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Re-Conceptualizing the Right of Animals With Reference To ‘Uncontrolled Breeding’: An Indian Perspective

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ABSTRACT

The toothless Prevention of Cruelty to Animals Act in India proves to be insufficient to deal with matters relating to protection of uncontrolled breeding in India. Since animals fall in the State list under Schedule VIII, there is no uniform statute which checks for uncontrolled breeding, especially bovine animals. This has raised concerns over the exploitation of animal rights and the ethical and moral issues related with it. There are four reasons for which animals are bred²: as sources of usable products or services; for medical purposes; for aesthetics and as pets. In many instances, the breeding of animals is controlled or influenced by legislation, but in the absence of such a legislation in India, there is unrestricted breeding of animals which hampers not only the life of the animal but also impacts the other players in the ecosystem, especially humans. Although the use of biotechnology has considerably improved the health of animals, the use of selective breeding has a downside. Animals may develop physical problems, they might not be able to walk because of their weight³. Their family life is disrupted; denies them of social interaction and good nutrition; diseases run rampant⁴ and much more harm is inflicted upon them⁵.

A major challenge which lies before us, is the fact that such practice is often unchecked. In such a scenario, it is important to re-conceptualize the rights of the animals. This paper is an attempt to address the gap of the legislation around uncontrolled breeding in India; the need for amendment in the Prevention of Cruelty to Animals Act; assessing the international conventions like Convention on Biological Diversity and critically analyzing the role of the international players with regard to protection of animals. It will also analyze the SC judgements and the role of the NGT in protecting the animals.

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² A.P.F Flint & J.A Woolliams, *Precision animal breeding*, 363 PHILOS TRANS R SOC LOND B BIOL SCI 573–590 (2008).

³ Selective breeding - Natural selection and selective breeding - GCSE Biology (Single Science) Revision - BBC Bitesize, , <https://www.bbc.co.uk/bitesize/guides/z6trd2p/revision/3> (last visited Jun 7, 2020).

⁴ Grant Lingel, *Poultry Farming: The Shocking Reality of Factory Farm Birds* (2018), <https://sentientmedia.org/poultry-farming/> (last visited Jun 7, 2020).

⁵ Id

I. INTRODUCTION

India has a huge population of indigenous communities which is dependent on livestock and animal husbandry as a major source of income. The 70th round of National Sample Survey Office's (NSSO) demonstrated that more than one-fifth (23 per cent) of agricultural households with very small parcels of land (less than 0.01 hectare) reported livestock as their principal source of income⁶. The National Dairy Development Board, mentions that the population of livestock for poultry animals has increased from 729.2 million in 2012 to 851.8 million in 2019⁷. In a period of 5 years, an increase in number by more than a million raises a question as to the breeding and animal practices used for breeding poultry animals. The population of bovine also increased from 299.6 million to 302.3 million in 2019⁸ but the percentage of growth is less as compared to other livestock population.

II. ANIMAL BREEDING

Breeding of animals has been an instrumental biotechnological process by which animals either from the same species or cross-breeding to populate a particular animal species. It can be either to continue with a current breed of population or to replace part or any one of them with new breeds or lines⁹. Region, country, climate, management, prevalent diseases and parasites, product types, import restrictions, and history influence popularity and choice of breeds and lines.¹⁰ The share of agriculture and livestock in GDP was 4.9% in 2017-2018.¹¹ Globally, animals and livestock contribute 40% to the agricultural output and contribute to the livelihoods and food security of almost a billion people worldwide¹². It is thus established that animals and livestock's play a major role in the economy of a country and a far major role in economic life of an organisations and farmers in India.

The concept of over-breeding or excessive breeding would be a difficult concept to unpack. It would definitely have a characteristic which increases the population of a particular animal in large quantity, but in comparison to what? What is the parameter to define something as over-

⁶ Cattle and Dairy Development | Department of Animal Husbandry & Dairying, , <http://www.dahd.nic.in/about-us/divisions/cattle-and-dairy-development> (last visited Jun 7, 2020).

⁷ Livestock population in India by Species | nddb.coop, , <https://www.nddb.coop/information/stats/pop> (last visited Jun 7, 2020).

⁸ Id.

⁹ Animal Breeding - an overview | ScienceDirect Topics, , <https://www.sciencedirect.com/topics/agricultural-and-biological-sciences/animal-breeding> (last visited Jun 7, 2020).

¹⁰ Id

¹¹ Share of Agriculture & Livestock Sector in GDP | nddb.coop, , <https://www.nddb.coop/information/stats/GDPcontrib> (last visited Jun 7, 2020).

¹² Animal Breeding | National Institute of Food and Agriculture, , <https://nifa.usda.gov/topic/animal-breeding> (last visited Jun 7, 2020).

breeding or excessive breeding? And majorly how do we calculate the difference, is it in hundreds, or thousands or lakhs. Looking at the poultry industry in India, the sharp 100 million increase in the population in 5 years (between 2012-2019) can be considered, in our opinion, as over breeding. Poultry animals are one of the inexpensive animals in terms of management and costs of their upbringing and to illustrate this point, we would take the example of hen breeding in India.

The demand for poultry meat is more in comparison to other meats available in the country. One of the major advantages of breeding of chickens is the ability to tolerate harsh environmental conditions¹³. Moreover, the investment in settling up a poultry farming is comparatively less as compared to other mainstream conventional farming. Getting a licence for poultry farming is not necessary and there's not even a requirement for a big space to rear chickens. There are two types of chicken variations in poultry farming which takes place in India, Broiler and Layer chickens¹⁴. Broiler chickens are used for meat specifically and can be slaughtered at 8 weeks too. Layer chickens produce around 250 eggs a year and then are slaughtered.

(A) PRACTICE OF CULTIVATING CHICKENS IN INDIA

Reports have been surfacing around the practice of breeding of chickens in India. Because of overbreeding, the chickens develop bugs and lice's. To combat the same, the farmers give them a strong antibiotic, called colistin¹⁵. In humans, the drug is used as a last resort to treat patients, as it is used only in critically ill infections which have become resistant to other antibiotics.

III. LEGISLATIVE CRITIQUE

The Prevention of Cruelty to Animals Act, 1960 in its preamble mentions that the act is created "to prevent the infliction of unnecessary pain or suffering on animals". What is striking in this definition is the use of the word "unnecessary pain or suffering". What baffles the researchers is the question, on what parameters should pain or suffering be measured and what is unnecessary? By the use of the word "unnecessary", the legislature is indirectly mentioning

¹³ Division of Dairy Cattle Breeding, ICAR-National Dairy Research Institute, Karnal-132001, Haryana, India & Alok Kumar Yadav, *Characteristic Features of Indigenous Poultry Breeds of India: A Review*, 5 INT. J. PURE APP. BIOSCI. 884-892 (2017).

¹⁴ Poultry in India: Classification, Management & Conservation, , STUDY.COM , <https://study.com/academy/lesson/poultry-in-india-classification-management-conservation.html> (last visited Jun 15, 2020).

¹⁵ A game of chicken: how Indian poultry farming is creating global superbugs, , THE BUREAU OF INVESTIGATIVE JOURNALISM , <https://www.thebureauinvestigates.com/stories/2018-01-30/a-game-of-chicken-how-indian-poultry-farming-is-creating-global-superbugs> (last visited Jun 15, 2020).

that any pain or suffering, maybe be necessary for the “economic exploitation”. Sadly, until today, there is no harmonious interpretation sought by any High Court or the Supreme Court.

The definition of animal as provided in the Act, means ““animal” means any living creature other than a human being”. The Wildlife Protection Act of 1972 provides the definition as, “animal” includes amphibians, birds, mammals and reptiles and their young, and also includes, in the cases of birds and reptiles, their eggs.¹⁶

Under Section 3 of the Act, a duty is imposed by the legislature on the person having charge of animals. They duty is to take all reasonable measures to ensure the well-being of such animal and to prevent the infliction which would cause the animal “unnecessary pain or suffering”.

Section 11, forms the crux of the Act. It provides for the types of cruelty which can be inflicted on an animal by humans. Of many cruelty which is mentioned, the one with reference to inadequate breeding of hens, is Section 11(1)(e)

“(e) Keeps or confines any animal in any cage or other receptacle which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for movement;”

An overall analysis of the definition of various forms of cruelty mentions the fact that something like “over-breeding” or “excessive breeding” is completely denied by the Legislature under the Act. Maybe 60 years back, nobody would have possible imagined the perils of exploitation of resources, artificial intelligence, poultry farming, new techniques of breeding etc. we would want to submit that over-breeding of animals constitutes as cruelty and this should be recognised as one amongst the types of cruelty under Section 11 of the incumbent Act.

Moreover, we would want to submit that there are many Rules framed under the Act which relates to Slaughter, Transportation, Performing Animals, and many more. But there is no specific rule which prohibits over-breeding of poultry animals and thus, poultry farming is largely unregulated in India.

IV. ETHICAL CONSIDERATION

With regard to the varied animal theory existing today, on which is most relevant in the present times, is the usage of the word ‘Speciesism’ coined by Richard Ryder. It basically means, “A prejudice or attitude of bias in favour of the interests of members of one’s own species against

¹⁶ Wild Life (Protection) Act, 1972 , https://www.indiacode.nic.in/show-data?actid=AC_CEN_16_18_00007_197253_1517807324579§ionId=32568§ionno=2&orderno=2 (last visited Aug 4, 2020).

those of members of another species. In the fight against speciesism, the author mentions that what we need today or mention considering the point is that “*when the claim of animal and humans are in conflict, we might take the interest in avoiding physical pain*”. The author further goes on to say, “*we must not disregard or discredit the interests of another being, merely because that being is not human.*” The utilitarian approach of looking at animal welfare needs to be faded in the minds of the people. What has happened with capitalism, privatisation, liberalisation for the policies, is the fact that we calculate everything before us in terms of its value. Unfortunately, we have done that for animals as well, forgetting the fact that animals are just as sentinels, as we are. As Tom Regan argues in his study, *The Case for Animal Rights*, we look at the benefit of the action rather than the impaling consequences. Regan describes the situation as,

“As long as more people benefit from an action than lose out, an action can be justified even if this leads to negative consequences for those in minority groupings”.

(A) CONVENTION ON BIOLOGICAL DIVERSITY

Article 1 of the convention discussed about the protection and conservation of biological diversity. The biological diversity is interpreted to mean the living organisms, arising from all sources “*including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part: this includes diversity within species, between species and of ecosystems.*”¹⁷ Article 1 also highlights that there be “*fair and equitable sharing of the benefits arising out of the utilization of the genetic resources*”.¹⁸ India signed the Convention on Biological Diversity. It is submitted that although the Convention makes use of the words, “*fair and equitable sharing of the benefits arising out of the utilization of the genetic resources*”¹⁹, with reference to Excessive breeding of farm animals, it is in violation to the Article and needs to re-evaluate the meaning and definition of “*fair and equitable sharing of the benefits*”²⁰. The concept of fair and equitable sharing of the benefits also has an element of Sustainability, which is the foundation and foundation and Agenda for Sustainable Development and it’s Sustainable Development Goals (SDG’s).²¹ Brutland Report defined Sustainable Development as:

“Sustainable development is development that meets the needs of the present

¹⁷United Nations, *Convention on Biodiversity*, UNITED NATIONS , <https://www.un.org/en/observances/biological-diversity-day/convention> (last visited Aug 4, 2020).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹Sustainable Development, , IISD (2018), <http://www.iisd.org/topic/sustainable-development> (last visited Aug 4, 2020).

*without compromising the ability of future generations to meet their own needs.*²²"

With the overuse of the compound, for breeding purpose, it is endangering the health of not only the poultry farm animals but also the human beings and the environment in the long run. With regard to suitability, the poultry farming industry has a strained impact on the water resources, farmland, increase in greenhouse gases and more importantly the health of the human beings. The next section of the paper shall assess the same.

V. IMPACT ON THE HEALTH AND ENVIRONMENT

There have been numerous studies and research conducted over the course of time, which analyses the impact of poultry farming on the environment and health of the people. Poultry offices are a wellspring of smell and draw in flies, rodents and different bugs that make nearby irritations and convey illness. Scent outflows from poultry cultivates unfavourably influence the life of individuals living in the region. Odour associated with poultry operations comes from fresh and decomposing waste products such as manure, carcasses, feathers and bedding/litter.²³

Smell from animal feeding operations is not caused about by a solitary compound, yet is fairly the consequence of an enormous number of contributing mixes including alkali volatile organic compounds (VOCs), and hydrogen sulphide (H₂S). Of the few compost based mixes which produce the smell, the most commonly reported is alkali. Ammonia gas has a sharp and impactful scent and can aggravate when present in raised fixations²⁴.

Pesticides used to control pests (e.g. parasites and disease vectors) and predators have been reported to cause pollution when they enter groundwater and surface water. Active molecules or their degradation products enter ecosystems in solution, in emulsion or bound to soil particles, and may, in some instances, impair the uses of surface waters and groundwater (World Bank, 2007)²⁵.

Beside air contamination concerns, poultry farming can affect water quality too. . Exorbitant measures of supplements can cause eutrophication and passing's of huge populaces of fish, because of hypoxia/anoxia and elevated levels of smelling salts. Besides, the huge volumes of waste created by chicken cultivating are related with raised wellbeing dangers for close by

²² *Id.*

²³ Poultry production and the environment – a review, P. Gerber, C. Opio and H. Steinfeld Animal Production and Health Division, Food and Agriculture Organization of the United Nations, http://www.fao.org/ag/againfo/home/events/bangkok2007/docs/part2/2_2.pdf (last visited Aug 3, 2020)

²⁴ *Id.*

²⁵ *Id.*

inhabitants, since poultry results commonly contain microorganisms, for example, the Avian Influenza infection, Salmonella, and Campylobacter from sullied blood, substance, and excreta.²⁶

Another worry is antimicrobial safe microscopic organisms found in poultry creation. The utilization of poultry items may prompt introduction to antimicrobial safe microbes expanding wellbeing dangers. For instance, Fluoroquinolone safe Campylobacter—a foodborne zoonotic microorganism found in chickens—may cause enteritis and looseness of the bowels. Methicillin safe Staphylococcus aureus (MRSA) keeps on being a significant worry in poultry creation. MRSA has been distinguished in poultry items and having contact with chickens is a hazard factor for MRSA colonization.²⁷

The primary air contaminations - all things considered alluded as bio-pressurized canned products - present in poultry creation and incubation facilities incorporate poultry dust (fundamentally delivered from microorganisms and their metabolites), microbes, endotoxins, just as NH₃ and carbon dioxide (CO₂), as a result of excreta decay, breath of poultry and different tasks in the creature control structures. These and others factors like fertilizer, litter, plume, pieces and skin of creatures are related with unfriendly ecological and wellbeing impacts

Physical risks present in the workplace of poultry ranches incorporate warmth stress, heat depletion, high commotion levels, heat-prompted dermatosis, high temperature and stickiness in indoor containment structures. Compound risks bring about intense and interminable respiratory infections because of poultry dust presentation, skin and eye sicknesses because of the introduction to poisonous gases beginning from excrement dealing with tasks, safe maladies, and introduction to cleansers, pesticides and disinfectants. Furthermore, VOCs have likewise been identified in blood tests of poultry-ranch labourers. The frequency of intense and interminable respiratory issues, for example, wheezing, mucus, blockage, dyspnea, upper respiratory plot aggravation and other skin disturbances in poultry-ranch labourers is essentially because of word related presentation to substance and natural risks²⁸ all of these would cause a detrimental impact on the health of the human beings in the long run.

²⁶ Rapid Health Impact Assessment of a Proposed Poultry Processing Plant in Millsboro, Delaware, , <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6765835/> (last visited Aug 4, 2020).

²⁷ Id

²⁸ Respiratory and Other Health Risks among Poultry-Farm Workers and Evaluation of Management Practices in Poultry Farms, , https://www.scielo.br/scielo.php?script=sci_arttext&pid=S1516-635X2018000100111 (last visited Aug 4, 2020).

VI. CONCLUSION

There is a need for a drastic change in the poultry farm industry and for that purpose, few measures needs to be adopted for improving the life not only of the animal but also of the humans in the long run. There is the need to guarantee that all poultry ranches have adequate access to satisfactory flexibly of water and other sterile products that can be sent for protecting their condition clean and at unsurpassed. At last, poultry wastes ought to be cleared from the homesteads on regular routine to maintain a strategic distance from aggregation of the waste which could represent some wellbeing dangers to the earth. It is in this way trusted if these essential prudent steps are taken with the necessary degrees of earnestness and in consistence with the suitable existing government guidelines, the negative ramifications of the poultry squanders on both human and creature lives will be moderated.

It can be said that the owners of the poultry farms are causing cruelty to animals under the definitional ambit of Cruelty under Section 11(1)(h) which provides that the owner did not provide the animal with sufficient food, water or shelter. In a case like this, since the punishment imposed is less as compared to other statues, there is a need for providing an adequate punishment which punishes the offender and brings in a sort of deterrence in the society. For that purpose, adequate powers should also be vested to the Panchayats, so that they can scrutinise the problem in their village.
