

Proposed Animal Welfare Legislation for Sri Lanka



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Rationale for new Animal Welfare legislation

- **In Sri Lanka the laws protecting animals from cruelty and inhumane treatment are archaic and lag behind other countries which have incorporated higher ethical and scientific standards into their legislation**
- **There is a growing public demand in Sri Lanka for better and humane treatment of animals. A part of this public campaign is directed towards the reform of laws governing the care and protection of animals**
- **Good legislation is an important part of the animal welfare environment of any state**
- **It is all the more important in a country such as Sri Lanka which has a proud claim to a rich animal friendly cultural heritage**

Current Legislation

- **The governing legislation is the Prevention of Cruelty to Animals Ordinance, No. 13 of 1907**
- **It is an antiquated statute**
- **The form and scope of this legislation is substantially inadequate**
- **Its limitations are apparent when it is compared with animal welfare legislation of neighbouring countries such as India or western countries such as England or Australia**

Prevention of Cruelty to Animals Ordinance, No. 13 of 1907

The Deficiencies

- **Does not apply to all animals**
The term 'Animal' has been defined as 'any domestic or captured animal and includes any bird, fish, or reptile in captivity'
Protection from acts of cruelty limited to 'captive' and 'domestic animals' thereby leaving animals falling outside these categories from the protective arm of the law e.g. stray dogs
- **Inadequate penalties.** The maximum fine of Rs. 100 which may extend to Rs. 200 in the case of a second or subsequent offence, is a ridiculously low amount and hardly acts as a deterrent in today's context. There has been no change in the quantum of the monetary penalty since 1907. There is no reported case of an offender being given a sentence of imprisonment for causing cruelty to an animal
- **Lack of a lead agency to administer the legislation**
- **Exclusive reliance on the Police to enforce the legislation despite Police being heavily overburdened with other duties**
- **Inadequate powers granted to the Police to enforce the law**

Prevention of Cruelty to Animals Ordinance, No. 13 of 1907

The Deficiencies

- **Lack of broad coverage of animal welfare issues**
- **Lacks adoption of modern day standards to ensure humane treatment of animals**
- **Limited number of animal cruelty offences**
- **Lack of proper Regulations and Codes of Practice to supplement legislation particularly with respect to:**
 - i) Slaughter of animals. Laws in other countries require ‘humane’ methods using modern technology to be adopted for slaughter of animals. These new methods are intended to inflict the minimum pain on the animal destined for slaughter**
 - ii) Use of animals for research, teaching activities and experimentation**
 - iii) Transport of animals**
 - iv) Breeding of poultry**
 - v) Loads to be carried or drawn by any animal**
 - vi) Exhibition and training of performing animals**

Prevention of Cruelty to Animals Ordinance, No. 13 of 1907

The Deficiencies

- **Insufficiency of the time limit for bringing prosecutions i.e. 3 months from the date of commission of the offence**
- **Lack of recognition of the right of a third party e.g. Animal Welfare Society, to intervene in any legal proceedings as the ‘next friend’ of an animal, particularly in instances where the perpetrator of the offence happens to be the owner of the animal**
- **The antiquated classification of an animal exclusively as a ‘chattel’ is ingrained in the existing legislation. It has contributed to impede the recovery of an animal from cruel and irresponsible ownership**

The Animal Welfare Bill is the proposed legislation

It is a comprehensive document

**It was prepared by the Law Commission of Sri Lanka
after extensive consultations with the public
and examination of laws of other jurisdictions**

Objectives of the Animal Welfare Bill

- **a) recognises a duty of care on part of persons in charge of animals to treat the animals humanely**
- b) to prevent cruelty to animals and to secure the protection and welfare of animals**
- c) to establish a National Animal Welfare Authority and to provide for Regulations and Codes of Practice**
- d) to raise community awareness on animal welfare and foster kindness, compassion, and responsible behaviour towards animals**

The proposed legislation seeks to:

- i) Replace the Prevention of Cruelty to Animals Ordinance, No. 13 of 1907**

- ii) Bring the law governing animal welfare in Sri Lanka in line with modern legislation by providing for natural justice and basic freedoms to be extended to animals, and**

- iii) Safeguard and enhance Sri Lanka's historical reputation for animal welfare**

Key Features of the Animal Welfare Bill

- **The Bill is divided into 14 Parts. Part 10 (Clause 42) deals with ‘ Use of Live Animals for Scientific Purposes’**
- **Applies to all animals**
- **‘Animal’ means 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 food animal as hereinafter defined**
- **Adopts a proactive approach to Animal Welfare**
- **Recognition of a Duty of Care – A person who is in charge of an animal owes the animal a duty of care i.e. a duty to take reasonable steps to ensure the well being of the animal, to prevent infliction of unnecessary fear or pain and to provide the animal with basic needs. All other obligations and prohibitions in respect of animals emanate from this basic duty**

Key Features of the Animal Welfare Bill

- **One of the main purposes of the Animal Welfare Bill is the establishment of a new institution i.e. the National Animal Welfare Authority, that will administer the legislation, develop policies, and strengthen and expand the existing enforcement machinery.**
- **The 16 member Authority comprises ten appointed members and six ex – officio members. The latter will be drawn from Govt. Depts. engaged in functions relating to animal welfare.**
- **The 10 appointed members will comprise six members nominated by animal welfare societies, two members with qualifications in Veterinary Science nominated by the Veterinary Council of Sri Lanka, one Ayurvedic physician with experience in treating animals nominated by the Ayurvedic Medical Council, and one person who is a Professor or Senior Lecturer in clinical Veterinary Science of a recognized University nominated by the University Grants Commission**

Key Features of the Animal Welfare Bill

- **Offences of Cruelty and Prohibited Conduct**

Several acts which amount to cruelty are treated as offences in the Bill. These are acts which are unacceptable by any standard and which cause suffering to animals.

Certain other acts are prohibited as are certain sporting events that expose animals to cruelty and inhumane treatment.

Although killing an animal is not prohibited e.g. food animal, killing an animal in an unnecessary cruel manner is prohibited. There is a total prohibition on the killing of a pregnant animal except in circumstances of such an animal becoming a grave danger to the public.

Key Features of the Animal Welfare Bill

- **Slaughter of Animals**

The slaughter of Buffaloes is totally prohibited. The slaughter of cows is prohibited unless the animal is over twelve years old, or is incapable of breeding or unfit for agricultural work.

The slaughter of a quadruped in a private dwelling house in a residential area, in a place of business or a public place is prohibited.

The slaughter of a quadruped for sale or for distribution of flesh, requires a certificate of competence from the Authority.

- **Transport of Animals**

Detailed provisions have been introduced. The basic premise is that an animal should not be transported in such a manner as to subject it to unnecessary pain. Specific standards that must be observed in transporting animals are set out.

Key Features of the Animal Welfare Bill

- **Appointment of Animal Welfare Inspectors.**
They will be appointed by the Authority. They will have powers to investigate offences of cruelty, seize animals, direct persons to undertake measures to alleviate suffering, recommend the forfeiture of animals and conduct prosecutions on behalf of the Authority.
- **Animal Welfare Inspectors will have powers of investigation alongside Police and powers to issue Animal Welfare Directions.**
- **Penalties**
Increase in monetary penalties and terms of imprisonment for offences against animals e.g. Causing cruelty to an animal. Fine not exceeding Rs. 50, 000 or imprisonment not exceeding two years or both fine and imprisonment. (Clause 24 (1))

Provisions in the Animal Welfare Bill that have relevance to Animal Experimentation

- **Interpretation (Clause 70)**
Definitions relating to animal, animal in captivity, cage, confine, custody, ill-treat, pain, and research
- **Authority has powers to formulate Codes of Practice relating to Animal Welfare. Experiments using animals may come within such Codes (Clause 14 (e))**
- **The Minister is empowered to make Regulations in respect of conditions relating to experiments on animals (Clause 51 (2)(q)). The Minister in formulating such Regulations may with a view to reducing unnecessary pain on animals being used in experiments, review existing local practices, consult researchers and scientists, and refer international codes of practice**

Provisions in the Animal Welfare Bill that have relevance to Animal Experimentation

- **Clause 42 (1) in Part 10 of the Bill requires any person using live animals for teaching, research or experimentation to obtain a permit for such purpose from the Authority**
- **Clause 42 (2) stipulates that the Authority shall have regard to alternative methods and devices that do not involve experimentation on live animals such as computer stimulations and other audio – visual methods, synthetically produced models, ethically sourced cadavars and clinical experiences, when issuing such permits**
- **Clause 42 (3) states that the Authority may refuse to issue a permit upon being satisfied that such research can be carried out or such teaching or experiment can be performed using such alternatives**
- **Authority has power to institute prosecutions under the Act, where appropriate (Clause 15 (k)) This will include proceeding against researchers who misuse animals under cover of experiments.**

Provisions in the Animal Welfare Bill that have relevance to Animal Experimentation

- **Duty of Care is owed by person in charge of animals (Part VI) – Clause 22**
- **Clause 23 specifies the duties.**

It shall be the duty of every person in charge of an animal

 - a) to take all reasonable measures to ensure the well being of such animal; and
 - b) to prevent the infliction upon such animal of unnecessary fear or pain; and
 - c) to provide the animal with food, water, hygienic living conditions, adequate living space and shelter that is -
 - i) appropriate; and
 - ii) reasonably practicable for the person to provide.
- **Medical and Vet researchers in charge of animals will be bound by this duty of care**

Provisions in the Animal Welfare Bill that have relevance to Animal Experimentation

- **Cruelty Offences**

Offence of willful and unreasonable poisoning of an animal and injection of injurious substances

Any person who willfully and unreasonably administers any poison, injurious drug or substance to an animal or willfully and unreasonably causes or attempts to cause any poison, injurious drug or substance to be taken by an animal shall be guilty of the offence of cruelty to animals (Clause 24 (d))

Offence of painful confinement (Clause 24 (1) (f))

- **Offences of Prohibited Conduct include trapping, harming and killing without any reasonable excuse. (Clause 27)**
- **Animal experiments may be interpreted as falling within these categories. The term 'unreasonable' may protect research, unless a prior permit is obtained from the Authority.**
- **Animal Welfare Inspectors have powers to enter premises including centres of research (Clause 44 (Part XI))**

Conclusion

- **Animal Welfare Bill still awaits enactment in Parliament.**
- **Upon enactment it will set the standard for other countries particularly in Asia to follow suit**
- **Its enactment is long overdue given the obsolescence of existing legislation governing prevention of cruelty to animals**
- **It is also a test of our national commitment and compassion to other sentient beings**
- **In the oft quoted words of Mahatma Gandhi, but nevertheless still much relevant :**

“ The greatness of a nation and its moral progress can be judged by the way its animals are treated ”