

BOOK REVIEWS

ANIMAL JUSTICE : INDIAN JUDICIARY ON CRUELTY TO ANIMALS TO ANIMAL SACRIFICE AND COW SLAUGHTER TO MOB LYNCHING (2024)by P.P.Mitra; Bloomsbury; Pp.1299/- [ISBN : 978-93-56404-00-7]

IN RECENT years, the discourse on animal rights has gained significant momentum globally. The concepts of 'Animal Rights' and 'Animal Justice' were largely unrecognized in literature until very recently. Only a few notable scholars had previously referred to these concepts¹, and their opinions have significantly influenced global laws on animal welfare. While the United States and United Kingdom were early adopters of animal rights laws, their efforts were often limited and isolated. Recently, there has been a shift in focus towards animal rights, driven by advocacy from international bodies, NGOs, and increased academic interest in comprehensive animal rights legislation.

However, in India, the literature addressing animal rights and legal protections remains relatively sparse. India is still developing its animal rights jurisprudence but has made notable progress. Maneka Gandhi, in her message for the book, highlights the current lack of specific legislation on animal rights in India.

This scarcity underscores the importance of the book under review, which represents a significant addition to the existing legal literature on animal laws in India. It is the first compilation of pivotal judgments from the Indian Supreme Court and high courts, providing a comprehensive resource on animal-rights jurisprudence. The book represents the views of Indian judges on animal laws and rights, as well as citizens' duties towards animals, contributing to the development of animal jurisprudence in the country.

The book highlights the author's use of judgment analysis, a research methodology widely used by law teachers and advocated by American Realists. This book, a first of its kind, fills a critical gap in legal literature and contributes to India's growing jurisprudence on animal rights, making it a welcome addition to the existing body of legal literature.

The book has been divided in 11 segments ranging from the legal and constitutional status of animals to the judicial approaches on numerous issues relating to animal rights, animal welfare and animal justice in India. The book begins by briefly introducing the current three dimensional matrix of animal laws in the Indian legal system. Herein, the author has indirectly hinted towards the anthropocentric approach of Animal laws in India by highlighting that whatever protection has been given to animals in

1 Scholars like John Locke, Jeremy Bentham, John Rawls, Peter Singer, Tom Regan, Immanuel Kant, etc.

India through legislations is only for the betterment of humans. The author has further shed some light on the *Jallikattu Judgment*² which introduced a new dimension to Animal Law in India.

This book review offers a comprehensive bird's-eye view of the key concepts and issues discussed in the book. It meticulously analyzes and highlights the most important and relevant aspects, ensuring that readers gain a thorough understanding of the subject matter without getting overwhelmed by excessive detail. By focusing on the most significant judgments and their implications, the review provides a clear and concise summary of the book's content, making it accessible to both legal practitioners and scholars. Additionally, it emphasizes the broader impact of these legal developments on the evolving jurisprudence of animal rights in India.

The *first chapter* titled as, *Legal and Constitutional Status of Animals in India* begins by describing the legislative scheme for protection of Animals in India.³ It then delves into the “concept of animals,” where the author analyzes the definition of “animal” and concludes that the concept has been broadened through interpretations by the Supreme Court⁴ and high courts of India⁵ on various occasions. The chapter also discusses the position of animals within the Indian Constitution, highlighting the Supreme Court's extension of the “right to life under Article 21” to all living beings, including animals.⁶

The author emphasizes that many judgments have heavily relied on the “A. Nagaraja Judgment,” underscoring its impact on compassionate jurisprudence. Notable contributions have been made by the High Court of Delhi establishing an “animal's right to food” and a “citizen's right to feed,” derived from the fundamental duties⁷ outlined in the Constitution.⁸ Lastly, the chapter sheds light on the ‘Doctrine of *Parens Patriae*’ and ‘*Scienter Rule*’ which have been recognized by various high courts to protect

2 *Animal Welfare Board of India v. A. Nagaraja*, Civil Appeal No. 5387 of 2014, Civil Appellate Jurisdiction, Supreme Court of India. *Hereinafter referred as* ‘A. Nagaraja Judgment’.

3 The same can be found under Entry 17B of concurrent list and derives its powers from Article 48A of Indian constitution.

4 For instance in, *State of Bombay v. Virkumar Gulabchand Shah*, AIR 1952 SC 335.

5 For instance, by High Court of Delhi in *Cottage Industries Exposition v. Union of India*, 2007 (122) ECC 7 and Madras HC in *State of Tamil Nadu v. Kaypee Industrial Chemicals (P) Ltd.*, AIR 2005 Mad 304.

6 *Ramlila Maidan incident*, W.P. (Crl) No. 122 of 2011; *A. Nagaraja Judgment* (2014); *People for Animals v. Mobazzim*, Crl. M.C. No. 2051 of 2015 (High Court of Delhi); *Mahisagar Mataji Samaj Seva trust v. State of Gujarat*, Writ Petition (PIL) No. 173 of 2011 (High Court of Gujarat).

7 Art. 51A(g) and art. 51A(h)

8 *Dr. Maya D. Chablani v. Radha Mittal*, I.A. No. 4164/2021 in CS(OS) 277/2020 (High Court of Delhi).

the animals and emphasized the duty of the State as a protector under Article 38, 39 and 39A.⁹

The regulations focused on preserving cattle and improving livestock are discussed in *chapter two*, titled *Laws for Cattle Preservation and Livestock Improvement*. The main focus of this chapter has been on issues like ‘cattle trespass’, ‘cattle smuggling’, ‘cattle fair’, ‘protection of cattle from diseases’, etc. The chapter also analyses the interpretations of the Supreme Court and various High Courts on these issues. The author concludes by discussing how the Supreme Court’s interpretations have significantly influenced the improvement of laws for livestock in India.¹⁰

Chapter three titled as, *Cow Slaughter Prohibition and Protection of Cows* sheds light on one of the most crucial issues in India, *i.e.*, cow slaughter and animal sacrifice highlighting various tangents in India aligned with politics, religion, economics, cultural identity, *etc.* These issues are immensely complicated and the author has made an attempt to show how judiciary has dealt with all the issues while balancing all the tangents. The chapter discusses the constitutional validity of legislation banning cow slaughter and the varying approaches of States with such legislations.¹¹ The author has brilliantly marked the difference in the usage of words and the impact it has on further interpretation of the provisions.

The Supreme Court has interpreted the prohibition of animal slaughter as an extension of the State’s responsibility under Article 48 and 51A(g) of the Constitution, leading to various state legislations and provisions addressing this issue and ensuring its constitutional validity.¹² The High Court of Himachal Pradesh recommends the Union

9 *Lalit Miglani v. State of Uttarakhand*, Writ Petition (PIL) No. 140 of 2015 (High Court of Uttarakhand); *Ramesh Sharma v. State of Himachal Pradesh*, CWP No. 9257/2011 (High Court of Himachal Pradesh); *Karnail Singh v. State of Haryana*, CRR 533/2013 (High Court of Punjab and Haryana).

10 *Royal Hatcheries Pvt. Ltd. v. State of A.P.*, AIR 1994 SC 666; *Maheshwari Fish Seed Farm v. TN Electricity Board*, 2004 (4) SCC 705; *Commissioner of Income Tax West Bengal, Calcutta v. Benoy Kumar Sahas Roy*, AIR 1957 SC 768; *Center for Environmental Law v. Union of India*, (1998) 6 SCC 483.

11 The author has highlighted that since it is a subject of State List, hence, majority states have their own legislations in place to deal with this menace. However, each state has a different approach towards the issue. For instance, U.P., Punjab, Orissa, Karnataka, Pondicherry and Goa uses the term ‘prohibition’ or ‘prevention’ of ‘cow slaughter’. Whereas, Jharkhand and Rajasthan uses the term ‘bovine animal’.

12 *Mohd. Hanif Qureshi v. State of Bihar*, AIR 1958 SC 731; *Abdul Hakim v. State of Bihar*, AIR 1961 SC 448; *Mohd. Faruk v. State of Madhya Pradesh*, 1969 (1) SCC 853; *Hashmattullah v. State of M.P.*, 1996 (4) SCC 391; *Hizfur Rahman Choudhary v. Union of India*, PIL/49/2022 (Gauhati High Court); *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*, Appeal (Civil) 4937-4940 of 1998.

government to enact a national law prohibiting ‘cow slaughtering’, highlighting its inclusion in the concurrent list and the State list, allowing for national law enforcement.¹³ The second segment discusses the take of Judiciary on the issue of construction of Gaushalas and Gosadans for the betterment of stray cattle.¹⁴

The issue of ‘Cruelty to Animals’ has been discussed in *Chapter four*. The chapter explores the concept of ‘cruelty’ in India, focusing on its understanding in areas such as animal transportation¹⁵ and experimentation. The chapter emphasizes that the ‘Prevention of Cruelty to Animals Act 1960’ is a welfare legislation that must be interpreted with DPSPs in mind, and that it holds a special place in the Indian Constitution. Numerous high courts have issued mandatory guidelines for the State Governments to follow when transporting animals through vehicles and foot, addressing the issue of ‘Animal Transportation’.¹⁶ The chapter further discusses the Supreme Court’s extensive discussion on the role of animals in drug experimentation and its utility in scientific advancements.¹⁷ Lastly, the chapter emphasizes the significance of societies in preventing animal cruelty, a point repeatedly emphasized by the Supreme Court and high courts.¹⁸

Chapter Five discusses the judiciary’s stand on ‘Slaughter of Animals for food’. The chapter begins by examining the definitions of the term ‘slaughter’ and ‘slaughterhouse’ and critically highlights how majorly all regulations allow the same for ‘human consumption’.¹⁹ The author has tried to hint towards the anthropocentric nature of the regulations. The chapter discusses the judicial response to animal slaughter, where the Supreme Court weighed the rights of animals against human trade and business, deeming prohibitions on slaughtering animals reasonable and not violating Article 14

13 *Bhartiya Govansh Rakshan Samverdhan Parishad, H.P. v. Union of India*, CWP No. 6631 of 2014 (High Court of Himachal Pradesh).

14 *Alim v. State of Uttarakhand*, Writ Petition (PIL) No. 112 of 2017 (High Court of Uttarakhand); *Gobardhan Gosbala Rakhwariv. State of Bihar*, AIR 1980 Pat 69.

15 *Akhil Bharat Krishi Goseva Sangh v. State of Rajasthan*, AIR 2000 Raj 215; *Gan Raksha Dal Seva Samiti, Rajasthan v. State of Rajasthan*, Civil Writ Petition (PIL) No. 2009/2014;

16 *Alim v. State of Uttarakhand*, Writ Petition (PIL) No. 112 of 2017 (High Court of Uttarakhand).

17 *A. Nagaraja Judgment*.

18 *Md. Salim v. State of Jharkhand*, Cr. M.P. No. 1552 of 2012 (High Court of Jharkhand); *Gan Raksha Dal Seva Samiti, Rajasthan v. State of Rajasthan*, Civil Writ Petition (PIL) No. 2009/2014; *Geeta Seshamaniv. Union of India*, W.P. (Civil) No. 440 of 2000 (Supreme Court); *Gauri Maulekhiv. Union of India*, W.P. (Civil) No. 881/2014 with W.P. (C) No. 210/2015 (Supreme Court).

19 For instance, refer, The Food Safety and Standards (Food Products Standards and Food Additives) Regulations 2011, Regulation 2.5.1 (e), The Food Safety and Standards (Licensing and Registration of Food Businesses) Regulations 2011, Part IV, Schedule 4, The Prevention of Cruelty to Animals (Slaughter House) Rules, 2001 and The National Livestock Policy, 2013.

and 19(1)(g).²⁰ Courts have addressed issues like illegal slaughterhouses and environmental pollution caused by human slaughterhouses, using the ‘polluter pays principle’ and imposing environmental compensation to clean up polluted areas.²¹ However, the chapter concludes by highlighting a contrasting perspective: courts have also ruled that prohibiting meat consumption may infringe on consumer rights or even the right to food.²²

Chapter Six examines the issue of ‘animal sacrifice for religious purposes’ and the Judiciary’s approach to balancing this practice against religious faith and practices. The chapter discusses judicial decisions banning religious practices,²³ stating that animal sacrifice cannot be considered fundamental to a religious belief and practice, as per section 11(3)(e) of the Prevention of Cruelty to Animals Act, 1960.²⁴ In fact, the High Court of Tripura banned animal sacrifice by giving wider meaning to the word ‘life’ under Article 21 of the Constitution to include every living organism which includes animals.²⁵ Further, the court ruled that sacrificing animals for propitiating the deity is not protected under article 25 of the Indian Constitution.²⁶

Chapter Seven sheds light on the cruelty meted towards ‘performing animals in cultural programs and films.’ The issue which isn’t much talked about. The chapter discusses the judiciary’s stance on the definition of ‘performing animals’ and ‘exhibit’,²⁷ balancing the rights of performing animals with cultural and tradition considerations.²⁸ The courts have played a pivotal role in banning the training and exhibition of animals for entertainment purposes²⁹ while playfully highlighting the fundamental duty under Article

20 *Maneka Gandhi v. Union Territory of Delhi*, ILR 1995 Delhi 49 (High Court of Delhi); *Mohd. Faruk v. State of Madhya Pradesh*, AIR 1970 SC 93; *Municipal Corporation of Thecity v. Jan Mohammed Usmanbhai*, AIR 1986 SC 1205.

21 *Nutfar Sardar v. Government of West Bengal*, Original Application No. 43/2015/EZ (National Green Tribunal).

22 *Buffalo Traders Welfare Association v. Maneka Gandhi*, 1996 INSC 1536 (Supreme Court)

23 *Ramesh Sharma v. State of Himachal Pradesh*, CWP No. 9257 of 2011 (High Court of Himachal Pradesh); *Divan Singh Bhandari v. State of Uttarakhand*, W.P. No. 1898 of 2012 (High Court of Uttarakhand); *Jasraj Shri Shrimal v. Government of Andhra Pradesh*, 2002 (2) ALT 656 (High Court of Andhra Pradesh).

24 *N. Adithayan v. Travancore Devaswom Board* (2002) 8 SCC 106.

25 *Subhas Bhattacharjee v. State of Tripura*, MANU/TR/0215/2019 (High Court of Tripura).

26 *Muraleedharan T. v. State of Kerala*, W.P. (C) No. 11142 of 2020 (High Court of Kerala).

27 Prevention of Cruelty to Animals, s. 21 Act, 1960.

28 *Cattle Race Club of India, Palakkad v. State of Kerala*, 2015 (5) FLT 739 (High Court of Kerala).

29 *Grewal Sports Association (Regd.) through its Secretary Paranjit Singh v. State of Punjab*, CWP No. 2540 of 2012 (High Court of Punjab and Haryana); *N.R. Nair v. Union of India*, AIR 2000 Ker 340.

30 *K. Muniasamythavar v. Dy. Superintendent of Police*, AIR 2006 Mad 255 (High Court of Madras).

51A of the Constitution.³⁰ The courts have consistently ruled on the legality of various notifications issued by the government under Section 22 of the PC Act, 1960.³¹

Further, issues relating to ‘stray animals’ have been highlighted and discussed in *chapter eight*. The chapter discusses regulations on stray animals and their feeding, including Animal Birth Control Rules, 2023 and 2001, Animal Birth Control (Dog) Rules, 2001, and Prevention of Cruelty to Animals Act, 1960.³² The chapter begins on a premise that has been established by the Supreme Court that ‘local authorities have a sacrosanct authority to manage the stray animals’.³³ For instance, they are responsible for, preservation and immunization of stray dogs,³⁴ establishment of animal birth control campus.³⁵ The chapter also explores the concept of ‘community animals’ as defined by the Animal Birth Control rules.

Chapter Nine discusses the conservation of wild animals in natural habitats and zoos, emphasizing that preserving these animals is essential for the betterment of ecology, which hints at ecocentrism. The courts have addressed issues such as hunting and trading protected animals, introducing and translocating foreign species, and illegally smuggling wild animals. Additionally, the chapter discusses judicial actions taken to preserve elephants, including rulings that no citizen has a fundamental right to trade in ivory or ivory articles, whether indigenous or imported.³⁶ The chapter’s final segment addresses the restrictions on transporting wild animals.

Chapter ten examines the judiciary’s role in regulating animal and animal product trade, highlighting that in cases of pernicious trade, the Supreme Court prohibits it.³⁷ The court has upheld the importance of preserving the ecology over the fundamental right of humans to trade.³⁸ Following the same principle, Supreme Court has also issued guidelines for the closure or relocation of the numerous tanneries.³⁹

31 *Indian Circus Federation v. Union of India*, 1999 (48) DRJ 171 (High Court of Delhi).

32 *Supra* note 27, ss. 35 and 38

33 *Animal Welfare Board of India v. People for Elimination of Stray Troubles*, Special Leave to Appeal (C) No. 691/2009, Supreme Court of India (2015).

34 *Animal Welfare Board of India v. Ombudsman for Local Self-Governing Institutions*, AIR 2006 Ker 201.

35 *Gauri Maulekhi v. Government of Uttarakhand*, Writ Petition (PIL) No. 41 of 2013 (High Court of Uttarakhand).

36 *Ivory Traders and Manufacturers Association v. Union of India*, AIR 1997 Delhi 273 FB (High Court of Delhi); *Indian handicraft Emporium v. Union of India*, AIR 2003 SC 3240; *Balram Kumawat v. Union of India*, AIR 2003 SC 3268.

37 *Chief Forest Conservator v. Nisar Khan*, AIR 2003 SC 1867.

38 *Jaydev Kundu v. State of West Bengal*, (1993-94) 97 CWN 403 (Cal).

39 *M.C. Mehta v. Union of India*, 1988 AIR 1115; *Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 SCC 647; *M.C. Mehta v. Union of India*, (1997) 2 SCC 411.

Chapter eleven highlights the issue of ‘cow vigilantism’ and how the Supreme Court of India has tactfully addressed it despite the absence of specific laws regulating this matter. The chapter discusses the *Tehseen S. Poonawalla* case,⁴⁰ which established preventive, remedial, and punitive measures and influenced the development of jurisprudence on the subject.

In conclusion, the book under review has successfully introduced a new dimension to the discourse on animal rights, making it a valuable and insightful addition to the existing body of literature on the subject. Its well-written content provides readers with updated information and clear analysis on the key issues discussed. The author has adeptly highlighted various ongoing challenges and emerging issues in each chapter, offering a robust foundation for further developments in the field of animal rights. By integrating comprehensive judicial interpretations and critical reflections, the book serves as an essential resource for advancing the understanding and evolution of animal rights jurisprudence.

This book, being a compilation of judgments on varied issues of animal rights, will be highly beneficial to legal scholars, practitioners, and researchers specializing in animal law and constitutional law. Animal rights activists and organizations will find it valuable for understanding the legal landscape and advocating for stronger protections. Policymakers and government officials involved in shaping animal welfare policies can use the book to gain insights into judicial interpretations and areas for legislative improvement. Additionally, students and educators in law and environmental studies will find it a crucial resource for academic and practical understanding. General readers interested in animal welfare will also gain a deeper appreciation of the legal principles guiding animal rights in India.

*Nivedita Chaudhary**

40 *Tehseen S. Poonawalla v. Union of India*, AIR 2018 SC 3354.

* Assistant Professor of Law, School of Law, Amity University, Gurgaon.