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NECESSITY OF INTEGRATING LEGAL SAFEGUARD FOR DOMESTIC ANIMALS IN SRI LANKA -A LEGAL ANALYSIS

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ABSTRACT

Recent interest in having domestic animals in the society is being increased. Regardless of places urbanized or rural, people tend to domesticate animals. As far as the domestication of animals are concerned, in Sri Lanka there are many issues to be identified, lack of awareness towards animals, restricting their freedom, neglecting them, restricting their reproduction, are few of them. Ownership has given an immense power to treat them like property and they have being tread in cruel way by intentionally or not. The country has seen its last amendment to the law addressing cruelty to animals in 1995 and the prevention of cruelty to animal's ordinance 1907 under which welfare of animals is taken into consideration is over a century old. But still there are no any provisions included to safeguard or to address the welfare necessities of domestic animals. Therefore, it is mandatory to amend the existing law which would address the protection of domestic animals and rights of those animals or draft a new legal framework which would cover specifically the matters relating to the domestic animals. Basically, the main research problem of this research is why we would need to amend the existing law or draft a new law concerning the matters of domestic animals. This research relies on doctrinal method in nature. It intends to find out the importance of having an Act for Protection and Welfare of Domestic Animals in Sri

Lanka to minimize the abuses towards domestic animals by analysing lessons from legislations of United Kingdom. Relevant legislative enactments, case studies have been used as primary sources and research papers, journal articles are the secondary sources.

Key words: animal welfare, domestic animals, legal framework

INTRODUCTION

Recently interest in having domestic animals in the society is being increased. Regardless of places urbanized or rural, people tend to domesticate animals such as cattle, pigs, hens, goats and small animals like dogs, cats, squirrel, rats, pigeons, parrots etc. Domestication of animals based on various factors like having a creature to share the life have fun and sometimes of course get cured from some deceases by looking at them. As with the mutual bond between domesticated animals and with human, it survived as an ethical concept and animal care continues at this special relationship. In its simplest form, animal welfare refers to the relationships people have with animals and the duty they must assure that animals under their care are treated humanely and responsibly. Therefore, the public concern over welfare and protection has emerged as a stage to be discussed. Discussion about animal welfare is not a modern phenomenon, and concern for animal care

and wellbeing has existed since domestication, which occurred at least 10,000 years ago in Neolithic times. Likewise, the human animal bond prevails and in advance, in various ways. For the time being it is evident that discussions relating to the animal welfare is only centralized around non-domestic animals. No further discussions were arisen about the welfare of domestic animals because it consider that adopting by an owner and having a shelter under a roof means those animals are already having the required protection. Though most of the sociological angles reveal emotions interconnected with the ownership of a domestic animal can be changed about the urbanization, advancement of busy life styles, poverty, lack of awareness, materialization of emotions and many personal issues. It reveals that having an owner isn't always treat as the ultimate protection to the domestic animals.

As far as the domestication of animals are concern, in Sri Lanka there are many issues to be identified, lack of awareness towards animals, restricting their freedom, neglecting them, restricting their reproduction, are few of them. The so-called ownership has given an immense power to treat them like property and they have being tread in cruel way by intentionally or not.

Since Sri Lanka such as the failure of the Constitution to give recognition to animal welfare and incorporate animal protection or fundamental rights of animals the country has seen its last amendment to the law addressing cruelty to animals in 1995 and the prevention of cruelty to animal's ordinance 1907 under which welfare of animals is taken into consideration is over a century old. But still there are no any provisions included to safeguard or to address the welfare necessities of domestic animals. Therefore, it is mandatory to amend the existing law which would address the protection of domestic animals and rights

of those animals or draft a new legal framework which would cover specifically the matters relating to the domestic animals.

Research problem and the hypothesis

Basically, the main research problem of this research is why we would need to amend the existing law or draft a new law concerning the matters of domestic animals. The hypothesis of this research is, since living under a roof of an owner wouldn't have been the ultimate protection for an animal and they do have some rights regarding their freedom and other necessities as well. That because animals which are freely roaming around might have rights relating to freedom and protection from cruelty rather than animals which lives under a roof of an owner.

Objectives of the research

- Evaluate the scope of the law relating to the protection of domestic animals in international and domestic levels
- Analyse pet abuse laws came into the force in England and Wales in 2007 with special reference to Animals Act 1911 of UK which designed to prevent outright cruelty to animals
- Analyse whether Sri Lankan law relating to the protection of animals are adequate to address issues relating to the protection of domestic animals.
- Discuss the challenges and prospects of implementing laws relating to domestic animals in Sri Lanka.
- Make suggestions to implement laws relating to protection of domestic animals in Sri Lanka.
- The objective of this research is to encourage the protection of domestic animals while encouraging the core value of legal protection for all types of animals in Sri Lanka.

Main Research Question

Is there a necessity of implementing new law to safeguard welfare of domestic animals in Sri Lanka?

Sub questions

- What are the countries which follow legal framework to safeguard welfare of domestic animals?
- Can Sri Lanka easily adopt laws for welfare of domestic animals?
- What are the difficulties of implementing such law in Sri Lanka?
- What are the outcomes which can be acquired after implementing law for welfare of domestic animals?

RESEARCH METHODOLOGY

This research relies on exploratory and doctrinal method in nature. It intends to find out the importance of having an Act for Protection and Welfare of Domestic Animals in Sri Lanka to minimize the abuses towards domestic animals by analysing lessons from legislations of United Kingdom.

Primary Sources: Relevant legislative enactments, case studies

Secondary Sources: Research papers, journals, statistical data relating to study.

Results and Discussions

The centralized idea of this research based on the protection of pet animals. A pet animal can be recognized as any animal kept or intended to keep by man in his house under his custody for the private enjoyment. But not like other animals there are no any recognized laws to protect those animals that because it used to believe that if the animal have an owner it mean to be that it already having the protection. But the violence inside the house or violence happened to be among any incidents of domestic violence against any pet do not count in. The European Convention for the protection of pet animals Article 3: Basic Principles for Animal Welfare, included two basic principles like,

1. Nobody shall cause a pet animal unnecessary pain, suffering or distress

2. Nobody shall abandon a pet animal

Article 4 – Keeping

1 Any person who keeps a pet animal or who has agreed to look after it, shall be responsible for its health and welfare.

2 Any person who is keeping a pet animal or who is looking after it shall provide

accommodation, care and attention which take account of the ethological needs of the animal in accordance with its species and breed, in particular:

a) Give it suitable and sufficient food and water;

b) Provide it with adequate opportunities for exercise;

c) Take all reasonable measures to prevent its escape;

There is no any laws or regulations to mandate the protection of domestic animals in Sri Lanka. Hence the research proposes that to implement a new law to regulate the protection of domestic animals by getting guidance from the European Convention for the Protection of Pet Animals.

CONCLUSION

Laws which mandate the protection of domestic animals would take guidance from other jurisdictions like England, United States of America and the European Union. The introduction of new laws and regulations would be a new bench mark in Sri Lankan legal history.