogs. These laws define the term "animal" broadly and provide explicit protections for animals against various forms of abuse and cruelty. By upholding these laws and promoting the humane treatment of animals, India can ensure that its animal populations are safe and well-cared for, and that animal welfare remains a top priority in the country.

⁴ The Hindu, 'It is a canine question before beleaguered Kerala: To kill or not to kill' (28 August 2016)

<<https://www.thehindu.com/news/national/kerala/to-kill-or-not-to-kill-that-is-the-canine-question-before-beleaguered-kerala/article9045126.ece>> accessed 10 May 2023.

Stray Dog: Judicial Interventions

In India, the issue of stray dogs has been the subject of ongoing judicial interventions. A number of Public Interest Litigations (PILs) have been submitted to the Supreme Court and several High Courts. People for the Elimination of Stray Trouble v. Animal Welfare Board of India, the Supreme Court suspended the killing of all street dogs, including troublemakers. In *J. Gopalan v. Municipal Corporation*, the petitioner requested a writ of mandamus to deem the first respondent's decision to stop destroying unregistered stray dogs and turn over control of the dog pound to the third respondent as arbitrary, unlawful, and unconstitutional. In accordance with subsection (5) of Section 249 of the Hyderabad Municipal Corporation Act, the Corporation was required to put unregistered and unclaimed stray canines to death.

The court observed that during interpreting the statutes it is duty of court to consider in to the fundamental duties enshrined in the article 51A of the Constitution of India., that includes, “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”. Therefore, it is the duty of the citizen to follow and agree the fundamental duties towards him then only he can bother ,challenge , claim for his fundamental rights, that while he is following his duties he can enjoy fundamental rights

In *Kuljit Singh Bedi v. State of Punjab and Others*, the court rejected the petitioner's argument that the only viable solution to the dog bite epidemic was to mass-murder stray dogs. The court noted that destruction has historically been seen as a quick fix that would not work and might even lead to more problems. For the benefit of society, the court emphasised the necessity to preserve and defend even dangerous species. The court further emphasised that murdering thousands of stray dogs every year is not a dependable or effective strategy to deal with stray dog overpopulation and that available food and space facilities controls the population of stray dogs.

The court cited a case in which the Delhi High Court had recognised the need to protect animals from torture and to prevent their extinction while also making sure that stray animals did not pose a threat to civilization. The court noted that in order to find a solution to the issue of stray dogs, stray cattle, and stray monkeys, it is necessary to take into account both the interests of animals and humans. The court cited a judgement from the High Court of Bombay where detailed instructions for managing and controlling dogs were provided.

In the legal case of *M.R. Ajayan v. State of Kerala*, the Kerala High Court examined a Public Interest Litigation (PIL) relating to the issue of stray dogs in Kerala. The petitioner, a journalist and human rights promoter, raised concerns about the recurring attacks from stray dogs on Vypin Island, citing instances of dog bites reported in newspapers, including a serious injury suffered by a small child due to a stray dog bite. The petitioner argued that the local authorities were not taking sufficient measures to control the increasing population of stray dogs, which had become a menace to society.

The petitioner further alleged that the involvement of pet lovers or animal rights protection agencies, such as animal welfare institutions, obstructed the local authorities from taking effective action to eliminate stray dogs. The petitioner argued that human life should be given priority over the life of a dog and urged the court to issue a writ of mandamus or other appropriate writs to direct the respondents to take immediate action to destroy stray dogs, implement the Animal Birth Control (Dogs) Rules 2001, and initiate vaccination and sterilization drives in the state.

In the PIL, the petitioner also referred to incidents of human deaths due to rabies after dog bites and pleaded with the court to direct the local authorities to remove stray dogs from public streets to protect human life. The petitioner relied on a Division Bench judgment of the court, which held that the life of a human being should be given more importance than that of stray dogs.

Under “The Kerala Municipalities Act, 1994”, The Kerala Panchayat Raj Act, 1994, and the 1998 Rules adopted thereunder, the court considered a number of questions, including whether municipalities, corporations, and panchayats have the authority to decide to kill stray dogs in their respective districts. The court also addressed whether the provisions of the Prevention of Cruelty to Animals Act 1960 and the Animal Birth Control (Dogs) Rules 2001 supersede the local authorities' authority under municipal and panchayat legislation. According to the 2001 Animal Birth Control (Dogs) Rules, the court also looked into whether the State Government, businesses, towns, and panchayats had implemented the proper canine birth control procedures.

In its analysis, the court upheld that every species has an intrinsic right to life and security, subject to local laws that authorise taking human life when it is not necessary. Human rights are protected by Article 21 of the Constitution, which also extends protection to all other livings which are essential for the wellbeing of the human life. The term "life" has been broadly defined to include any basic environment disturbance. The court opined that the concept of "life" for animals encompasses leading a life with intrinsic worth, dignity and honour other than mere survival or existence or instrumental value for human beings. The PCA Act and the rights established by the Act formally recognise the welfare and well-being of animals. Animals have a given right to protection from humans against providing burden of pain or suffering as well as the right to live in a clean and healthy environment. Animals also have the same rights as people do to food, shelter, dignity, and fair treatment. Another well-known right is the prohibition on beating, kicking, overriding, and overloading. Additionally, it is against the law to torture or put animals through needless suffering. The court determined that the punishment outlined in Section 11(1) of the PCA Act is inconsequential, which contradicts the basic intent of the law and calls for disciplinary action against officials who fail to protect the legal rights of animals.

In order to resolve the W.P., the court ordered all local authorities to use their authority to seize stray dogs upon receiving complaints and to act promptly in accordance with the 2001 Rules. According to the 2001 Rules, the Monitoring Committee, and the Animal Welfare Board's directives, the Local Authorities must dispose of stray dogs. To receive complaints about dog menace, dog bites, and information on rabid dogs, local authorities should establish a dog control cell and organise a Monitoring Committee. The court directed all Local Authorities to provide necessary infrastructure, including dog ponds, vans, incinerators, and vaccination and sterilization programs. The State Government must ensure that necessary infrastructure is acquired by all Local Authorities and provide necessary financial assistance. The Animal Welfare Board of India should contribute funds to the building of kennels, watering holes, veterinary clinics, as well as animal rescue houses and shelters.

In short, the court rulings affirm that stray dogs should not be killed but preserved, and the rights of animals should be safeguarded. To guarantee that the required steps are taken to ensure the welfare and well-being of animals, the court issues detailed directives to Local Authorities and the State Government.

Searching For Remedies: Harmonious Construction Needed

a The question of whether human beings or dogs are more important under the law is a crucial one. Article 21 of The Constitution of India guarantees certain fundamental rights, including the protection of life and personal liberty. This article is considered to be of supreme importance in a democratic society and has been characterized as the procedural magna carta. However, in accordance with Article 12's definition, this right can only be exercised if the state has taken away a person's life or personal liberty. Article 21 does not apply to private individuals who violate this right.

It is obvious that a legal process can be used to restrict someone's right to life and personal freedom. The duty of the state to maintain the nation's forests and animals is outlined in Part IV of the Indian Constitution, which also contains some guiding principles that must be adhered to while passing laws. The fundamental

obligations that are necessary for the effective exercise of fundamental rights are covered in Part IVA. It's critical that people are informed of both their obligations and rights.

In cases where there is a conflict between different legislation referable to different lists of Schedule VII of the Constitution, the court must attempt to remove the conflict by harmonious construction. The fundamental obligations laid out in Article 51A of the Indian Constitution include the duty to protect and enhance the nature and environment, including forests, river, lakes, and animals, as well as the need to be compassionate for all living things.

The Supreme Court has ruled that even if they are not subject to judicial enforcement, fundamental obligations offer important direction and assistance in interpreting and resolving constitutional and legal disputes. The court has also acknowledged that Article 51A (g) establishes the groundwork for an environmental protection jurisprudence, requiring both the state and citizens to safeguard the environment, including, lakes, forests wildlife, and rivers, as well as to be compassionate for all living things. Therefore, a harmonious construction of the relevant provisions of the law is needed to ensure the protection of fundamental rights and the environment.

The Indian Supreme Court considered the intent and goals of the Prevention of Cruelty to Animals Act, 1960, in light of international statements and Article 51A(g) in the case of “Animal Welfare Board of India Vs. A. Nagaraja”. The case concerned the validity of The Tamil Nadu Regulation of Jallikattu Act, 2009, which permitted bull racing in the state of Tamil Nadu. According to The honourable Supreme Court, the 1960 Act is a welfare law that should be liberally interpreted in favour of the weak and incapacitated and not be subverted by cunning tactics. The Court has a responsibility to see beyond these gadgets' facades and assess the actual situation. To fulfil the primary goal and purpose of the legislation, the Court must invalidate regulations or recommendations if they undermine welfare legislation and constitutional values. According to the parents patriae theory, the Court also has a responsibility to protect the rights of animals because they are helpless in the face of humans.

Every person who has the care or charge of an animal is required by the Act's mandatory Section 3 to take all reasonable steps to ensure the animal's welfare and avoid needless suffering or pain from being inflicted upon it. The Supreme Court ruled that, with the exception of necessity, animals have an intrinsic right to life and to legal protection. Citizens have a responsibility to treat all living things with kindness. The Court proposed that, as has been done in some nations across the world, the statutory rights afforded to animals under the Act, such as the right to be free from cruelty, be elevated place of fundamental rights. Together with “Article 51A(g)(h)” of The Constitution of India, known as the Magna Carta of Animal Rights, these rights and liberties must be considered. The Court further stated that the limitations on animal rights, such as religious prohibitions on how to slaughter animals, were legitimate limitations for the benefit of humans. The employment of animals like cows and bulls for farming, hauling loads, and other purposes is not regarded as exploitation. The Prevention of Cruelty to Animals Act was a way for Parliament to acknowledge the rights of animals, and the court came to the conclusion that a civilised society should forbid animal abuse through constitutional amendments, statutes, etc.

Sheltering:

- Sheltering two million dogs is not a realistic solution due to limited resources and risk of infectious diseases in bigger shelters.
- Appropriate isolation areas, regular vaccinations, deforming, and de-parasitation schemes, and sterilization are necessary to ensure the dogs' safety and avoid fights between males and reproduction.
- Adequate funding is required to provide the dogs with food and treatment, or shelters may become concentration camps where dogs suffer from starvation, fighting, and diseases.

- A clean and well-maintained shelter can be a safe haven for dogs, and those with their veterinary clinics provide support, advice, and education to the community.

Killing:

- Killing stray dogs is not a long-term solution, and there is no quick, cheap, or compassionate way to dispose of a lot of canines.
- Both poisoning and shooting put both humans and other animals in danger. They are also cruel and painful procedures.
- Collecting dogs to a shelter before killing is an inefficient and costly procedure, and the stray dog population would still increase as new dogs enter and reproduce.
- Removing dogs alone cannot stop population growth, as new dogs will fill the territory, and this has been the reality in countries like India, where waste management is poor.
- The CNR program is a more humane and sustainable solution to control the stray dog population.

Sterilization and CNR:

- The CNR program involves catching or collecting dogs, neutering them, vaccinating them against rabies, deworming and de-fleating them, and returning them to the same area.
- CNR programmes prevent other unneutered dogs from joining the territory because of pack mentality while slowly reducing the number of dogs at the rate of natural mortality.
- Since owned, roving, and communal dogs are more fertile than unowned dogs, it is essential to neuter females first.
- Education and legislation are crucial to stopping people from abandoning unneutered dogs or puppies and continuing to reproduce.
- CNR brings relief to the situation in towns where it is conducted, improving the quality of life for dogs and people becoming more positive towards them.
- Neutered dogs are safer for the environment since effective CNR programmes can reduce the population by up to 90% and lower the danger of zoonotic infections.
- Since 1990, the World Health Organisation (WHO) has advocated CNR combined with rabies vaccinations as the most effective method of reducing the number of stray animals.

An Alternate Perspective

Both humans and dogs are believed to be creations of a divine entity. While humans are generally considered to be more significant than other living beings, the teachings of Prophet Muhammad (PBUH) provide a unique perspective on the treatment of animals. These teachings emphasize the importance of showing respect to both humans and animals, recognizing their shared goal of living on this planet.

To further examine this perspective, two Hadiths from the Prophet can be analyzed. The first Hadith, narrated by Abdullah bin 'Umar, states that it is not considered a sin for a person in the state of Ihram to kill certain animals, including a rabid dog, if they are in a prohibited area. This is because these animals pose a significant threat and are therefore required to be eliminated. The second Hadith, narrated by Abu Huraira, tells of a prostitute who was forgiven by Allah for giving water to a thirsty dog. This story is significant because it highlights the importance of showing kindness and compassion towards animals.

While the first Hadith may appear to contradict the idea of showing kindness towards animals, the second Hadith provides a counterbalance to this perspective. The story of the prostitute demonstrates that while certain animals may need to be eliminated, this should not be done in a way that completely eradicates the species. This idea is exemplified in the actions of Caliph Umar Bin Khathab, who ordered that locusts be transported back to the city of Medina to restore the population, rather than simply killing them all.

In contemporary society, the perception of stray dogs in India is often negative due to media reports of dog attacks. However, changing public opinion is crucial in promoting the adoption of stray dogs and discouraging mass killings. National campaigns initiated by the government can be effective in altering the public's mindset and promoting a more compassionate approach towards stray dogs.

The teachings of Prophet Muhammad (PBUH) offer a unique perspective on the treatment of animals, emphasizing the importance of showing respect and compassion towards all living beings. While certain animals may need to be eliminated for safety reasons, this should be done in a way that does not eradicate the entire species. Changing public opinion towards stray dogs in India is critical in promoting their adoption and discouraging mass killings. National campaigns can be an effective way to achieve this, encouraging a more humane approach towards these animals.

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