

GLOBAL ACADEMIC RESEARCH INSTITUTE

COLOMBO, SRI LANKA



GARI International Journal of Multidisciplinary Research

ISSN 2659-2193

Volume: 05 | Issue: 03

On 31st December 2019

<http://www.research.lk>

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GARI Publisher | Sociology and Law | Volume: 05 | Issue: 03

Article ID: IN/GARI/ICSL/2019/113 | Pages: 78-90 (12)

ISSN 2659-2193 | Edit: GARI Editorial Team

Received: 27.11.2019 | Publish: 31.12.2019

ANALYSING THE NECESSITY OF REFORMING ANIMAL WELFARE LAWS IN SRI LANKA

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ABSTRACT

It is quite evident that recently the global ethics of animal welfare have been following an evolutionary trend. However, the existing 112 years old laws in Sri Lanka relating to animal welfare provided in the Prevention of Cruelty to Animals Ordinance, No.13 of 1907 are not sufficient to safeguard the animals from the unnecessary exploitation often caused by human beings. While the global community is actively participating to change the perceptions on animal welfare, Sri Lanka desolately lags behind despite the rich cultural heritage of animal protection that existed in the times of the Kings. Therefore, this research paper will discuss the necessity of reforming animal welfare laws in Sri Lanka. The objectives of the paper include investigating the progresses the world has gained relating to animal welfare, discussing the importance of reforming the animal welfare laws in Sri Lanka with regard to recent situations of animal cruelty, analysing the Prevention of Cruelty to Animals Ordinance, No.13 of 1907 and the newly drafted Animal Welfare Act of 2006 and evaluating appropriate recommendations on animal welfare with reference to Sri Lankan context. The research is will be directed in the form of a Hypothesis-Testing (Experimentation) Research. The primary sources include relevant legislations in Sri Lanka. The secondary sources consist of text books, research sources and newspaper articles by Sri Lankan and foreign media relating to animal welfare. Personal interviews will be conducted

with the drafting members of legislation and prominent environmentalists. The research will be a guideline to understand the importance of reforming animal welfare laws in other developing countries and provide for applicable recommendations.

Key Words: Animal Welfare, Prevention of Animal Cruelty, Recommendations

INTRODUCTION

Animals, defined as any living beings other than human beings, play many vital roles in the lives of people all over the world. Nearly half the population of the world is involved in agriculture. Livestock animals are important for food, labor and income. Millions of people keep animals as companions and enjoy the existence of wildlife to improve their physical and psychological health. Animals matter to people. (World Society for the Protection of Animals, 2007) Proper treatment of animals is widely recognised in the modern world. In most countries there are cultural traditions and religious teachings which emphasise on the humane treatment of animals. This is accepted by many moral philosophers, political scientists, legal experts, academics and economists. The World Organisation for Animal Health (OIE) provides that, "The use of animals carries with it an ethical responsibility to ensure the welfare of such animals to great extent practicable." (World Society for the Protection of

Animals, 2007) However, due to various reasons people sometimes fail to fulfill the duty they owe to animals. Mistreatment of animals can be deliberate, neglect, or due to lack of information and resources.

To encourage the promotion of animal welfare, the World Animal Protection Organisation introduced the Animal Protection Index which has given each country an overall score. These scores fall within scoring bands, where “A” represents the highest results and “G” identifies countries with the most room for improvement. (World Animal Protection, 2017) The indicators include recognising animal protection in that country, providing education on the humane treatment, integrating governance structures and systems to improve animal protection, promoting communication and awareness and incorporating animal welfare standards. Sri Lanka is not given any rank in the Index. Thereby, not having adequate animal welfare laws clearly has a negative impact on the nation’s image. (Perera, 2018)

In the first section of this paper I focus on the wish of the global community to protect animals through new revolutionary trends of animal protection. The significance of having an international instrument which can propose a set of ground rules to bind every country is also considered. In the second section, I analyse the current situation of animal protection in Sri Lanka compared to the prehistoric era. The discussion progresses to the existing 112 years old laws and their inadequacy to resolve incidents of animal cruelty. There is a significant step taken towards advancement in animal welfare by drafting the new Animal Welfare Act and to understand the improvements compared to the prevailing laws, noteworthy sections of the new Act will be analysed. Under recommendations in the third section, I examine the considerable developments which can be introduced in the future. Thereby, the conclusion determines the

necessity for reforming animal welfare laws in Sri Lanka by following the lead of the global community to secure a better future for animals as well as for human beings.

Animal Welfare and Global Community

The world has to deal with many extraneous concerns relating to the protection of animals. Some examples are using animals for various research and experiments, using animals for entertainment purposes such as in zoos, competitions and circuses, torturing animals for the purpose of harvesting various body parts and secretions such as, flesh, skin leather, fur, wool, and bile and by pet farming. Animals are abused using unethical and repulsive types of torture. These are only a few of the practices of animal cruelty which are found in both developed and developing countries.

The global community is actively engaging in attempting to change the perceptions on animal welfare. Leading philosophers and religious figures actively debate and write about various viewpoints on animal welfare; the media frequently highlights welfare issues; governments throughout Europe and beyond feel growing pressure from their concerned electorates in respect of animal welfare issues. Consequently, parliaments (including the European Parliament) debate and legislate on animal welfare; respected fora such as the World Organisation for Animal Health (OIE) and the Council of Europe (the bastion of human rights in Europe) prepare standards, conventions and recommendations, covering the welfare of animals in different situations. Even organisations such as the Food and Agricultural Organisation (FAO) of the United Nations, the World Bank and the International Finance Corporation (IFC) are now including animal welfare in their

spheres of activities. (World Animal Net, 2017)

There are new ideologies in the world which are founded on ensuring proper treatment and protection of animals and examples are animal welfare, animal rights and animal liberation. Compared to animal rights and animal liberation, animal welfare is widely recognised since it balances the human requirements with duty towards animals to prevent them from suffering extensively. Animal rights and animal liberation express the view that animals should not be used by humans at all, and should not be regarded as their property. However, animal welfare holds the position that animals should be used by humans but extends its scope to cover the features of the emotional and physical well-being of animals. It is also intrinsically related to other human concerns such as public health, food safety and long-term economic development. (Vapnek, J., and Chapman, M., 2010) For example, animal welfare “promote public good health and improve protection against health threats” – one of the key objectives of the Sustainable Development Strategy.

There are other important world trends on animal welfare that have been established by various academics and international animal welfare organisations. One such example is the Animal welfare movement, which is clearly a social change movement, as it seeks to change society’s perception and treatment of animals. The animal welfare movement is in different stages of development in different countries. Culture and historical development impact upon the status of animal welfare and the stage of the movement’s development. Culture and society also impact upon the way in which the animal welfare movement can carry out its advocacy for best impact. Religion can also impact upon attitudes towards animal welfare,

hampering or advancing the cause. (Lehnardt, 2017)

Yet another example is the concept of “animal welfare science” which combines disciplines such as the study of animal behaviour, stress physiology, nutrition, genetics, and veterinary medicine. This scientific foundation helps to move animal welfare legislation away from reliance on “common sense” or the tendency to equate “traditional” or “natural” husbandry practices with animal welfare (Fraser, 2005). It also reinforces the connection between animal welfare and animal health. (Lehnardt, 2017)

There is also the concept of “Animal Law”. It can be defined as, the substantive body and practice of law that affects non-human animals and the interests of humans with respect to animals. (Schimkat, 2012) The practice of animal law may involve such diverse areas of law as constitutional, torts, contracts, criminal, administrative, regulatory, municipal, trusts and estates and property. It has been recognised in “Animal Welfare in the European Union” under Chapter 12 which provides that, “Many of the problems raised in petitions on animal welfare topics that are submitted to the European Parliament, could be solved by a well-constructed animal welfare law.” (Broom, 2017)

However, there is one pertinent flaw that strikes down the progress of animal welfare which applies to the entire world. There are no international instruments that can bind the countries to provide a minimum set of standards relating to animal welfare. The Indian Supreme Court has expressed anguish at the lack of international agreements that ensures the welfare and protection of animals. (Thiagarajah, 2016)

Professor Steven White shares his view in his title, “Into the Void: International Law and the Protection of Animal Welfare” as follows, “Given the variability in the domestic protection

accorded to animals by individuals countries, it should not be surprising that there is currently no global legal agreement specifically concerned with the welfare and treatment of individual animals. A number of international instruments directly address on animals, but with a focus on their preservation, trade and/or use rather than on their welfare or treatment.” (White, 2013)

In his publication, An International Treaty for Animal Welfare, Professor David S. Favre states that, “Until now, the issue of the care and well-being of the nonhuman inhabitants of this planet has had no equivalent international focal point. Because of human need, greed, ignorance, and vanity, untold numbers of animals throughout the world suffer and die on a daily basis. While thousands of humans work daily to reduce this toll, a more visible, efficient, and universal standard is needed. The immediate elimination of animal pain and suffering is not likely. Therefore, a mechanism under which progress for animal welfare can be realized as fast as moral persuasion, technology, economic development, and political support will accommodate it.” (Favre, 2012)

Therefore, the need for a global commitment that would inspire international, regional and national communities on animal welfare has been a requirement for many years. One such proposed instrument is the Universal Declaration on Animal Welfare (UDAW) which was first drafted by the World Animal Protection in 2000. The significance of the proposed declaration is that, it recognises animals as sentient beings. However, the proposed declaration has not yet been approved by the United Nations. If enacted, countries would agree to consider animal welfare in their policy-making and make an effort to improve the state of animal care in their countries. (Hugo, 2017)

Sri Lankan’s Attitude towards Animal Welfare

In the prehistoric Sri Lanka, animals played a prominent role in the day to day lives of the people. “Every home had cattle in the back yard. The bullocks worked in the fields alongside the farmer, the cows and buffaloes provided milk to the family, but only after the calves have had their fill. Dogs and cats lived inside the homes as members of the family. The hen lived happily in the front yard and provided the family with eggs. Leather was made from the hides of only dead animals. Thus it was a beautiful picture of co-existence of animals and humans.” (Idaindia, 2017)

The stories of ancient Sri Lankan Kings set the perfect examples of how animals were treated with kindness and care in that era. The responsibility of ensuring the protection of animals was considered to be an important obligation held by the King who ruled over the state. “Contemporary Sri Lanka is the heir to a rich and unique pre-colonial history in respect to Animal welfare. Historical rock inscriptions and ancient chronicles such as Mahawamsa, reveal that extensive state protection was granted to animals and slaughter of cows was strictly prohibited.” (Weeraratna, 2003)

Establishment of Buddhism in Sri Lanka heavily influenced on imposing such an obligation of animal protection on the part of the rulers of the state. “The ancient chronicles record that when the King (Devanampiya Tissa, 247-207 BC) was on a hunting trip (around 223 BC), the Arahant Mahinda, son of the Emperor Asoka of India, preached to him a sermon on Buddhism which converted the King. Here are excerpts from that sermon:

“O great King, 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; though art only the guardian of it.” (Weeramantry, 1997)

However, the present circumstances are no longer the same. "Today, times have changed. With population explosion, urbanisation and consumerism catching up, animals are easy prey for human greed. They are soft targets for anyone trying to make a quick buck, and prime candidates for exploitation. Today even healthy, young animals are killed for leather, meat and tallow. Calves are kept hungry and emaciated, while the cow's milk is sold in the markets for human consumption. Chickens are kept in cramped battery cages, either for their eggs or for slaughter. Slaughter animals are made to walk thousands of miles to slaughterhouses, or carted in trucks/ tempos packed like sardines, with the result that some of them die of suffocation before they reach their destination." (Animal Welfare, Ethics and Jurisprudence, 2012)

There are examples of animal cruelty in Sri Lanka which should be considered. The Dehiwala National Zoo is often criticized for having unhygienic and unsuitable living conditions for the animals that are exhibited in cages. Since a long time, several non-governmental organisations and animal rights activists have been accusing the authorities of the Dehiwala zoo of improper confining, inhumane harassing and also neglecting animals. (Warunasuriya, 2017) The chained elephant performances were even temporarily stopped in 2014 as a result of three elephants having contracted tuberculosis.

There are breeders who sell cocks and hens that are especially bred for fighting. There are also people who organise such fights. In bull races, oxen are beaten brutally by the cart drivers. The ox is required to run with the cart carrying the cart driver which weighs a considerable amount. Sometimes, when the ox falls down on the street, the people who are gathered around start beating the animal to get it back onto its feet. Battery hens are often confined in a limited space where

they keep on laying eggs. After a certain period, these hens are slaughtered for their meat. There are some folk who believe in the idea that pork tastes better when the pig is beaten to death.

Puppy mills are facilities wherein puppies are bred in inferior conditions and thereafter, sold in commercial markets. The mother dogs are caged and live their entire lives giving birth to puppies from time to time. The puppies are separated from their mothers as soon as possible to be trained on other foods to be often sold away when they are only 45 days old. There are many such puppy mills and pet shops that do not have animal friendly living conditions. There are veterinary doctors who engage in ear cropping and tail docking of puppies without using anesthetics or pain medications. There are homes that hold dogs captive in small cages soiled by their own faeces or chained in a corner of the house. There are people who abandon their animals when they are sick and old. Old bulls and cows are often sold to the butcher shops. Puppies born to stray dogs are either killed or abandoned in villages. People refrain from sterilizing stray dogs and leave the puppies near temples, or paddy fields where they eventually die due to starvation or accidents. Some dogs are not allowed to come indoors even in bad weather conditions and are left to remain on the pavements.

In 2019 there were two cases of dogs been murdered by neighbors who were apparently disturbed by the barks and howls of these dogs at night. There are instances of wild animals being tortured to death as well. In March 2016, some photographs of a sea eagle being skinned alive, tortured and then killed went viral on the Internet. There was a public outrage and the two offenders were arrested. However, not many days later, a peacock was tortured and killed. In September 2019, 7 wild elephants have been killed by poisoning.

Capturing and keeping animals in cages as tourist attractions is yet another issue. The first major study of wildlife tourism around the world, which was done by researchers at the University of Oxford's Wildlife Conservation Research Unit, found that elephant rides in Sri Lanka go directly against the welfare of the animal. Street performances – dancing macaques and snake charming- both received negative scores. Although elephant rides and sea turtle farms get the highest number of visitors each year, they are in conflict with the concept of animal welfare.(Bale, 2016) In Sri Lanka there are sea turtle hatcheries in the southern coastline where many turtles are kept captive in ponds as a tourist attraction, without releasing them to the wild. Such circumstances may seem harmless, but all of them amount to acts of animal cruelty which often result in causing either physical or emotional pain or both to the animals.

There are two major issues involving animal welfare in Sri Lanka that require immediate attention. One is that the constitution of Sri Lanka does not recognise animals or animal protection. In the absence of such, animal protection objectives can be over-ridden by other constitutional principles (fundamental rights such as freedom of religion, freedom of science/ research/ education or freedom of artistic expression). (World Animal Net, 2017) There are countries in the world which recognise animals in their constitutions. The German constitution requires the state to respect animal dignity. It is also observed that Switzerland, Austria and Slovenia have enacted legislation to include animal welfare in their constitutions. (Thiagarajah, 2016)

The second issue is that the existing laws on animal protection are 112 years old and therefore, require immediate reform or replacement. The Prevention of Cruelty to Animals Ordinance, No.13 of 1907 as amended by No. 19 of 1912, 43 of 1917, 9 of 1919, 23 of 1921, 16 of 1927,

17 of 1930, 12 of 1945 and Act no.22 of 1955 is the most significant legislation which covers the law relating to animal welfare in Sri Lanka. As a result of all the amendments, the Ordinance contains 14 sections which illustrate the types of offences of cruelty that are punishable, the resulting penalties, illustrations of various circumstances that may amount to cruelty to animals, powers of the Minister, powers to the courts and interpretations.

Section 2 of the Ordinance provides for the offences of cruelty and the penalties. The offences of cruelty only include beating, ill-treating, over-driving, over-riding, abusing and torturing. The offenders shall be punished with a maximum fine of one hundred rupees and three months imprisonment.

Section 3 is for animals that are kept by people, where such animals are left to starvation, mutilation, or ill-treatment, the owners shall be fined with a fine which may extend to two hundred rupees and three months imprisonment.

Under section 4, offenders who have killed an animal in a cruel manner will be punished up to a fine of one hundred rupees and six months imprisonment.

Section 5 provides the penalties for using animals unfit for labour. The punishment includes a fine of one hundred rupees and six months imprisonment.

Section 6 empowers the Minister to appoint infirmaries for the treatment of animals where the animals will be treated and the costs will be paid by the owner.

Section 7 prohibits the owner of a diseased or disabled animal to leave it to die in any street. The offenders shall be fined with a fine which may extend to one hundred rupees and three months imprisonment.

Section 8 sets a three months limitation within which any offence must be prosecuted.

Section 9 and 10 empowers the government officials for direct destruction of suffering animals.

Section 11 states the power to direct application of fines.

Section 12 recognizes all offences under the Ordinance as cognizable offences.

Section 13 empowers a peace officer to detain animals that are likely to have suffered due to an offence caused by an owner under the Ordinance.

Section 14 provides for the meaning of “animal” and “street”.

The meaning of “animal” under the 1907 Ordinance does not include stray animals, wild animals or livestock. This in turn is limited to the compassion that needs to be shown to animals in human custody, which in turn excludes cruelty to those that are not. For example, the extermination of stray cats and dogs within the premises of the University of Moratuwa by stunning them with a toxic substance did not fall within the provisions of 1907 Ordinance because the interpretation of ‘animal’ did not include stray dogs and cats.

This Ordinance also fails to provide adequate fines for the offenders who are found guilty. According to the Ordinance the maximum fine that has been declared for offences of causing cruelty to animals is two hundred rupees. This penalty stands for offences that were committed 112 years ago, which then was fairly large sum. At present, a fine of Rs. 200 is not adequate to address the issue of animal protection in the minds of people. Undoubtedly, the existing law is outdated.

The laws in the Ordinance were applicable to types of cruelties that took place in the colonial era. At present, 112 years old laws fail to address the cruelties that animals undergo today. The animals that are chained and caged throughout their lives, the killing of pregnant animals, use of animals for medical and cosmetic

research, and abhorrent living conditions of livestock and zoo animals were not considered in the Ordinance. The list is not inclusive since there are many more examples of how people are mistreating animals. It should also be mentioned that after 1955, the Ordinance has not been amended to include any new improvements on mitigating cruelty to animals.

Mrs. Lalani Perera, a member of the Law Commission sub-committee on the new Bill states that, “At present, the Prevention of Cruelty to Animals Ordinance, No.13 of 1907 is inadequate to address the horrendous cruelties that animals undergo today. Even the penalties that are described in the Ordinance are applicable to British era. While many countries in the West as well as India, Singapore and Malaysia have strengthened their animal welfare laws, Sri Lanka, despite it’s rich animal friendly cultural heritage is shamefully lagging far behind.”

(Perera, 2017) states that as a result of all these shortcomings of the 1907 Ordinance, a new animal welfare bill was drafted by the Law Commission in 2006 as a joint combined effort of many animal activists, animal welfare organisations, environmentalists, and religious leaders. After much delay caused by groups with vested interests that hampered the enactment of the Bill, it now awaits submission to Cabinet.

The proposed Animal Welfare Act addresses the essential elements of animal welfare legislation that have been prescribed in the Legislative and regulatory options for animal welfare by the United Nations’ Food and Agriculture Organization. (International Fund for Animal Welfare, 2017) The elements under the institutional framework include forming of a “competent authority” and an animal welfare board to carry out the implementation and enforcement of the provisions of the new legislation. Section

2 outlines the objectives of the new Act including, a duty of care on the part of humans to properly treat animals and prevent cruelty, establish a National Animal Welfare Authority, and raise community awareness on animal welfare. (Animal Welfare Bill (Draft), 2016) Section 2 outlines the objectives of the new Act as, a duty of care on the part of humans to properly treat the animals and prevent cruelty, establish a National Animal Welfare Authority, and raise community awareness on animal welfare.

Sections 3 to 21 comprises of specifications given to the National Animal Welfare Authority, which has been granted a wide range of powers to advise the government relating animal welfare laws, creating awareness, and ensuring animal protection against cruelty. Adequate functioning of such an Authority would be able to accommodate timely developments against animal cruelty.

Section 22 and 23 requires a duty of care on the part of every person in charge of an animal. The duty of care has been further clarified as taking all reasonable measures to ensure the well-being of an animal, preventing unnecessary pain and suffering and providing food, water, hygienic living conditions, adequate living space and shelter that is appropriate and reasonably practicable. This is a major development since a duty of care works as a responsible owed by any person including every person in charge of the animal. For an example an owner of a farm cannot put the blame on the employees for not providing satisfactory living conditions to the farm animals because he owes the duty of care being the person in charge.

Section 24 has incorporated many actions of cruelty which were not addressed under the 1907 Ordinance such as training of an animal, willful and unreasonable administration of poisons, injurious drugs or substances,

transportation of animals which causes them pain, confining of an animal in a cage or by a chain, and willful deprivation of food, water or shelter to the animal by the person in charge. The offenders are liable for a maximum fine of fifty thousand rupees and imprisonment of two years. According to 1907 Ordinance the fine was one hundred rupees and three months imprisonment.

Section 25 provides for a fine of Rupees seventy-five thousand and imprisonment of two years for the offenders of killing an animal in unnecessary cruel manner. Compared to s.4 of the 1907 Ordinance, this is a significant improvement.

Section 26 prohibits killing of any pregnant animal, and offenders are liable for a fine of one hundred rupees and three years imprisonment. The previous Ordinance did not provide a provision relating to killing of pregnant animals.

Section 27 to 35 provides for prohibited conducts of animal cruelty including setting traps to capture, harm or kill an animal, unlawful confinement of birds, use of animals for testing cosmetics, unlawful castration and sterilization of animals, unlawful sale of animal suffering pain, unlawful keeping or displaying of animal for sale, making available an animal for hunting, and unlawful breeding or trading. It should be identified that none of these prohibition were included in the 1907 Ordinance. Provision which prohibits unlawful keeping or displaying of animal for sale requires the pet shops to provide necessary facilities to the animals.

Section 35 states the punishment for offences under ss.27 to 34 which is fine of twenty thousand rupees and one year imprisonment. It should be considered whether the fine is adequate for an offence under these sections. For example, there are breeders in Sri Lanka, who sell one puppy for Rs.25, 000 (Lion shepherds) to Rs.150, 000 (American Bull Mastiff and Siberian Husky). If they are not obtaining a licence for breeding, the fine stated in the

new Act is not satisfactory. They might think that it is better to pay the fine which can be recovered by selling one puppy than maintaining the requirements to obtain the licence.

Section 36 specifies the prohibited events including sport-hunting, shooting matches and competitions, sports involving the confining of an animal, and fights among animals. Under this section cock fighting will be considered illegal. However, there is the issue whether the bullock cart races can be a prohibited event under this section. The penalty includes a fine of twenty thousand rupees and one year imprisonment.

Section 37 provides for the restrictions on slaughter of cows and buffaloes. The penalty includes a fine of twenty thousand rupees and one year imprisonment.

Section 38 prohibits slaughter of quadrupeds in a private dwelling house in a residential area or a place of business or a public place. For the purpose of this section "public place" has been further defined. This section is important because slaughtering of animals in public can convey a wrong message to kill animals and inflict harm them particularly to the children. There are meat shops, in some cities in which the animals are killed when a person orders for meat. In some festivals relating to religions, like Hajj for Islam and in some animal sacrificing rituals in Hindu, animals are often slaughtered either in the private house or in religious places. This provision forbids such actions on the basis that they deliver inhumane practices to the society. The penalty includes a fine of twenty thousand rupees and one year imprisonment.

Section 39 to 41 applies for transport of animals. Subjecting animals to unnecessary pain during transport is prohibited. Section 40 describes the duties of the person who transports the animals during the transportation. Section 41 provides for the penalties which includes twenty thousand rupees and one year

imprisonment. There are every day incidents of illegal trafficking of cattle where the lorries are filled with cattle and as a result, many of them suffocate and die before they are taken to the slaughterhouses. However, it should be considered whether the fine is adequate since these inhumane transports of animals are part of a business.

Section 42 prevents use of live animals for teaching, research and experimentations unless there is a permit.

Section 43 states that all investigations under this Act, shall be conducted in compliance with the provisions of the Code of Criminal Procedure Act, No.15 of 1979.

Section 44 to 50 provides for practical circumstances such as conducting a search by a police officer, issuing of animal welfare direction by inspectors, placing animals in shelter during investigation and trial, offence of obstructing a police officer, by whom prosecutions can be instituted, offences triable summarily, and forfeiture, re-imbursment of expenses after conviction.

Section 51 empowers the Minister to make regulations in respect of the matters that are listed. The list includes significant matters relating to animal welfare.

Section 52 authorizes the Authority, an Inspector or a person permitted by an Animal Welfare Society to intervene in the Court proceedings to safeguard the interests of the animal.

Section 53 and 54 state that any person who contravenes any provision of the Act is guilty of an offence and if no punishment is expressly provided will be liable to a fine of five thousand rupees and six months imprisonment.

Section 55 specifies that if an offence has been committed by a group of persons, unless they establish that the offence was committed without knowledge or that due diligence was exercised to prevent the

commission of such offence, they shall be deemed to be guilty of the offence.

Section 56 convicts any person who abets, attempts or conspires to commit an offence under the Act. They will be liable for the same punishments that are applicable for the offence.

Section 57 limits the prosecution time to twelve months from the date of the commission of the offence. In the 1907 Ordinance, the prosecution time was only three months.

Section 58 exempts the application of this Act to pest control activities and any reasonable measures taken to safeguard human life or property.

Section 59 intends to repeal the Prevention of Cruelty to Animals Ordinance, No.13 of 1907.

Section 60 widens the meaning of "animal" in section 38 of the Animals Act, No.29 of 1958.

Section 61 empowers this Act to prevail in the event of inconsistency with other Acts relating to animal welfare.

Section 62 to 69 states the general provisions that are applicable for the Authority.

Section 70 provides for interpretations which include wide definitions of many new words mentioned in the new Act such as animal, types of animals, animal shelter, cage, confine, ill-treat, infirmary, over-walking, pain, person in charge of an animal, pinioning, research, trap, and veterinary treatment. The definitions are important because it shows how important it is to widen the meanings in order ensure animal protection.

The most significant definitions include the meaning stated for "animal". It states, "any living being other than a human-being and includes a domestic animal, a farm animal, an animal in captivity, a wild animal, a companion animal, a stray animal and a food animal;" The types of animals have been described once again in order to accommodate wide possibilities.

A domestic animal has been defined as "i) an animal of species commonly kept as pets, whether or not that animal is being kept as a pet at the relevant time; ii) an animal of any species if that animal has been or is being kept as a pet; iii) an animal used for riding, racing, transport, work, breeding or display; iv) an animal used as a guard or guide or companion animal;"

A farm animal means "an animal kept or used for agricultural or dairy or livestock purposes and includes poultry."

An animal in captivity is "an animal kept in zoo or circus or other situation of confinement, whether for work or ceremonial or any other purpose, other than a domestic animal or a farm animal."

A wild animal means, "an elephant or any other species of animal listed in the Schedules to the Fauna and Flora Protection Ordinance that is not in captivity."

A companion animal is "an animal kept as a guide or a pet."

A food animal is "an animal whose flesh is consumed as food by humans."

A stray animal means, "an animal at large or an abandoned animal or an animal which is not a wild animal wandering in a street, road or any public place."

This definition successfully expands the meaning of animal, in order to embrace various types of animals that can be found in Sri Lanka.

RECOMMENDATIONS

It should be noticed that compared to the Prevention of Cruelty to Animals Ordinance, No.13 of 1907 the new Bill sufficiently addresses most of the issues that were previously overlooked. However, since 2006 the cruelties to animals have only kept increasing and in the gap of thirteen years there are new developments which should be addressed.

Under s. 70 of the proposed new Act, “Welfare of an animal” is defined as “the health, safety and well-being of an animal.” However, the word “health” has not been defined under s.70 of the Act. If health specifically includes the mental well-being of animals, that would widen the possibilities to protect and care for the animals. The proposed Universal Declaration on Animal Welfare also specifies that animal welfare includes animal health and encompasses both the physical and psychological state of the animal. Also, there is the concern whether the fines specified are adequate. There are offences for which the fine might not be enough such as obtaining a breeders’ licence, transporting livestock and maintaining pet shops.

The Act has not provided any guidance as to using animals for traditional ceremonies such as peraheras. This might be a sensitive issue since the traditions might be affected. Using elephants that are chained to walk in a perahera in heavy costumes that are illuminated by electric bulbs does amount to making them suffer. They have to walk in most uncomfortable and unnatural circumstances amidst the unbearable sounds of drums and cheers of people. The issue remains whether this tradition of using elephants should be completely prohibited or be carried out subject to certain limitations. The ethical issues that arise from using elephants as a tourist attraction also need to be considered.

Yet another issue is that of sending elephants overseas to ‘develop’ better ties between countries. Elephants are known to be highly intelligent animals with strong relationships within herds with the basic need to roam freely. Therefore, it should be considered whether sending elephants to other countries to be confined to small areas is fair.

The Act has not addressed the situation of animals becoming depressed due to situations arising owing to landslides and

floods. In the recent years there were animals who were orphaned due to a number of landslides and floods. The rescue and caring of such animals have not been included in the new Act. A proper mechanism to create animal evacuation teams that are equipped to rescue animals safely, and to have trained volunteers and procedures in place for establishing temporary animal rescue shelters is required. (Adams, 2017)

In Sri Lanka, there are incidents of both wild and domestic animals being injured due to road accidents, assaults by people or attack by other animals. People often ignore such animals and leave them to die. Any relief has not been granted to injured animals under the proposed Act. (Mille and Diesen, 2009) gives an example that in Norway it is mandatory to help such injured animals whether are wild or a domestic animals. However, in Sri Lanka injured domestic animals that are likely to stay disabled are not accepted in veterinary hospitals or shelters.

There is a new found tendency that charitable organisations which rescue stray dogs and cats have now become lucrative businesses, where people collect donations affirming that they would help the animals in need. In fact, they only help a limited number of animals compared to the funding they receive. These organisations have been found to be either local or foreign-funded. There should be proper rules for such organisations to ensure that they in fact carry out the missions which they claim to achieve.

The new Act should go hand in hand with promoting public awareness on animal welfare. Education of school children would help greatly with creating the required awareness. Promoting awareness within the general public is also important. Since Sri Lanka is a developing country, one may argue that before making the living conditions of an animal better, the government should work towards the lives of its citizens first. However,

improved humane treatment of animals would in turn result in improving the morals and principles of a person. This would contribute to developing the characteristics of kindness and compassion of a person. The media can be used as an effective tool for acknowledging people who treat animals humanely - even those unfortunate animals who are to be slaughtered.

A mechanism to value the secondary animal welfare legislation can also be included. Animal Welfare Assessment is often used as the basis for the reform of animal welfare legislation and to improve conditions for animals reared for food, used in research, kept in captivity or as companion animals. Three components are important in animal welfare assessment:

(1) the use of five freedoms;

(2) the assessment of welfare inputs and welfare outputs, inputs being the factors that affect the animal's welfare and outputs being the actual impact of these factors on the animal's welfare; and

(3) the quantification of welfare problems found or measured using severity, duration and numbers animals affected. Such a mechanism would guide local authorities to implement animal welfare laws in regional and local legislation.

These are some of the recommendations that worth the attention considering the recent situations which have threatened the animal welfare and protection to animals in Sri Lanka. The required amendments are not conclusive since the laws have to be implemented based on the circumstances to enact more productive laws relating to animal welfare.

CONCLUSION

These are some recommendations that drew attention considering the recent situations which have threatened animal

welfare and protection in Sri Lanka. As was discussed, animal welfare is now a pan global movement. The world is gradually becoming more civilized. Sri Lanka also should not be left behind by waiting any longer. Implementing the new Animal Welfare Act is the foremost requirement that should be accomplished. One hundred and twelve years have already passed without any improvements in Sri Lankan legislation relating to animal welfare. It is necessary to make significant changes for the betterment of animals, whose lives are sacrificed for the 'betterment' of human beings. Animals are also an important part of the world and it is high time that Sri Lankans change their mindsets to accept this universal truth.

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