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# Jurisprudence on protection of wild animals in India

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**Abstract**---Two emerging topics Animal protection and Jurisprudence over them in India have recently proposed, animal's life have always been subjected to being as the part of fun, as of killing, hunting and kept for personal benefits. Animal protection basically refers to the prevention, reduction, fear of harm or elimination of harm done by human to animals. And jurisprudence which means the 'Theory or philosophy of law'. In modern law, animals are not considered as a legal person, they are always treated as an object. The objects cannot exercise their rights like right to life. Human has developed the ideal philosophy for the betterment of the animals but still they are not capable for the proper and total implementation for that philosophy. The animals were treated as associate of God or part of nature but also treated as property or things. The things are the same as wild animals has been always treated as danger, but the real danger is human to this planet, who forgot the humanity.

**Keywords**---Animals, human, law, philosophy, nature, protection, animal's right.

## 1. Introduction

Introduction to the jurisprudence on the protection of wild animals in India, and their relevance, All living beings has it has own life and it is dignified. As like

human beings, all living beings have their fundamental rights to wholesome environment, and it is the duty of human being to protect the environment and living beings as followed by the different human religions because every life matters in the environment and ecosystem. Human being is very greedy and makes any act as enjoyment, it may be killing of any innocent animal, slavery, plundering of natural resources.

In this topic to subject, it is an attempt to find out the philosophy or jurisprudence to the protection of wild animals in India and their relevance to modern life. For the purpose of analysis and philosophical analysis the topic of jurisprudence to protection of wild animals; focuses on the different philosophies of various religions.

The famous lines of the book 'Three pioneers' are very relevant to this topic. According to Abraham Lincoln, "I am in favor of animal's rights as well as human rights. This is the way of whole human being" In the view of George Bernard Shaw "The Worst sin towards or fellow creatures is not to hate them. That is the essence of inhumanity"

## **2. Indian Philosophy and jurisprudence for protection of wild animals**

"Doctrine of nonviolence and humanity stated in the Rigveda and the evident in the Spiritual care of all religion, It has been stated by our forefathers that god steps in the minerals, awakens in the vegetables, walks in the animals and thinks in man. That simply means that in this small planet the animals are very important for the ecological and environmental preservation for life cycle. The philosophical perspective of animal welfare is a part and parcel of our cultural heritage".

The constitution of India cast a duty mandated in Articles 48A and 52A(g) on the state and to their citizens to promote and protect ecology and environmental including forest and wild animals. Justice Krishna Iyer compared the justice of animals with the social justice. "According to him, animal citizens deserve the same level of justice as exploited people. If you do not believe the indivisible unity of creation and the authority of the invisible Creator, you are not a sincere Hindu, Buddhist, Jain, Parsi, Christian, or Muslim. As a result, animal love in its broadest sense is fundamental to the divine vision. Ecological fundamentals force us to have a caring relationship with our subhuman breath, whether secular or spiritual. Here, indeed, is the beginning of a greater understanding of nature's harmony, Karuna, and Ahimsa as part of our cultural history. Every act of animal abuse or export is an affront to the memories of Bharatiya sanskar's founders". India is the country with many religious and respectful philosophies by which any person can get knowledge and admire the living beings as the part of the lovely planet but the whole world including many parts of the country the people are attracted towards the consumerism culture but not towards the rich culture of our India. This new culture as a different craze over the world what is not known the value and impact towards the life. It poses the many threats to the wild animals and their survival by the development of this culture or industry. The people for the Ethical treatment of animals (Peta) argue.

“If we want to help animals, the most important place to start is with our own life styles. What we eat, wear use has a direct impact on the lives and deaths of animals. Every time we visit the grocery store, the pharmacy, or go shopping for sweaters or shoes, we vote with our consumer dollars for or against animal suffering. Here show a few changes in our buying habit can help thousands of animals. The most direct contact most people have with animals is at meal time- they eat them. Now we don’t need animal products to live a healthy life”.

Humans are the wittiest and most intelligent species in this planet, but the acts done by humans with the innocent animals are not so good recognized as the dignified life. If the humans are the wittiest and most intelligent species on this planet, so as being the smartest being it is the duty of the superior to support and secure the other for survival and it is always mentioned in ancient Indian mythology.

Humans are now more towards the machinery and Artificial intelligence, so why still the small creatures are used for the research, experiments and abattoirs. If there is no banning of these such Killing of animals on the shake of evolution of science by killing the part of the nature, so there will no more future for the planet earth. Now the provisions related to various religions with elaboration as follows:

- Hindu Philosophy to wild animal’s protection
- Islamic perspective
- Buddhist philosophy to wild animal’s protection
- Jainism
- Sikhism
- Gandhian philosophy

### **2.1. Hinduism and protection of wild animals**

The love for animals is in our blood. “There is no god who is not associated with some animals or the other”. “Each god and goddess has its own animal mount that is symbolic of its functions and powers. Siva mounts the bull which is Nandi, whose power and virility make it worthy of this deity who is the lord of destruction and creation. Vishnu, the preserver, rides on the eagle Garuda, who spans the skies and looks upon all creation from above. Agni. The wind, Vayu, is riding an antelope, one of the quickest mammals on the planet. The Goddess Durga’s mount is a lion which represents the fierce aspect of the Goddess as opposed to her benign form. Gods also assume animal forms or animal heads. Vishnu has a form called Hayagriva where he is depicted with the head of a horse. He also has ten incarnations of which three are from-fish, tortoise and boar”.

The utmost animals are associated with the different gods and worshipped by in many parts of the country. The monkey is associated with the Lord Hanuman. The elephant associated with The Lord Ganesha, who is the son of Lord Shiva. The Dog is associated with Kal Bhairava. Utmost of animals, species of living beings are associated with different lords and gods in Hinduism. Basically in Hinduism and Hindu philosophy animals association or living things association are subjected to the worship of god by which the life lessons are given through in the medium of many stories, in which the different lessons means to respect the

every living beings in the form of flora and fauna which is vital for the life cycle. Vedanta discusses the foundations of ethics while standing on the rock of the universe's spiritual oneness. "We damage, hate, and cheat ourselves when we injure, hate, and cheat animals. We are truly ethical when we begin to love others as we love ourselves". In Gautama Dharma Sutra, "it is mentioned that out of 8 great qualities of the soul, Compassion for all animals is the first; others include tolerance, anger-free living, purity, quietism, and auspiciousness, as well as freedom from avarice and greediness.

It is the duty from the heart of the humans to not harm any animal and to give more love and affection for better world. When man expresses positive attitude towards animals and animal is not afraid of man, and when there is better social bond between man and animal, some bond between man and animal shows a special connection towards each other it products the trust and familiar behavior towards each other ,the man loves and cares his animal or pet, the animal found a uniqueness towards it has owner and they establish the quality of trust and affection thus it products to the higher production, hens lay more eggs, work animal show better performance, cows produce more milk the working behavior between the man and animal result as the family not as slavery and pets show more affection and faithfulness, and man cares for his animal as his child, thus fulfilling the universal motto "Health and Wealth for All".

According to the Vedic philosophy "there are 8.4 million different species of living beings in the whole of creation. Among these there are 4,00,000 species of human beings. All these species were created by God and we evolved from the animals by the process of transmigration of the soul from one body to another". Therefore, the fact is that the humans were evolved from the animals by the process of science and created by God in Hindu philosophy so it the respectful duty and every human being shall feel pleasure to save and secure the animals and animal rights. Rules and thoughts were also asked to follow in ancient texts against animal's cruelty and for protection of wild animals in as.

## **2.2. Srimad Bhagavad Gita**

In the Bhagavad-Gita, God says that "All living entities are My part and parcels." "He's undergoing a great struggle for life under the bodily impression that he is this body, but this kind of understanding is animal civilization". In the Bhagavad-Gita, God says that all living entities are my part and parcel:

According to Srimad Bhagavad Gita,

"Non-injury, truthfulness, freedom from theft, lust, anger, greed, and an effort to do what is agreeable and beneficial to all creatures -this is the common duty of all castes. ... To be non-violent to human beings and to be a killer or enemy of the poor animals is Satan's philosophy. In this age there is always enmity against poor animals and therefore the poor creatures are always anxious. The reaction of the poor animals is being forced on human society and therefore there is always the strain of cold or hot war between men, individually, collectively or nationally". The Lord Krishna, the teacher of Bhagavad Gita emphasis the following texts for against the killing of animal. "God loves the one who has no enemies among living things and is nonviolent toward all animals. I value all beings equally; none are more or less valuable to me. Those who love me and worship me live in me, and I

live in them. True knowledge is avoiding harm to all creatures. Everything else is ignorance. Godly people endowed with my nature strive for nonviolence... and mercy for all living things. Everyone has a responsibility to avoid harm... and work toward the happiness of all living creatures.”.

### **2.3. Mahabharata**

Mahabharata is a very important moral law book of Hinduism. Mahabharata is a major ancient source of information and history on development of Hinduism between 400BCE and 20CE. It asserts the main goals for the human beings with the interconnection with other beings. Mahabharata emphasize the connection between the living beings early which is now in modern science called lifecycle. The Hindu ancient law books are so ideal for the human, it gives the man the main ultimate goal for the lifestyle, which maintain a healthy wholesome environment to not only Survival but also the betterment of the environment by doing the karma and following dharma.

**Karma:** All the act should be done with the good faith and must be done in reminding the good path. What you have done comes to you after the process, if you will do good, good comes to you. If you will do wrong, bad comes to you. Karma is a process of nature, so whatever you give to the nature, it will come back to you the same.

**Dharma:** It is the basic principle of Hindu Divine law. The man should follow the right path to help and to protect the others. Dharma means it is an individual's duty to follow the law. The law is to protect living beings and to follow right path for nature.

In Mahabharata, this law or custom is supported as, if you eat the flesh of animals, you will be eaten by them in return. “Hence a person of purified soul should be merciful to all living creatures. That man, O king, who abstains from every kind of meat from his birth forsooth, acquires a large space in the celestial region. They who eat the flesh of animals who are desirous of life, are themselves [later] eaten by the animals they eat. This is my opinion. Since he has eaten me, I shall eat him in return. This, O Bharata, forms the character as Mamnsah [meaning flesh] of Mamnsah [me he, or ‘me he’ will eat for having eaten him]. The destroyer is always slain. After him the eater meets with the same fate”.

Not only killing, hunting or eating flesh has not condemned in Mahabharata, purchasers are also equally responsible for the offences. “The buyer of flesh commits violence with his money; the eater commits violence with his taste; and the killer commits violence by binding and killing the animal. As a result, there are three types of killing. Meat eaters include anyone who brings or sends for flesh, anyone who cuts off an animal's limbs, and anyone who buys, sells, or cooks flesh and eats it”.

“That wretched man who kills living creatures for the sake of those who would eat them commits great sin. The eater's sin is not as great. That wretched man who, following the path of religious rites and sacrifices as laid down in the Vedas, would kill a living creature from a desire to eats its flesh, will certainly go to hell.

That man who having eaten flesh abstains from it afterwards acquires great merit on account of such abstention from sin. He who arranges for obtaining flesh, he who approves of those arrangements, he who kills, he who buys or sells, he who cooks, and he who eats it, [acquire the sin of those who] are all considered as eaters of flesh. Therefore, that man who wishes to avoid disaster should abstain from the meat of every living creature". The hunting of animals, killing, eating of flesh and the purchaser they all are equally responsible for the destruction of life and they all are the part of sin.

#### **2.4. Manusmriti**

The Manusmriti is one of the 18 smritis and it is believed to be the first ancient law book and constitution in Hinduism. Which means "what is remembered". It is originally written in Sanskrit language with composition of ideas that how individual, society or the nation should run.

According to Manusmriti, "Meat can never be obtained without injury to living creatures, and injury to sentient beings is detrimental to the attainment of heavenly bliss; let him therefore shun the use of meat. Having well considered the disgusting origin of flesh and the cruelty of fettering and slaying corporeal beings, let him entirely abstain from eating flesh" (Manusmriti).

#### **2.5. Islamic philosophy**

Islamic law also supports for the right of the animals to be protected. Islamic law promotes the protection of innocent animals and not to harm any little creature which is surviving in a world as living being. "The position on animal welfare within Islamic law is an excellent example of compassion and concern for those who depend on others for their care. Islamic legal protection of animal welfare is truly a model for everyone, and if these protective rules were applied worldwide, the amount of animal suffering would be radically reduced and the situation for animals would be tremendously better".

"Islam is based on principles of kindness, mercy, compassion, justice, and doing good works. These principles are seen pervasively throughout the texts of the religious book Qur'an and the examples of the Prophet as well as in many examples from Islamic history". "It is very clear that anyone who destroys crops and progeny (or any species, unnecessarily) commits an act of mischief. Allah does not allow doing so in any circumstances. Therefore, any sort of extravagance is prohibited in Islam. Conservation and sustainable use is the best way of living".

- The prophet also laid principles for protecting of animals:
- Use the animals in accordance with their utility, e.g., camel for carrying load and food, oxen for plugging, horses of riding, etc.
- Treat animals with kindness and compassion.
- Look after the comfort of tamed animals; while on a journey if you see a pasture allow the animals to graze. If you are riding an animal and passing through a barren area, try to speed up so that the animal reaches the destination soon and gets rid of a troublesome journey.

## **2.6. Buddhist philosophy**

A speech about Buddhism delivered by the son of Emperor Asoka of India, according to ancient Buddhist chronicles dating from the third century B.C, “the birds of the air and the beasts have as equal a right to live and move about in any part of the land as thou. The land belongs to the people and all living beings; thou art only the guardian of it”. Beliefs supportive of protection of environmental including wild animals can be found in all the religious traditions in India, Buddhism, Hinduism, Islam, Jainism and Sikhism. Buddhist doctrine mandates that we should protect not only wildlife, but also the whole range sentient beings for three reasons. All sentient beings have feeling. We believe that all sentient beings have been our mother in one of our infinite previous lives. A spontaneous felling of comparison arises in us on observing all suffering living beings”.

“Buddhism emphasizes the interdependence of all life forms, the fragile and fleeting nature of life, and the need to cultivate compassion towards all sentient beings”. Buddhism followers are known to be very calm and caring type of persons. They always promote the lifestyle of peace and meaning to life, which emphasize the motto to live with love, care and peace. The love and care for others same and all other species to maintain the balance of world. The truly believer of doctrine of non-violence is Buddhism.

## **2.7. Jainism philosophy**

Like Buddhism, Jainism also believes of doctrine of non-violence. Jainism is the true example of sustainable development community, they believe in the less use of natural resources for future generations and also promote to be vegetarian. Not to harm anybody, any being because like humans all have their own life. Jainism believes to be as like bee that one creature who sucks honey from the blossoms of the flower without hurting and they also helps to strengthen them itself.

The Jainism represents a very small amount of India’s population, but their code of conduct and religious philosophy regarding environment put them on significant position. The Jains developed a strictly policy in support of vegetarianism in their quest for purification and gave emphasis on observance of the practice of ahimsa along with four other vows (mahavrata), truth (satya), non-stealing (asatya), sexual restraint (brahmacharya) and non-possession (aparigraha). So, in Jainism ahimsa has been given the greatest importance and has been called the highest virtue (Paramo Dharmah) which is a foundation of the Jain Religion.

## **2.8. Sikhism philosophy**

Sikhism believed that God created the world without his will or ‘Hukum’ nothing will made, change or, destroy. All the process are created by God, and all the things which are interconnected by one another are kept in control of God. His control is everywhere and without his will nothing is happened here. Sikhism believed that every single being in this world must not be unshelled, every being must be helped by the man under the hand of God. The motto with feed the

world, and ensure no being is starving. So, Sikhism considers every creature to be the incarnation of God and it is all God's plan of life and death.

## **2.9. Gandhian philosophy**

Mohan Das Karamchand Gandhi (1869-1948), the India's most eminent theologian and philosopher. He was the true believer of world without violence, he is also called by honorific Gandhi which means a man with a great soul, a soul which has no hatred for others. Despite of hatred and violence he is supporter of happy and healthy environment which cause no danger to other species. He was the pre-eminent spiritual leader of India who fought for the independence of India without any use of weapon. The only weapon of Gandhi is his determination of love and peace.

Gandhi was a strict vegetarian, and also promotes the fraternity towards the other being as a human being. Giving the theory to promote the animal's life, Gandhi was also against the killing of the animals and also he was against the idea of human to make or destroy anything. According to him it was the power of only god to do this.

“The life of a lamb, in my opinion, is no less valuable than that of a human person. I should be hesitant to sacrifice a lamb's life for the sake of the human body. I wish to realize fraternity or identity not just with human beings, but with all life, including crawling creatures on the ground”.

He continued that ‘The treatment of animals can be used to assess a nation's greatness and moral advancement’. According to Mahatma Gandhi, “I still feel that because man was not given the power of creation, he does not have the authority to destroy the most heinous creature on the planet. The right to destroy belongs only to the Creator of all living things”.

## **3. Timeline of laws**

In India animals have always been an entrenched part of the culture which consists of many species of animals includes domestic and wild as well too. The humans and animals are created by ‘The Almighty God’. The Britishers also have their concern on the protection of Animals. The first Indian society was founded by Briton Coles worthy for the prevention of cruelty to animals in 1861 in Calcutta. After independence, the first animal welfare law, the Prevention of Cruelty to Animals Act, 1960, criminalizes cruelty against animals.

### **3.1. Constitution of India, 1950**

The Constitution of India as supreme law of the land also deals with the protection of rights of animals under fundamental duties and Directive principles of state policy.

- Under Article 21 of the Constitution, the expression ‘life’ has been expanded to include all forms of life including animal life which is essential for human life.



- Under Article 48 (A) the state shall endeavor to protect and improve the environment and safeguard the country's forests and wildlife.
- Article 51A (g) states that every citizen has a fundamental duty to safeguard and improve the natural environment including forests, lakes, rivers, and animals as well as to have compassion for living creatures.

### **3.2. The Prevention of Cruelty Act, 1960**

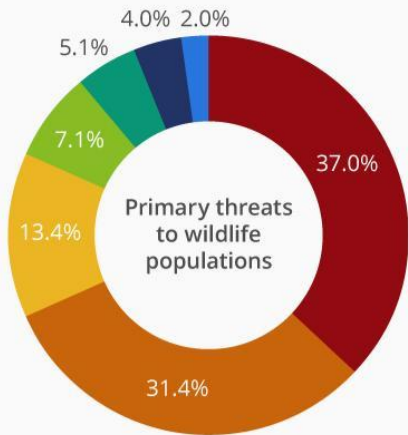
The Prevention of Cruelty to Animals Act was enacted by Parliament in the year of 1960. The objective is to prevent the infliction of pain or suffering on animals and amend the laws related to the prevention of cruelty to animals. The functions of this act is to encourage the financial assistance, shelters and rescue for animals, to advise the central government regarding amendments and rules for the prevention of cruelty to animals, to advise the central government on medical help for needy animals.

### **3.3. The Wildlife Protection Act, 1972**

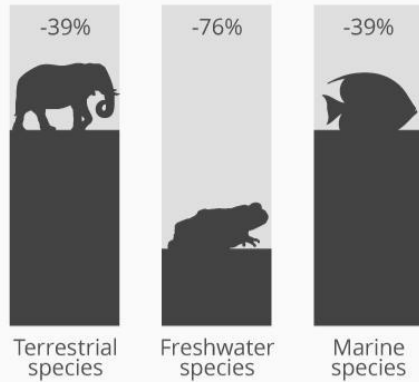
This act main objective is to protect the wild animals or bird from killing, trapping, poaching, poisoning, or harming. This is the first legislation in India which broadly details of endangered species in India. It also provides the establishment of wildlife advisory boards for the protection of wildlife in every state to tackle the situation, where it applied in different regions and States of India. The Act allows the Center and State governments to declare any area 'restricted' for the wildlife sanctuary, National park, etc. The Act contains many sections regarding the protection and protected areas of wild animals. Which prohibits, the transportation of any species, hunting, Killing, and purchasing of any species. India is left with only 19% of forests out of the entire geographical area. Out of that 19%, it is only 5% protected under the Wildlife (Protection) Act, 1972 as National Parks, Sanctuaries, Conservation Reserves, Community Reserves and Tiger Reserves.

## Wildlife Populations Worldwide Have Plummeted

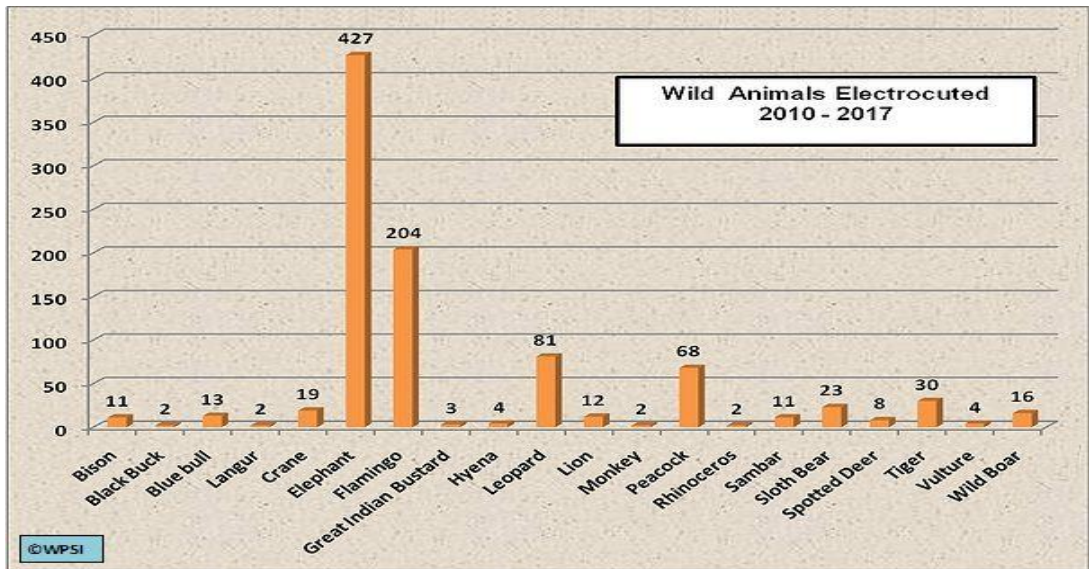
Threats to wildlife and population decline from 1970-2010



Species population decline from 1970-2010



Source: statista



Source: Wildlife Protection society of India

Number of cases registered under wildlife protection Act, 1972

2020	406
2019	296
2018	207
2017	342
2016	565
2015	698

### 3.4. The Indian Penal Code, 1860

Section 428 of the Indian Penal Code provides punishment for misconduct of killing an animal for the value of ten rupees or more. It states that 'whoever commits the offense of killing, maiming, poisoning, or rendering useless any animal for the rupees of ten or more than shall be punished with the imprisonment for up to ten years or with fine or both.

And Section 429 of the Code deals with the penalty for the same offence, but concerning animals worth 50 rupees or upwards. The offense shall be punishable with imprisonment of either description for a term which may extend to five years or with a fine or both.

### 4. Suggestions

- ❖ All the religions promotes the rights of animals, as the rights of man. So as the follower of one religion, the man should always promotes the Animal rights.
- ❖ The public law and private law for animals must be stronger by which the human act punishment more effectively according to their wrong.
- ❖ The man should follow it has religious text books or scriptures for the betterment of the society.
- ❖ The society includes the human beings and other living beings and nature, the human is the smartest being, so it must be the duty to protect other beings.
- ❖ The human must love and care of innocent animals.
- ❖ The human must always remind that all living beings have their own life and this planet is also their home.
- ❖ In the name of pet animals, the human have to stop the slavery from innocent animals.
- ❖ This is the modern science era, so human must have to stop animal abuse in name of experiments.
- ❖ All life matters in this world, humans are the superior ones so it is also the duty of humans to protect the nature.
- ❖ To educate the family and friends about the culture and ancient philosophies which follow by the human to protect animals.

## 5. Conclusion

Like human's life and human rights, animal's life and rights are important because all life matters. As, a part of the world's ecosystem, wildlife or animal's life provides the balance and stability to nature's process. The life cycle of this planet, the birth and the death all are god's plan and these all points are mentioned in the Jurisprudence. The philosophies on the protection of animal, ensure the vital role of animals in the human society as well as life cycle of this planet. Animals possess a significant role in the man's life in Indian society. Utmost animals are associated with different gods or are friend or messenger of god in different mythology and philosophical aspects of Indian society, but with the time the believers over them weakens.

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