**ANIMAL CRUELTY - Question & Answers**

* **Which laws / guidelines protect animals in India?**
* The Prevention of Cruelty to Animals Act, 1960
* Wildlife Protection Act, 1972
* Indian Penal Code (IPC)
* Guidelines issued by the ANIMAL WELFARE BOARD OF INDIA (“AWBI”) dated 26th February 2015
* Articles of the Indian Constitution
* Animal Birth Control Rules 2001
* **Is treating animals cruelly a punishable offence?**

Yes it is a punishable offence if any animal is subjected to any form of cruelty specified under Section11 (a) to (o) of The Prevention of Cruelty to Animals Act, 1960

First offence – Fine of fifty rupees

Second offence - within three years of the previous offence – Fine not less than twenty-five rupees but which may extend to one hundred rupees or with the imprisonment for a term which may extend to three months or with both. Also, in the case of second offence, the offender’s vehicle is confiscated, and he will never be allowed to keep an animal again.

* **What amounts to cruelty on animals as per the Prevention of Cruelty to Animals Act, 1960?**

Section 11 (1) (a) to (o) of The Prevention of Cruelty to Animals Act, 1960 prescribes and enumerates the forms of cruelty on animals.

* Sect 11(1)(a) **Beating, Kicking, Over-riding, Over-driving, Over-loading, Torturing, Causing unnecessary pain or suffering to any animals;**
* Sect 11(1) (b) Employing any animal which, by reason of its age or any disease, unfit to be so employed, and still making it work or labour or for any purpose;
* Sect 11(1) (c) Willfully and unreasonably administering any injurious drug or injurious substance;
* Sect 11(1) (d) Conveying or carrying, either in or upon any vehicle in such a manner as to subject it to unnecessary pain or suffering;
* Sect 11(1) (e) Keeping or confining any animal in any cage or any receptacle, which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for movement;
* Sect 11(1)(f) Keeping for an unreasonable time any animal chained or tethered upon an unreasonably heavy chain or chord;
* Sect 11(1) (g) Being the owner, neglects to exercise or cause to be exercised reasonably any dog habitually chained up or kept in close confinement;
* Sect 11(1) (h) Being the owner of any animal fails to provide such animal with sufficient food, drink or shelter;
* Sect 11(1) (i) Being the owner, without reasonable cause, abandons any animal in circumstances,which render it likely that it will suffer pain by reason of starvation or thirst;
* Sect 11(1) (j) Wilfully permits any animal, of which he is the owner to go at large in any street while the animal is affected with a contagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal, of which he is the owner, to die in any street;
* Sect 11(1) (k) Offers for sale or without reasonable cause, has in his possession any animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other illtreatment
* Sect 11(1) (l) Mutilates any animal or kills any animal (including stray dogs) by using the method of strychnine injections in the heart or in any other unnecessarily cruel manner;
* Sect 11(1) (m) Solely with a view to providing entertainment –

1. Confines or causes to be confined any animals (including tying of an animal as bait in a tiger or other sanctuary) so as to make it an object of prey for any other animal;
2. Incites any animal to fight or bait any other animal.

* Sect 11(1) (n)Organizes, keeps, uses or acts in the management of any place for animal fighting or for the purpose of baiting any animal or permits or offers any place to be so used or receives money for the admission of any other person to any place kept or used for any such purposes;
* Sect 11(1) (o) Promotes or takes part in any shooting match or competition wherein animals are released from captivity for the purpose of such shooting.
* **What are the immediate steps that can be taken if I see an animal being treated cruelly?**
* Gather as much evidence as possible against the offender in the form of a video/ audio-clips, pictures, witnesses etc.
* Visit a lawyer and send a legal notice to the offender. In case no action is being taken by the offender even after sending the notice, you can file an official complaint before court. **OR**

Lodge in a written complaint with the nearest police station.

In most cases, the offender shall automatically back off out of fear if you take the above mentioned steps. However if he does not, **a legal case can be filed against the offender in court**. The course of action in such proceedings varies from case to case and the lawyer you engage will guide you.

* **What legal action can be taken against a person who kills another person’s dog or any other pet deliberately?**

Killing of an animal/pet is illegal and its is an offence of cruelty on animals as defined under Section 11 of The Prevention of Cruelty to Animals Act, 1960. It is a cognizable offence under Section 428 and Section 429 of the Indian Penal Code.

**As per Section 428 of the IPC,** whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which **may extend to two years**, or with fine, or with both.

As per **Section 429 of the IPC,** whoever commits mis­chief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which **may extend to five years**, or with fine, or with both.

* **What legal action can be taken on a complaint of stealing of a dog or any other animal?**

An offence of such a nature falls under the category of “**Theft**” under IPC i.e. **Section 379 of IPC**. As per this section, whoever, intending to take dishonestly any moveable property out of the possession of any person without that person’s consent, moves that property in order to such taking, is said to commit theft. **And the property, under this section includes ‘animals’ too.**

As per Section 379 of the IPC, whoever commits theft shall be **pun­ished** with imprisonment of either description for a term which may extend to **three years**, or with fine, or with both.

* **What is the Animal Welfare Board of India?**

The Animal Welfare Board of India is a statutory body established in terms of Section 4 of The Prevention of Cruelty to Animals Act, 1960.

This board was established by the Central Government of India for the promotion of animal welfare generally and for the purpose of protecting animals from being subjected to unnecessary pain or suffering, in particular.

* **Can there be a BAN imposed on keeping pet dogs?**

As per a circular issued by The Animal Welfare Board of India dated 26th February 2015:-

* Even by obtaining consensus, or even if majority of the residents and occupiers want it, they cannot legally introduce any sort of ‘ban’ on the keeping of pet dogs.
* They cannot insist that ‘small sized’ dogs are acceptable, and ‘large sized’ dogs are not.
* They cannot cite dog barking as a valid and compelling reason for any proposed ban or restriction.

Please bear in mind that even by amending bye-laws or regulations or otherwise, such a ‘ban’ cannot be put into place since it is illegal, and does not have the sanction of law. In fact, in trying to ‘ban’ pets, or limit their number, residents’ welfare associations & apartment owners associations interfere with a fundamental freedom guaranteed to the citizens of India i.e. the freedom to choose the life they wish to live, which includes facets such as living with or without companion animals.”

* **Can any CHARGES be imposed on dog owners FOR DEFECATION by their pets?**

As per a circular issued by The Animal Welfare Board of India dated 26th February 2015 in the absence of central or state laws requiring cleaning pet excreta by pet owners, residents welfare associations & apartment owner associations cannot impose any rules, regulations or bye-laws with respect to the same, or impose special charges or fines on pet owners. They can however request them to do so.

* **Can any CHARGES be imposed on dog owners for USING LIFTS?**

As per a circular issued by The Animal Welfare Board of India dated 26th February 2015, residents’ welfare associations & apartment owner associations cannot disallow pets from using the lifts, and no charges can be imposed by them either

* **Is intimidating a pet owner to ‘giving up’ or ‘abandoning’ a pet a punishable offense?**

Yes. As per a circular issued by The Animal Welfare Board of India dated 26th February 2015, if any association succeeds in intimidating a pet owner to ‘giving up’ or ‘abandoning’ a pet, it will actually have abetted violation of law, and may well be aggravating the menace of ownerless animals on that street, that are not accustomed to living on the street and thus get involved in and leads to accidents, injuries & deaths. Intimidation is an offence by law.

* **Is beating and driving away street dogs allowed?**

As per a circular issued by The Animal Welfare Board of India dated 26th February 2015,, street dogs cannot be beaten or driven away or dumped elsewhere or killed. They can merely be sterilized in the manner envisaged in the Animal Birth Control (Dogs) Rules 2001, vaccinated, and then returned back to their original locations.

* **Can an RWA/Society or any individual remove or have removed the dogs in a colony that are already sterilized and vaccinated and throw them away anywhere?**

Under the Govt. of India Animal Birth Control Rules 2001, **no sterilized dogs can be relocated from their area.** As per five different High Court orders, sterilized dogs have to remain in their original areas. If the dog is not sterilized, the Society can simply ask an animal welfare organization to sterilize and vaccinate the dog. They cannot relocate them. Relocation is not permissible, as it would cause more problems such as an increase in dog bites as new dogs will move into the area who are unfamiliar with residents and therefore more likely to be hostile.

PS – Care givers of dogs are advised to participate in their sterilization and yearly vaccinations too, since they win the trust of the dogs through feeding them.

* **Is threatening or intimidating any person taking care of dogs a punishable offence?**

Yes. Anyone who threatens or intimidates any person taking care of dogs, is liable for criminal intimidation under Section 503 of Indian Penal Code and can be arrested without a warrant.

* **Can people who feed animals in their areas be stopped by the RWAs or Societies or neighbor under the law?**

**There is no law that prohibits the feeding of street animals. Article 51A of the Constitutional Law of India**, speaks about the duties of every citizen of India. One of these duties includes having compassion for living creatures. So the animal lover is protected under the Constitution.

**Article 19 of the Constitution of India**, deals with right to freedom and in this freedom comes the right to profession, occupation, trade and business. Therefore, it means that every citizen has the right to occupation and if someone has taken the caring of animals as his occupation, it is legal and he has every right to carry on with his occupation.

**Article 21 of the Constitution of India** states the right to personal life and liberty. This is a very vast right. If someone wants to feed and provide shelter to dogs, he is at liberty to do so. He has the same right to liberty that the law provides to every citizen of India.

* **What is phooka or doom dev & is it a punishable offence?**

Phooka or doom dev, includes any process of introducing air or any substance into the female organ of a milch animal with the object of improving its lactation.

Yes. Section 12 of The Prevention of Cruelty to Animals Act, 1960, penalizes practicing of phooka or doom dev or any other operation being performed upon any cow or other milch animal, to improve its lactation. This is injurious to health of the animal. It is a cognizable offence and the person shall be punishable with a fine, which may extend upto one thousand rupees, or with imprisonment for a term which may **extend upto two years**, or with both and the animal on which the operation was performed shall be forfeited to the Government.

* **What are “Performing Animals”?**

Under Section 2(b), of the Performing Animals Rules, 1973, Performing Animals means any animal which is used for the purpose of any entertainment to which the public is admitted through the sale of tickets.

* **Is the exhibition and training of performing animals restricted?**

Yes, Section 22 of The Prevention of Cruelty to Animals Act 1960 restricts the exhibition and training of performing animals, unless the person interested in exhibiting and training the animal is registered in accordance with provisions of the Act. No animal can be exhibited or trained, where the Central Government, by notification in the Official Gazette, has restricted the exhibition and training of such animal. These following animals can’t be exhibited or trained:

1) Bears

2) Monkeys

3) Tigers

4) Panthers

5) Lions

* **Power of court to prohibit or restrict exhibition and training of performing animals**

Where it is proved to the satisfaction of any magistrate on a complaint made by a police Officer or an officer authorized in writing by the prescribed authority referred to in section 23, that the training or exhibition of any performing animals has been accompanied by unnecessary pain or suffering and should be prohibited or allowed only subject to conditions, the court may make an order against the person in respect of whom the complaint is made, prohibiting the training or exhibition or imposing such condition in relation thereto, as may be specified by the order.

* **What are the acts that amount to offences with regard to performing animals?**

If any person –

* not being registered as per Section 26 of The Prevention of Cruelty to Animals Act, 1960, exhibits or trains any performing animal; or
* being registered under the Act, exhibits or trains any performing animal with respect to which or in a manner with respect to which, he is not registered; or
* exhibits or trains as a performing animal, any animal which is not to be used for the purpose by reason of a notification issued under clause (ii) of section 22; or
* obstructs or wilfully delays any person or police officer referred to in section 25 in the exercise of powers under this Act as to entry and inspection; or
* conceals any animal with a view to avoiding such inspection: or
* being a person registered under 'the Act, on being duly required in pursuance of this Act to produce his certificate under this Act, fails without reasonable excuse so to do; or
* applies to be registered under this Act when not entitled to be so registered,

He shall be punishable on conviction with fine which may extend to five hundred

rupees or with **imprisonment which may extend to three months**, or with both.

* **Is it an offence to train or exhibit an animal for police purpose?**

No. Section 27 of The Prevention of Cruelty to Animal Acts, 1960 acts as an exemption clause. It permits the training of animals for bonafide military or police purposes. However, Section 11 of The Prevention of Cruelty to Animal Acts, 1960 applies to those animals too. It has to be kept in mind that no animals can be treated cruelly or in a way that harms or injures them.

* **Are animal fairs where animals are traded, legal?**

When the sale takes place this fair is normally meant for farmers. However, in recent years they have become exclusively devoted for providing animals to butchers. This is illegal. In order to prevent this from happening local administration should make sure that no trucks are allowed near the fair and that no cattle is put inside trucks and no buyer can buy more than two animals. The Municipality has a special role to play in animal protection. The Local authority of the place where the *‘Haat’* or fair is held should check that there is the proper maintenance of animals by their owners. The municipality must allocate sufficient funds for the proper cleaning, feeding, housing and treatment of these animals. The money earned from their auction and release, must be spent on the care of these animals. Wherever possible, it should involve local NGOs/AWO in the running of these Pounds. When cattle are auctioned, the buyer must specify for what purpose he is buying the animal and that should be verified to avert cow slaughter, which is a criminal offence. The Municipality can also designate local shelters as Infirmaries for the care and treatment of impounded animals. But no wild animals or birds and other wild species any endangered species could be sold or brought in the fairs.

* **As per The Prevention Of Cruelty To Draught And Pack Animals Rules,1965, What is the maximum load for draught animals?**

Below is the table, stating the maximum weight that is allowed for animals or animal drawn vehicles to carry.

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| --- | --- | --- |
| 1) Small bullock or  Small buffalo | Two wheeled vehicles  a) if fitted with ball  bearings  b) if fitted with pneumatic  tyres  c) if not fitted with  pneumatic tyres | 1000 kilograms  750 kilograms  500 kilograms |
| 2) Medium bullock or  Medium buffalo | Two wheeled vehicle  a) if fitted with ball  bearings  b) if fitted with pneumatic  tyres  c) if not fitted with  pneumatic tyres | 1400 kilograms  1050 kilograms  700 kilograms |
| 3) Large bullock or  Large buffalo | Two wheeled vehicle  a) if fitted with ball  bearings  b) if fitted with pneumatic  tyres  c) if not fitted with  pneumatic tyres | 1800 kilograms  1350 kilograms  900 kilograms |
| 4) Horse or mule | a) if fitted with pneumatic  tyres  b) if not fitted with  pneumatic tyres | 750 kilograms  500 kilograms |
| 5) Pony | a) if fitted with pneumatic  tyres  b) if not fitted with  pneumatic tyres | 600 kilograms  400 kilograms |
| 6) Camel | Two-wheeled vehicle | 1000 kilograms |

* **What is the maximum load permitted on pack animals?**

Provided is a table giving the maximum loads that may be carried by pack animals

|  |  |
| --- | --- |
| 1) Small bullock or buffalo | 100 kilogram |
| 2) Medium bullock or buffa | 150 kilograms |
| 3) Large bullock or buffalo | 175 kilograms |
| 4) Pony | 70 kilograms |
| 5) Mule | 200 kilograms |
| 6) Donkey | 50 kilograms |
| 7) Camel | 250 kilograms |

* **What are the general conditions for the use of draught and pack animals?**

Section 6 of The Prevention of Cruelty to Draught and Pack Animals Rules, 1965, lays down the general conditions for the use of draught and pack animals. No person is allowed to use any animal for drawing any vehicle or carrying any load: -

* For an average of more than nine hours in a day;
* for more than five hours continuously without a break or rest for the animal;
* in any area where the temperature exceeds 37 degree C (99 degree F ) during the period between 12 noon and 3 p.m.This means it is illegal to use draught and pack animals in North India, Chennai and all other places where the temperature remains routinely above 40 degrees Celsius in summer.

# What are the general conditions for transport of animals?

Section 98 of The Transport of Animals Rules, 1978 provides the general conditions for transport of animals.

* Animals to be transported shall be healthy and in good condition. They should be examined by a veterinary doctor for freedom from infectious diseases and their fitness to undertake the journey, provided that the nature and duration of the proposed journey shall be taken into account while deciding upon the degree of fitness.
* An animal which is unfit for transport shall not be transported and the animals that are newborn, diseased, blind, emaciated, lame, fatigued or having given birth during the preceding seventy-two hours or likely to give birth during transport shall not be transported.
* Pregnant and very young animals shall not be mixed with other animals during transport.
* Different classes of animals shall be kept separately during the transport
* Diseased animals, whenever transported for treatment, shall not be mixed with other animals.
* **What is the law that pertains to madaris/kalandars?**

No private person in India is allowed to capture, own, buy, sell, train or show any wild animals for public exhibition. The animals that are sued by madaris; i.e. monkeys, snakes, bears, mongooses, parakeets are all protected by the Wildlife Protection Act, 1972 and cannot be used. Section 22 of the Performing Animals Rules of the Prevention of Cruelty to Animals Act, 1960 is also applicable. Since, both are cognizable offences, the madari can be arrested on the spot, and the animal confiscated and handed over to the Wildlife Dept, Zoo or a Local Animal Welfare Shelter. In the case of healthy snakes, mongooses or birds, the animals should be released in a wooden area.

# Laws relating to Wild Animals

# The chief laws relating to wildlife in India are found in the Wildlife Protection Act, 1972. The Act prohibits the killing, poaching, trapping, poisoning, or harming in any other way, of any wild animal or bird.  It also provides for establishment of Wildlife Advisory Boards in every State.

* According to Section 2 (37) of the act, wildlife includes any animal, aquatic or land vegetation which forms part of any habitat, thus making the definition a wide and inclusive one.
* Section 9 of the Act prohibits the hunting of any wild animal  (animals specified in Schedule 1, 2, 3 and 4) and punishes the offense with imprisonment for a term which may extend to **3 years** or with fine which may extend to **Rs. 25,000/-** or with both.
* The Act allows the Central and State Government to declare any area ‘restricted’ as a wildlife sanctuary, national park etc.  Carrying out any industrial activity in these areas is prohibited under the Act.
* Section 48A of the Act prohibits transportation of any wild animal, bird or plants except with the permission of the Chief Wildlife Warden or any other official authorised by the State Government.
* Section 49 prohibits the purchase without license of wild animals from dealers.

*Source:*

* *Prevention of Cruelty to Animals Act, 1960*
* *Guidelines issued by the ANIMAL WELFARE BOARD OF INDIA (“AWBI”) dated 26th February 2015 with respect to Pet & Street Dogs*
* *Animal Protection Laws for guidance of Police, HAWOs, NGOs and AWOs*

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