

IMPLEMENTATION AND IMPACT OF PREVENTION OF CRUELTY TO ANIMALS ACT, 1960 WITH SPECIAL REFERENCE TO TRANSPORTATION AND HOUSE-KEEPING OF EGG-LAYING HENS (LAYERS) AND BROILER CHICKENS IN PUNE

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Abstract: “Every species has a right to life and security, subject to the law of the land, which includes depriving its life, out of human necessity. Article 21¹ of the Constitution, while safeguarding the rights of humans, protects life and the word “life” has been given an expanded definition and any disturbance from the basic environment which includes all forms of life, including animal life,....”² – Hon’ble Justice K.S. Radhakrishnan and Pinaki Chandra Ghose in *Animal Welfare Board of India v. A. Nagaraja & Ors. (Jallikattu Case)*³

But ‘the Law Commission of India in its 269 Report (3rd July 2017) on “The Transportation and House-Keeping of Egg-Laying hens (Layers) And Broiler Chickens”, in Para.4.6 of Chapter –IV under the head “ Review of Punishments in PCA Act”⁴ recommended that, The rules under the PCA Act 1960, largely suffers from weak penal provisions; As monetary penalties under legislations of various jurisdictions change regularly, it is avered that the penal provisions in the said Act are required to be revised suitably.’⁵ “...Hence being violated with impunity defeating the very object and purpose of the Act, hence the necessity of taking disciplinary action against those officers who fail to discharge their duties to safeguard the statutory rights of animals under the PCA Act.”⁶

To get deeper insight and to study the law in action, the Researcher applied her mind and conducted extensive survey of various poultries located in Pune. Its outcome is quite revealing. Ineffective implementation of the existing rules, cruel practices of dumping birds into the battery cages which are not properly sterilized and cleaned, while transporting the poultry birds, herewith is attached some photos. The Researcher also personally visited to ‘Veterinary Practitioner’, registered as per the Indian Veterinary Council Act, 1984. The researcher would prefer to discuss in detail her findings in the relevant Article which would follow.

¹ Article 21 of the Constitution of India- No person shall be deprived of his life or personal liberty except according to procedure established by law.

² (2014)7 SCC 547, Para.62

³ *Ibid*, note 2

⁴ <http://lawcommissionofindia.nic.in/reports/Report269.pdf>, as visited on 16th July 28, 2019, 12.30am

⁵ law Commission of India, *Ibid* note 4, Para.4.6

⁶ *Ibid*, note 2, Para.62

This Article is divided into Six parts: I) Introduction, II) Aims and Objectives of the Research Paper, III) National and International Legal Provisions and Obligations dealing with Prevention of Cruelty to Animals, IV) Response of the Indian Judiciary and legal luminaries to Animals Welfare, V) Implementation and Impact of Prevention of Cruelty to Animals Act, 1960 with special reference to Transportation and House-Keeping of Egg-Laying hens (Layers) And Broiler Chickens Pune, VI) Conclusion, Suggestions and Recommendations.

Key Words: Cruelty to Animals, House –Keeping layer and Broiler, Implementation, Transportation, Punishment.

I.INTRODUCTION

On 21st May, 2014 the Madurai Bench of Madras High Court **In S.Kannan Vs. The Commissioner of Police**⁷ emphasized that, *"Today, the State and the citizen are under a fundamental obligation to protect and improve the environment, including forests, lakes, rivers, wildlife and to have compassion for living creatures."*⁸

"In Hindu Mythology the animals, birds and other creatures are considered to be the vehicles of Gods: "1. Siva - Bull (Nandhi) & Snake, 2.Vishnu- Eagle (Krishna Bird) & Snake, 3.Ganesha - Rat, 4.Muruga - Cock & Peacock, 5.Yama – Buffalo,6.Indra-White Elephant, 7.Saneeswara - Crow" Lord Krishna is associated with cows and snake. Lord Krishna and Lord Jesus are said to be Shepherds.

*The message which has been conveyed from the above facts is that we have to treat the animals and birds with sympathy and compassion and that is the reason why the Gods themselves have taken them as their companions. In such circumstances can we cause injury, torture to the fellow creatures unnecessarily?"*⁹

On 7 May, 2014 a two-judge Bench of the Supreme Court constituting of K.S. Radhakrishnan and Pinaki Chandra Ghose, JJ in **Animal Welfare Board of India vs. A. Nagaraja & Ors. (Jallikattu Case)** held that, *"The universe along with its creatures belongs to the land. No creature is superior to any other. Human beings should not be above nature. Let no one species encroach over the rights and privileges of other species."*¹⁰ *"Every species has a right to life and security, subject to the law of the land, which includes depriving its life, out of human necessity. Article 21 of the Constitution, while safeguarding the rights of humans, protects life and the word "life" has been given an expanded definition and any disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, fall within the meaning of Article 21 of the Constitution. So far as animals are concerned, in our view, "life" means something more than mere survival or existence or instrumental value for human-beings, but to lead a life with some intrinsic worth, honour and dignity."*¹¹

‘Poultry is one of the fastest growing segments of the agricultural sector in India with around eight percent growth rate per annum. The poultry sector in India has undergone a paradigm shift in structure and operation which has been its transformation from a mere backyard activity into a major commercial agri based industry over a period of four decades. India ranks 3rd in egg production and

⁷ W.P.(Md)No.8040 Of 2014 And M.P.(Md)No.1 Of 2014

⁸Ibid, note 7, Para.18

⁹ Ibid, note 7, Para.19

¹⁰ (2014)7 SCC 547, Para.44

¹¹Supra, note 7, Para.62

7th in chicken meat production in the world (Watt Executive Guide, 2015). About 3.4 million tons (74 billion) of eggs are produced from 260 million layers and 3.8 million tons of poultry meat is produced from 3000 million broilers per annum in India.¹²

II. AIMS AND OBJECTIVES OF THE RESEARCH PAPER

- a. To study the existing laws and international practices on the transport and housekeeping of poultry birds.
- b. To analyze response of the Indian Judiciary and legal luminaries to Animals Welfare.
- c. To examine implementation and impact of Prevention of Cruelty to Animals Act, 1960 with special reference to Transportation and House-Keeping of Egg-Laying hens (Layers) And Broiler Chickens in Pune.
- d. To suggest remedial measures to alleviate sufferings of animals in transportation and House-Keeping of Egg-Laying hens (Layers) and Broiler Chickens

III. NATIONAL AND INTERNATIONAL LEGAL PROVISIONS AND OBLIGATIONS DEALING WITH PREVENTION OF CRUELTY TO ANIMALS:

A. Constitution:

a. Under Article 21 of the Constitution of India “no person shall be deprived of his life or personal liberty except according to procedure established by law”.¹³ The Supreme Court has in *Animal Welfare Board of India v. A. Nagaraja & Ors. (Jallikattu Case)* expanded definition of “life” which includes not only human’s life but also animal’s life. So far as animals are concerned, The Supreme Court emphasized on each animal’s right to live with intrinsic worth, honour and dignity under Article 21 of the Constitution.

The Supreme Court observed, “*Right to dignity and fair treatment is, therefore, not confined to human beings alone, but to animals as well. Right, not to be beaten, kicked, over-ridder, over-loading is also a right..... Animals have also a right against the human beings not to be tortured and against infliction of unnecessary pain or suffering.*”¹⁴

b. Under **Article 51A(g) of the Constitution of India 1950** mandated to each citizen of India “to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;”¹⁵

c. Under **Article 48 of the Constitution of India 1950** – “Organisation of agriculture and animal husbandry- The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.”¹⁶

¹² R.N. Chatterjee And U. Rajkumar , Review Article An Overview of Poultry Production In India, Indian J. Anim. Hlth. (2015), 54(2) : 89-108

¹³ Article 21 of the Constitution of India 1950

¹⁴ *Supra*, note 7, Para.62

¹⁵ Article 51A(g) of the Constitution of India 1950

¹⁶ Article 48 of the Constitution of India 1950

d. Under **Article 48A of the Constitution of India 1950** – “Protection and improvement of environment and safeguarding of forests and wild life The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.”¹⁷

B. *Statutes:*

Parliament has sought to harmonise the statutory framework to include the prevention of animal cruelty as well as the maintenance of food standards and safety through the following statutes:¹⁸

a. **The Prevention of Cruelty to Animals Act, 1960** (hereinafter referred to as the 'PCA Act') has been enacted with the objective of to prevent the infliction of unnecessary pain or suffering on animals and lays down the responsibility of every person having the care or charge of any animal to take all reasonable measures to ensure the well-being of such animal.¹⁹ “Act provides establishment of Animals Welfare Board of India (AWBI) for the promotion of animal welfare and for the purpose of protecting animals from being subjected to unnecessary pain or suffering”²⁰ and to make rules under the PCA Act to ensure that the welfare standards are met and that the animals are not exploited.²¹

b. “Section 11(1) of the PCA Act defines what **Treating animals cruelly**.—(1) If any person— (a) beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animal to be so treated; or (b) [employs in any work or labour or for any purpose any animal which, by reason of its age or any disease], infirmity, wound, sore or other cause, is unfit to be so employed or, being the owner, permits any such unfit animal to be so employed; (c) wilfully and unreasonably administers any injurious drug or injurious substance to [any animal] or wilfully and unreasonably causes or attempts to cause any such drug or substance to be taken by [any animal]; or (d) conveys or carries, whether in or upon any vehicle or not, any animal in such a manner or position as to subject it to unnecessary pain or suffering; or (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; or (f) keeps for an unreasonable time any animal chained or tethered upon an unreasonably short or unreasonably heavy chain or cord; or (g) being the owner, neglects to exercise or cause to be exercised reasonably any dog habitually chained up or kept in close confinement; or (h) being the owner of [any animal] fails to provide such animal with sufficient food, drink or shelter; or (i) without reasonable cause, abandons any animal in circumstances which render it likely that it will suffer pain by reason of starvation or thirst; or (j) wilfully permits any animal, of which he is the owner, to go at large in any street while the animal is affected with 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; or (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 ill-treatment; or [(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; or] [(m) solely with a view to providing entertainment— (i) confines or causes to be confined any animal (including tying of an animal as a bait in a tiger or other sanctuary) so as to make it an object of prey for any other animal; or (ii) incites any animal to fight or bait any

¹⁷ Article 48A of the Constitution of India 1950

¹⁸ <http://lawcommissionofindia.nic.in/reports/Report269.pdf>, as visited on 16th July 28, 2019, 12.30am, Para.2.5

¹⁹ The Prevention of Cruelty to Animals Act, 1960:S.3. Duties of persons having charge of animals

²⁰ The Prevention of Cruelty to Animals Act, 1960:S.4. Establishment of Animals Welfare Board of India

²¹ Law Commission of India, *Ibid*, note 18, Para.2.6

other animal; or] (n) organises, 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; or (o) promotes or takes part in any shooting match or competition wherein animals are released from captivity for the purpose of such shooting; he shall be punishable, [in the case of a first offence, with fine which shall not be less than ten rupees but which may extend to fifty rupees and in the case of a second or subsequent offence committed within three years of the previous offence, with fine which shall not be less than twenty-five rupees but which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both].”²²

c. “Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice”²³ is a State subject under **Entry 15, List II, Seventh Schedule to the Constitution of India**. There are several State specific statutes and rules with respect to housekeeping and transport of chickens. Following are the examples of **State Laws** -

- i. Clause (a) of subsection (1) of section 6 of the **Bombay Diseases of Animals Act, 1948** (Bom. LIX of 1948)²⁴ conferred powers to “the Government of Maharashtra hereby prohibits the import, export and transport of poultry, carcasses, parts and things aforesaid, unless they have been certified by a Veterinary Surgeon or Inspector to be free from the Salmonellosis disease.”²⁵
- ii. The **Gujarat State Poultry Farm Registration and Regulatory Authority Act, 2007**²⁶ makes provision for registration and regulations for the construction and operation of poultry related activities does not cause any detrimental effect to environment and human health and health of poultry population of the state.²⁷
- iii. The **Orissa Animal Contagious Diseases (Amendment) Act 1978**²⁸ was enacted with the purpose of preventing the outbreak or spread of any contagious diseases among animals. It also provides *inter alia* for the power to the Police officer may, without an order from a Magistrate and without warrant arrest any person who has been found indulging in certain offences.²⁹
- iv. The **Punjab Livestock and Bird Diseases Act, 1948** was enacted with the purpose of preventing disease affecting livestock and birds.³⁰
- v. The **Punjab Poultry Production Act, 2016** deals with registration of poultry premises, improvement of quality of poultry products, and to ensure bio-security measures in poultry operation and to deal with ancillary matters.³¹
- vi. The **Rajasthan Animal Diseases Act, 1959** was enacted with a view to provide for prevention and control of disease affecting animals.³²

C. National legal provisions regulating the transport of animals:

- i. S.O.270 (E) - Whereas the draft **Prevention of Cruelty to Animals (Slaughter House) Rules, 2000** were published, as required by sub-section (1) of section 38 of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960), under the notification of the Government of India in the Ministry of Social

²² Section 11(1) of the PCA Act, 1960 - Treating animals cruelly

²³ Entry 15, List II, Schedule VII, Constitution of India, 1950

²⁴ <http://www.lawsofindia.org/pdf/maharashtra/1948/1948MH59.pdf>, visited on 1st Sept.2019

²⁵ <https://www.legalcrystal.com/act/65737/bombay-diseases-of-animals-act-1948-maharashtra-schedule>, visited on 1st Sept.2019

²⁶ https://ahd.maharashtra.gov.in/upload_grs/poultry%20act.pdf, visited on 1st Sept.2019

²⁷ S.3 and S.11 (1) of Gujarat State Poultry Farm Registration and Regulatory Authority Act, 2007, visited on 1st Sept.2019

²⁸ http://lawodisha.gov.in/files/acts/act_1942141969_1442311414.pdf, visited on 1st Sept.2019

²⁹ S.34 of Orissa Animal Contagious Diseases (Amendment) Act 1978, visited on 1st Sept.2019

³⁰ https://indiacode.nic.in/bitstream/123456789/8388/1/punjab_livestock_and_birds_diseases_act_1948.pdf, visited on 1st Sept.2019

³¹ <http://extwprlegs1.fao.org/docs/pdf/pak161819.pdf>, visited on 1st Sept.2019

³² <https://www.legalcrystal.com/act/136914/the-rajasthan-animal-diseases-act-1959-complete-act>, visited on 2nd Sept.2019

Justice and Empowerment number S.O. 1165 (E) dated the 26th December, 2000 in the Gazette of India.³³

“Rule 3 of the PCA (Slaughter House) Rules, 2001, prohibits the slaughter of any animal except in recognised or licensed houses. Whereas Rule 6 provides for several conditions pre and post slaughter, including “Rule 6(1) No animal shall be slaughtered in a slaughter house in sight of other animals”|| and “Rule 6(2) No animal shall be administered any chemical, drug or hormone before slaughter except drug for its treatment for any specific disease or ailment.”|| Further it prescribes required infrastructure of slaughter houses. All of which have also been included in the FSS Regulations, 2011, which is a comprehensive set of regulations. The regulations prescribe standards for slaughter house infrastructure, location of premises, sanitary practices, equipment and machinery to be utilized, personal hygiene, pre-slaughter handling, transport and space requirement during transport, humane slaughter methods, and sanitary requirements for meat processing units.”³⁴

ii. **The Food Safety and Standards (Licensing and Registration of Food Businesses) Regulations, 2011 (hereinafter referred to as the FSSR)** [Notification – F.No. 2-15015/30/2010 dated 01.08.2011] has been framed under clause (o) of Sub Section (2) of Section 92 read with Section 31 of the Food Safety and Standards Act, 2006 (hereinafter referred to as the **FSSA**||).³⁵ “The FSSR lays down certain guidelines for the Pre-Slaughter Handling of Animals especially with respect to the transport of animals. **The guidelines contained in Part IV Rule 6.4 (a)(1)** provide, *inter alia*, - 1.1 Only healthy animals in good condition shall be transported unless they are meant for emergency slaughter. These animals should be certified by a qualified veterinary inspector for freedom from infectious diseases and ectoparasitic diseases and their fitness to undertake the journey. 1.2 When animals are to be transported from endemic areas of a disease to non-endemic areas, the animals should be given protective vaccination and kept in quarantine for 30 days, before transportation. 1.3 Female animals in advanced stages of pregnancy shall not be transported. 1.4 When transporting large animals particularly bears/bulls, special arrangements by providing suitable partitions should be made to protect the animals from infighting. Similar arrangements should also be made to protect the young ones from being crushed when they are transported. 1.5 To avoid exhaustion, the animals shall be given humane treatment and care during transportation. The animals shall not be bound or chained during transit and space provided for them shall be large enough to stand or lie. 1.6 An attendant along with first aid equipment shall accompany the animals in transit. 1.7 Before loading, the animals should not be fed heavily. Only light feed may be allowed. For journeys less than 12 hours no feed need be carried but for longer journeys sufficient feed shall be carried to last during the journey. Watering facilities shall be provided at regular intervals. 1.8 Light and heavy animals shall be separated by providing partitions; animals from different pens/sheds shall not be mixed during transportation. Male stock shall not be transported with female stock (adults). 1.9 All vehicles should be inspected for safety, suitability and cleanliness before loading the animals. The floor and walls should be undamaged and there should be no nails or sharp projections which may injure the animals. 1.10 The Vehicles should be thoroughly sprayed with suitable disinfectant before loading the animals. 1.11 A layer of clean sand to cover the floor to a thickness of not less than 6 cm shall be provided. This layer of sand shall be moistened with water during the summer months. During hot months arrangements shall be made to sprinkle water on the animals at frequent intervals. In winter, a 2-cm layer of clean sand with another 6-cm layer of whole-straw shall be provided. 1.12 Animals when driven for loading or unloading shall never be struck with stick. Driving could best be done by

³³ [http://pashudhanharyana.gov.in/sites/default/files/documents/21_The_Prevention_of_Cruelty_to_Animals_\(Slaughter_houses\)_Rules,_2001.pdf](http://pashudhanharyana.gov.in/sites/default/files/documents/21_The_Prevention_of_Cruelty_to_Animals_(Slaughter_houses)_Rules,_2001.pdf), visited on 2nd Sept.2019

³⁴ *Ibid*, note 33, Para. 3.12

³⁵ https://fssai.gov.in/upload/uploadfiles/files/Licensing_Regulations.pdf, visited on 2nd Sept.2019

soft-rubber pipe. 1.13 If animals are to be transported in extreme cold or hot climate, it is preferable to transport them in covered Lorries on road so that they may not die or get exhausted or suffer from acute respiratory disease. Journey under such adverse climate shall be minimised. 1.14 Each consignment should bear a label showing the following particulars: a) Number and kind of the animals loaded; b) Name, address and telephone number, if any, of the consignor; c) Name address and telephone number, if any, of the consignee; d) Instructions regarding feeding and watering.”³⁶

iii. In exercise of the power conferred by clause (h) of sub-Section (2) of Section 38 of the Prevention of Cruelty to Animals Act, 1960 ; the Central Government hereby makes the **Transport of Animal Rules, 1978** (Rules of 1978): **Chapter VII** of the Rules of 1978 (included through the amendment of 2001) specifically deals with transport of poultry. The Rules of 1978 provide the following-

“Rule 79: Poultry other than day-old chicks and turkey poults. —In transport of poultry other than day old chicks and turkey poult by rail, road or air—

- (a) the poultry to be transported shall be healthy and in good condition and shall be examined and certified by a veterinary doctor for freedom from infectious diseases and fitness to undertake the journey;
- (b) poultry transported in the same container shall be of the same species and of the same age group;
- (c) poultry shall be properly fed and watered before it is placed in containers for transportation and extra feed and water shall be provided in suitable troughs fixed in the containers;
- (d) arrangements shall be made for watering and feeding during transportation and during hot weather, watering shall be ensured every six hours;
- (e) male stock shall not be transported with female stock in the same container

Rule 80 Road Travel. —In transport of poultry by road the container shall not be placed one on the top of the other and shall be covered properly in order to provide light, ventilation and to protect from rain, heat and cold air.

Rule 81 Rail Travel. —In transport of poultry by rail,—

- (a) in case the journey is for more than twelve hours, an attendant shall accompany the consignment;
- (b) poultry shall not be exposed to rain or direct blast of air;
- (c) as far as possible poultry shall be transported in wagons having adequate facilities for ventilation and no other merchandise which may result in mortality of birds shall be loaded in the same wagon.

Rule 82 Air travel. —In transport of poultry by air or for international transport the containers carrying poultry shall be kept near the door and shall be unloaded immediately on arrival.

Rule 83 Special requirement of containers for chicks and poults. —In transport of poultry by road, rail or air,—

- (a) wire mesh or a net of any material shall not be used as a bottom for the containers;
- (b) the container shall be properly secured to avoid pilferage;
- (c) the following instruction shall be printed on a label and fixed to the lid or printed directly on sides, namely “Care in Transit”;
- (d) the consignee shall be informed about the train, transport or flight number and its time of arrival well in advance;
- (e) poultry shall not be transported continuously for more than 6 hours and whole batch shall be inspected at every 6 hours interval;

³⁶ *Supra*, note 35

- (f) the transportation shall not remain stationary for more than 30 min and during this period, it shall be parked in shade and arrangements shall be made for feeding and watering;
- (g) all precautions against fire shall be taken and provision of fire extinguishers in transport shall be provided.]”³⁷

iv. “The Ministry of Road Transport and Highways *vide* Notification No. G.S.R. 546 (E) Dated 8th July, 2015 amended the **Central Motor Vehicles Rules, 1989, by Central Motor Vehicles (Eleventh Amendment) Rules, 2015** and added **Rule 125E (1) Subject to sub-rule (1)** which provides that the motor vehicles for carrying animals shall have permanent partitions in the body of the vehicle so that the animals are carried individually in each partition where the size of the partition in case of poultry shall not be less than 40 cm sq.”³⁸ The space provided however does not conform to the international standards for the same.

v. “**The Animal Welfare Board of India**, *vide* letter dated 16.02.2012, explained/clarified that confining hens in battery cages violates provisions of section 11(1) (e) of PCA Act. The relevant part of the letter reads: “Considering the issue of well-being of egg laying birds as well as food safety, you may be aware that the EU has decided to phase out battery cages for egg laying hens with effect from 1 January, 2012. These directives apply to all 27 EU member states; however, some European countries have preferred to adopt even stricter guidelines for farm animal protection. For instance in Switzerland, battery cages have been prohibited since 1992. The AWBI advises the Government of India and the State Governments to issue suitable directions to poultry farmers to prohibit the use of battery cages in egg production, so that poultry farms keeping egg laying hens adhere to the provisions of the Prevention of Cruelty to Animals (PCA) Act, 1960 and not confine birds in cages. The existing cage facilities be phased out within the next 5 years i.e.2017. Central and State Governments must encourage animal welfare and environment sustainability within the Indian food sector by promoting production systems that adhere to modern standards for animal welfare (as enshrined by the Five Freedoms) and the Prevention of Cruelty to Animals (PCA) Act 1960.”³⁹”

D. International Obligations and globally recognized poultry rights and review of punishment for animal cruelty offences:

1. World Organization for Animal Health (OIE), Chapter 7.1 Article 7.1.1 defines Animal welfare as: Animal welfare means the physical and mental state of an animal in relation to the conditions in which it lives and dies. An animal experiences good welfare if the animal is healthy, comfortable, well nourished, safe, is not suffering from unpleasant states such as pain, fear and distress, and is able to express behaviours that are important for its physical and mental state. Good animal welfare requires disease prevention and appropriate veterinary care, shelter, management and nutrition, a stimulating and safe environment, humane handling and humane slaughter or killing. While animal welfare refers to the state of the animal, the treatment that an animal received is covered by other terms such as animal care, animal husbandry, and humane treatment.”⁴⁰

³⁷ <https://indiankanoon.org/doc/168423045/>

http://wgbis.ces.iisc.ernet.in/biodiversity/Environ_sys/legis/anirule14.htm, visited on 2nd Sept.2019

³⁸ http://awbi.org/awbi-pdf/trans_notif_872015.pdf,

<https://www.indianemployees.com/uploads/documents/082015/1438516151-8-439.pdf>, visited on 2nd Sept.2019

³⁹ Law commission of India, *Supra*, note 18, Para. 3.10

⁴⁰ https://www.oie.int/en/standard-setting/terrestrial-code/access-online/?htmfile=chapitre_aw_introduction.htm, visited on 2nd Sept.2019

2. India is members of **World Organization for Animal Health (OIE)**, “the guiding principles which inform the OIE’s work on the welfare of *terrestrial animals* include the ‘Five Freedoms’. Developed in 1965, and widely recognised, the five freedoms describe society’s expectations for the conditions animals should experience when under human control, namely:

- ✓ freedom from hunger, malnutrition and thirst;
- ✓ freedom from fear and distress;
- ✓ freedom from heat stress or physical discomfort;
- ✓ freedom from pain, injury and disease; and
- ✓ freedom to express normal patterns of behaviour.”⁴¹

These five fundamental rights have been affirmed by the Supreme Court of India in *Animal Welfare Board of India v. A. Nagaraja & Ors. (Jallikattu Case)*.⁴² The Supreme Court also took cognizance of the above mentioned principles and reiterated them in *T. N. Godavarman Thirumulpad v. Union of India*⁴³; *T. N. Godavarman Thirumulpad v. Union of India* ⁴⁴and *Centre for Environmental Law World Wide Fund India v. Union of India*.⁴⁵

1. Practices in European Union and other countries:

- i. **Europe:** All member countries of the European Union (EU) have phased out the use of battery cages.⁴⁶
- ii. **United States of America:** States of California (2008), Michigan (2009), Ohio (2010), Oregon (2011) and Washington(2011) have adopted the policy of prohibiting or phasing out battery cages for egg laying hens.⁴⁷
- iii. **Bhutan:** In 2013, Bhutan declared itself a cage – free country.⁴⁸
- iv. In the **United Kingdom**, cruelty to animals is a criminal offence for which one may be imprisoned for up to five years, Prior six-month sentence not enough of a deterrent, says Government.⁴⁹
- v. **In France**, cruelty to animals is punishable by imprisonment of two years and a financial penalty (30,000 €).⁵⁰
- vi. In **Bangladesh**, the Animal Welfare Law, 2016 provides that anyone involved in the offences like killing an animal or injuring it intentionally will serve a sentence of imprisonment up to a period of two years or will be fined Taka 50,000 or both.⁵¹
- vii. **In Japan**, Welfare and Management of Animals Act 1973 (amended in 1999 and 2005) stipulates that "no person shall kill, injure, or inflict cruelty to animals ...", and in particular, criminalises cruelty to all mammals, birds, and reptiles possessed by persons; as well as cattle, horses, goats, sheep, pigs, dogs, cats, pigeons, domestic rabbits, *chickens*, and *domestic ducks* regardless of whether they are in captivity.
 - Killing or injuring without due reason: up to one year's imprisonment with labour or a fine of up to one million yen;

⁴¹ <https://www.oie.int/en/animal-welfare/animal-welfare-at-a-glance/>, visited on 2nd Sept.2019

⁴² (2014) 7 SCC 547

⁴³ (2012) 3 SCC 277

⁴⁴ (2012) 4 SCC 362

⁴⁵ (2013) 8 SCC 234

⁴⁶ Michael C. Appleby, ‘The EU Ban on Battery Cages: History and Prospects’, Also available on , <https://www.eurogroupforanimals.org/new-report-aims-at-higher-welfare-cage-free-egg-production-in-the-eu>, as visited on, 2nd sept.2019

⁴⁷ Legal Protections for Animals on Farms, <https://awionline.org/sites/default/files/uploads/documents/FA-AWI-LegalProtections-AnimalsonFarms-110714.pdf>, as visited on 4th Sept.2019

⁴⁸ https://www.hsi.org/news-media/bhutan_cage_free_080212/ , as visited on 4th Sept.2019

⁴⁹ <https://www.independent.co.uk/news/uk/rspca-animal-cruelty-michael-gove-legislation-law-a7975571.html>, as visited on 4th Sept.2019

⁵⁰ <https://api.worldanimalprotection.org/country/france>, as visited on 4th Sept.2019

⁵¹ https://brill.com/view/book/edcoll/9789004344556/B978-90-04-34454-9_018.xml?lang=en, as visited on 4th Sept.2019

- Cruelty such as causing debilitation by discontinuing feeding or watering without due reason: a fine of up to five hundred thousand yen;
- Abandonment: a fine of up to five hundred thousand Yen⁵²

IV. RESPONSE OF THE INDIAN JUDICIARY AND LEGAL LUMINARIES TO ANIMALS WELFARE

A. Supreme Court judgments dealing with Animal Welfare:

i. On 7 May, 2014 a two-judge Bench of the Supreme Court constituting of K.S. Radhakrishnan and Pinaki Chandra Ghose, JJ in *Animal Welfare Board of India vs. A. Nagaraja & Ors. (Jallikattu Case)* held that,

“Right to live in a healthy and clean atmosphere and right to get protection from human beings against inflicting unnecessary pain or suffering is a right guaranteed to the animals under Sections 3 and 11 of the PCA Act read with Article 51A(g) of the Constitution. Right to get food, shelter is also a guaranteed right under Sections 3 and 11 of the PCA Act and the Rules framed there under, especially when they are domesticated. Right to dignity and fair treatment is, therefore, not confined to human beings alone, but to animals as well. Right, not to be beaten, kicked, over-ridder, over-loading is also a right recognized by Section 11 read with Section 3 of the PCA Act. Animals have also a right against the human beings not to be tortured and against infliction of unnecessary pain or suffering. Penalty for violation of those rights are insignificant, since laws are made by humans. Punishment prescribed in Section 11(1) is not commensurate with the gravity of the offence, hence being violated with impunity defeating the very object and purpose of the Act, hence the necessity of taking disciplinary action against those officers who fail to discharge their duties to safeguard the statutory rights of animals under the PCA Act.”⁵³

ii. On 26 October, 2005 *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat & Ors.*⁵⁴, held that “by enacting Article 51 A (g)⁵⁵ and giving it the status of a fundamental duty, one of the objects sought to be achieved by Parliament is to ensure that the spirit and message of Articles 48⁵⁶ and 48 A⁵⁷ are honoured as a fundamental duty by every citizen. Article 51 A (g), therefore, enjoins that it is a fundamental duty of every citizen ‘to have compassion for living creatures’, which means concern for suffering, sympathy, kindness etc., which has to be read along with Sections 3⁵⁸, Section 11(1)(a) and (m)⁵⁹ (Treating animals cruelly), and

⁵² https://www.env.go.jp/nature/dobutsu/aigo/2_data/pamph/1912en/pdf/full.pdf, as visited on 4th Sept.2019

⁵³ (2014)7 SCC 547, Para.62

⁵⁴ (2005) 8 SCC 534

⁵⁵ Article 51A(g) of the Constitution of India 1949- to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

⁵⁶ Article 48 of the Constitution of India 1949 - Organisation of agriculture and animal husbandry- The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle

⁵⁷ Article 48A of the Constitution of India 1949 - Protection and improvement of environment and safeguarding of forests and wild life The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country

⁵⁸ *Prevention of Cruelty to Animals(PCA)Act,1960-S.3: Duties of persons having charge of animals.*—It shall be the duty of every person having the care or charge of any animal to take all reasonable measures to ensure the well-being of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering.

⁵⁹ *Prevention of Cruelty to Animals (PCA) Act 1960-S.11: Treating animals cruelly.*—(1) If any person—

Section 22⁶⁰ (Restriction on exhibition and training of performing animals) etc. of the PCA Act.”⁶¹

- iii. The Supreme Court, while hearing a Transfer Petition filed by the **Animal Welfare Board of India** praying for transfer of four writ petitions from different High Courts, seeking the phasing out of battery cages for egg laying hens and switching to a cage free humane option, to one Court, held that “we expect the Government of India to convene the proposed meeting and expedite the process of framing of the rules and report further developments on the subject to the High Court of Delhi upon transfer of the cases to it.”⁶² The writ petitions are currently pending before the Delhi High Court.⁶³
- iv. “The Supreme Court disposed of WP No. 330 of 2001, Common Cause, A Registered Society v. Union of India vide order dated 17.02.2017, wherein while dealing with the issue of illegal treatment of animals during transport and slaughter, directed the State governments and Union territories to comply with the compendium of Indian standards prepared by the Government of India.”⁶⁴

B. High Court judgments dealing with Animal Welfare

- i. On 21 May, 2014 The Madras High Court in *S. Kannan v. Commissioner of Police*,⁶⁵ held that protection shall be granted to all kind of birds including poultry against cruelty in any manner, observing “the birds and animals are entitled to co-exist along with human beings.”⁶⁶ The Court also issued orders prohibiting Cock fight and any other bird or animal fight for the sake of enjoyment of spectators.⁶⁷
- ii. The Gujarat High Court in *Mohammadbhai Jalalabhai Serasiya v. State of Gujarat*,⁶⁸ and *Abdulkadar Mohamad Azam Sheikh v. State of Gujarat*⁶⁹ held that “Article 51-A(g) of the Constitution of India, casts a fundamental duty on every citizen to have compassion for living creature. Article 51-A (g) not only imposes a duty on every citizen to protect all animals on which unnecessary pain is being inflicted. Infliction of unnecessary pain, or suffering on animals is anti-thesis to compassion, the duty as imposed by Article 51-A (g) of the Constitution of India. Nobody has a right to inflict pain or suffering to others inclusive of the animals and birds. Even birds cannot be kept in cages by which they suffer a pain. To keep

(a) beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animal to be so treated; or

(m) solely with a view to providing entertainment—

(i) confines or causes to be confined any animal (including tying of an animal as a bait in a tiger or other sanctuary) so as to make it an object of prey for any other animal; or

(ii) incites any animal to fight or bait any other animal;

⁶⁰ *Prevention of Cruelty to Animals (PCA) Act, 1960- S.22: Restriction on exhibition and training of performing animals.*—No person shall exhibit or train—

(i) any performing animal unless he is registered in accordance with the provisions of this Chapter;

(ii) as a performing animal, any animal which the Central Government may, by notification in the Official Gazette, specify as an animal which shall not be exhibited or trained as a performing animal.

⁶¹ *Compassion Unlimited Plus Action v. Union of India* (2016)3SCC 85 (paragraph 67)

⁶² *Transfer Petition (Civil) No(s).1095-1098 OF2016*

⁶³ *WP 9056/2016, WP 9622/2016, WP 9630/2016&WP 10990/2016*

⁶⁴ *Law Commission Of India, Supra, note 18, Para.2.27*

⁶⁵ *WP(MD)No. 8040 of 2014*

⁶⁶ *Ibid, note 65, Para. 3*

⁶⁷ *Ibid, note 65, Para. 24*

⁶⁸ *2015 JX (Guj)378:2014*

⁶⁹ *(CR.A/1635/2010)*

birds in cages would tantamount to illegal confinement of the birds which is in violation of right of the birds to live in free air / sky. For the aforesaid a specific law might not be required. It is the fundamental right of the bird to live freely in the open sky. As stated above, it is the duty of every citizen to see that there is no unnecessary pain or suffering to any animal or bird."⁷⁰

iii. In *Tetragon Chemie v. CCE & Ors.*, the Customs Excise & Gold Tribunal "has held that the terms 'cattle feed' and 'poultry-feed' must include not only that food which is supplied to domestic animals or birds as an essential ration for the maintenance of life but also that feed which is supplied over and above the maintenance requirements for growth or fattening and for production purposes such as for reproduction, for production of milk, eggs, meat etc. or for efficient output of work. The same reasoning would apply to the present case also. These products are also fed to animals or poultry to give them better nourishment. They would, therefore, qualify as animal feeds'."⁷¹

iv. "The High Court of Himachal Pradesh has prohibited animal sacrifice on 26.09.2007 in CWP No. 9257 of 2011 along with CWP No.4499/2012 and CWP No.5076/2012 and quoted the words of Mahatma Gandhi: "The moral progress and strength of a nation can be judged by the care and compassion it shows towards its animals."⁷²

v. On 15th May 2015 the Delhi High Court in the case of *People for Animals v. M D Mohazzim & Anr*,⁷³ held that:

*"...Birds have fundamental rights including the right to live with dignity and they cannot be subjected to cruelty by anyone (...) all the birds have fundamental rights to fly in the sky and all human beings have no right to keep them in small cages for the purposes of their business or otherwise."*⁷⁴

V. Implementation and Impact of Prevention of Cruelty to Animals Act, 1960 with special reference to Transportation and House-Keeping of Egg-Laying hens (Layers) And Broiler Chickens Pune :

A. The researcher has confined her study to transportation and house-keeping of egg-laying hens (layers) and broiler chickens in Pune. To get deeper insight and to study the law in action, the researcher applied her mind and conducted extensive survey of various poultries located in Pune, She also concurs with the judicial pronouncements made from time to time. For this, the researcher also reviewed implementation and impact of Prevention of Cruelty to Animals Act, 1960. To get deeper insight, the researcher obtained her data from the following sources:

⁷⁰ Special Criminal Application No. 1635 of 2010 (CR.A/1635/2010)

⁷¹ On 13 November, 1998, *Tetragon Chemie (P) Ltd. And Ors. vs Cce And Ors.* 1999 (63) ECC 709

⁷² CWP No.5076/2012, Para.7, <http://hpsja.nic.in/JAcaselawAS.pdf>

⁷³ On 15 May, 2015, CrI. M.C. No.2051/2015 & CrI. M.A. No.7294/2015

⁷⁴ *Ibid*, note 73, Para.5

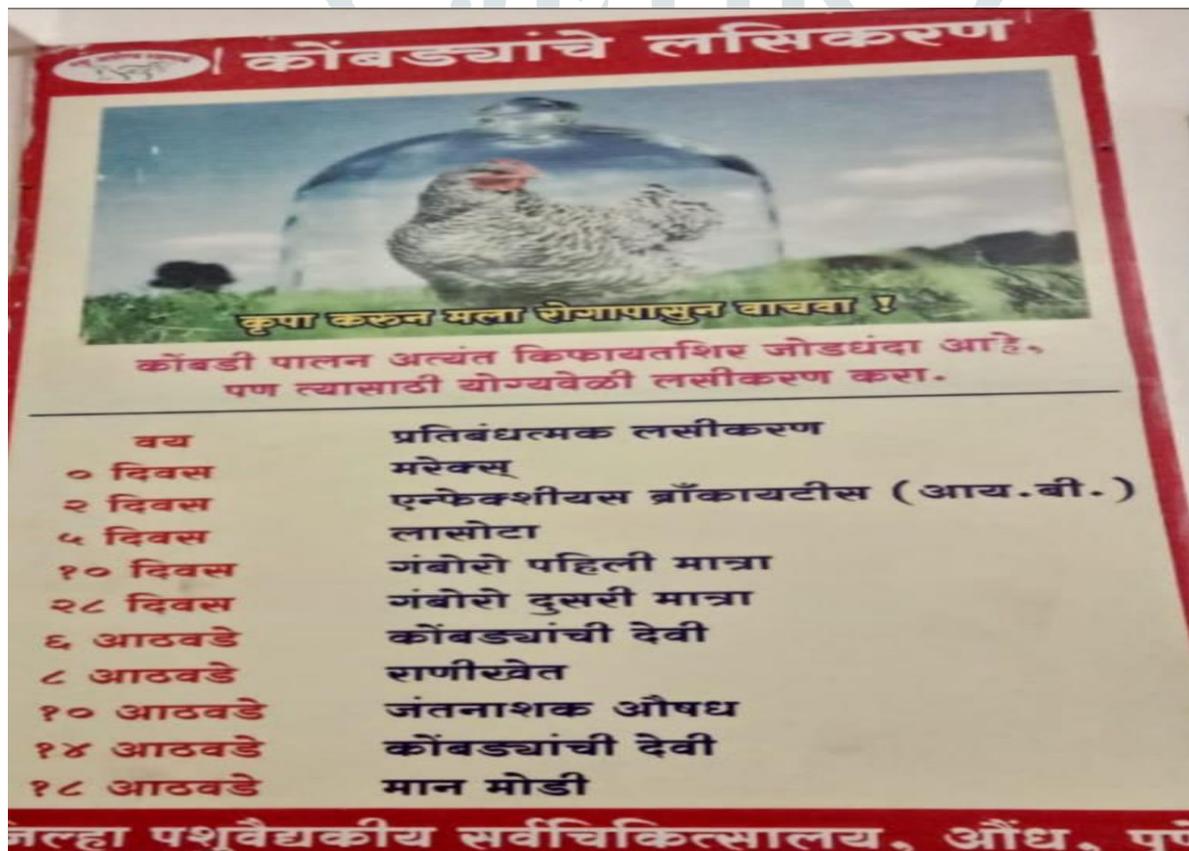
B. The Researcher also personally visited **District Veterinary Polyclinic, Aundh, Government of Maharashtra Animal Husbandry, Pune**. They are committed to achieve customer satisfaction by providing quality disease diagnosis, treatment and control services to ensure animal health and for enhancing productivity of animals and also for implementing continual improvements by involving employee, livestock owners and educating them by proper training.

List of officers working with District Veterinary Polyclinic, Aundh:

- i. **Dr. Anil Deshpande**; Assistant Commissioner, Animal Husbandry
- ii. **Dr. B.V. Avaghade** : Livestock Development Officer ,Veterinary Physician
- iii. **Dr. S.M. Shete** : Livestock Development Officer, Veterinary Surgery
- iv. **Dr. Amrut M. Shinde** : Livestock Development Officer, Veterinary laboratory

C. Researcher undertook survey of transportation of Egg-Laying Hens (Layers) and Broiler Chickens in Pune to review the Implementation and Impact of Prevention of Cruelty to Animals Act, 1960.

The following photographs collected by the researcher which are self speaking- depict importance of vaccination of Egg-Laying Hens (Layers) and Broiler Chickens and control of diseases among them.





VI. Findings, Conclusion, Suggestions and Recommendations.

1. Only a few Poultry farms are found to impart awareness of various provisions of Prevention of Cruelty to Animals Act, 1960, The Food Safety and Standards (Licensing and Registration of Food Businesses) Regulations, 2011 & Transport of Animal Rules, 1978.
2. The Researcher has shots some photographs, which are annexed here. The Researcher felt that various legal provisions relating to transportation and house- keeping of egg-laying hens (layers) and broiler chickens in Pune viz. The Food Safety and Standards (Licensing and Registration of Food Businesses) Regulations, 2011 & Transport of Animal Rules, 1978 are not properly understood and implemented by those concerned.



3. The researcher has observed that birds in Poultry farms are subjected to cruelty. Birds are also subjected to cruelty during the course of their transportation. The researcher has found that confinement of birds in wired cages has resulted in abrasions, skin irritations, and loss of feathers, cracked and deformed feet, sores, bleeding and ultimately their death. The researcher felt aghast when she noticed that no veterinary care, worth the name was available to address such cruelties to animal.



“On 27th December, 2012 the Animal Welfare Board of India (AWBI) issued an advisory and recommended to the Union Environment Ministry to adopt the draft ‘Prevention of Cruelty to Animals (Egg Laying Hen) Rules’ and phase out battery cages for egg-laying hens by January 2017. Section 11 (1) (e) of the Prevention of Cruelty to Animals Act, 1960 prohibits confining birds in battery cages. ”⁷⁵ However, alas, no policy has been adopted even till 5th Sept. 2019 in the matter.

4. “The Law Commission of India in its 269 Report (3rd July 2017) on “The Transportation and House-Keeping of Egg-Laying hens (Layers) And Broiler Chickens”, The present Report concludes with two sets of draft rules, the 'Prevention of Cruelty to Animals (Egg Laying Hens) Rules, 2017' which is a modified version of 2012 draft rules of the AWBI. The modifications made are in sinc. with the objects of the Prevention of Cruelty to Animals Act, 1960 ('PCA'), the constitutional provisions and the best practices in other countries. The second draft rules propose to deal with the 'Prevention of Cruelty to Animals (Broiler Chickens) Rules, 2017' with respect to meat producing chickens.”⁷⁶

Hence the recommendations of the **Animal Welfare Board of India (AWBI)** regarding ‘Prevention of Cruelty to Animals (Egg Laying Hen) Rules, 2012’ was reiterated in **The Law Commission of India in its 269 Report (3rd July 2017)** on “The Transportation and House-Keeping of Egg-Laying hens (Layers) And Broiler Chickens”

⁷⁵ Wired cages in poultry farms killing hens in India, shows survey, Badri Chatterje, Hindustan Times, Mumbai, 14 Mar, 2017 14:07, <https://www.hindustantimes.com/mumbai-news/wired-cages-in-poultry-farms-killing-hens-in-india-shows-survey/story-KM7Nd0UZDnxsBc8TDpKvpM.html>, visited on 31st Aug. 2019

⁷⁶ *Supra*, note 12, Para 1.6

5. The Researcher has woefully found that cruelty is caused to the birds arising out of insufficient space, so much so that the birds are not able to spread their wings fully, stand up straight, are not able to turn around without touching another bird.



6. The Researcher has found four to eight hens crammed in a cage which was no bigger than two A4 sheets of papers. Urine and faeces of overcrowded cages stacked on the top falls on the birds in cages below, “Even in 2017, there is no sign of phasing out these illegal battery cages. All countries in the European Union (EU) have banned the cages. But India is yet to take a policy decision on it.”⁷⁷

⁷⁷ Wired cages in poultry farms killing hens in India, shows survey, Badri Chatterje, Hindustan Times, Mumbai, 14 Mar, 2017 14:07, <https://www.hindustantimes.com/mumbai-news/wired-cages-in-poultry-farms-killing-hens-in-india-shows-survey/story-KM7Nd0UZDnxsBc8TDpKvpM.html>



7. ‘Litter is collected in huge piles underneath the stacked cages and is disposed of once every few weeks. This leads to diseases among consumers and results in high mortality among birds. “Apart from overcrowding and sanitation issues, researchers also found that hens kept in these conditions were losing their feathers and were suffering from abrasions and skin irritations, probably due to the high concentration of ammonia in their litter. Their waste was cleared only once every few weeks after it made huge, stinking piles under their cages.”⁷⁸

8. Birds are subjected to cruelty by dumping them into battery cages which are not even properly cleaned and sterilized. The following photographs vividly reflect cruelty caused to birds.

⁷⁸ Geetika Mantri, ‘Study reveals cruel practices in Indian egg farming: Why it’s a cause for concern’ Saturday, July 13, 2019, available on, <https://www.thenewsminute.com/article/study-reveals-cruel-practices-indian-egg-farming-why-it-s-cause-concern-105378>, visited on 31st Aug.2019



9. The researcher has observed that birds in cages cannot adequately exercise, forage, perch, dustbath, escape or avoid aversive interactions. They are also more fearful than birds in large group housing systems. All this leads to foodborne diseases such as Salmonella giving rise to public health concern.

10. ‘The Law Commission had in July 2017 come out with its report on the issue, recommending that each hen must be given enough space to spread its wings, turn around and have access to a nest box and a perch. It argued that better conditions would reduce the risk of diseases in the flock and thereby reduce the need to use antibiotics in their feed. Less or no use of antibiotics in bird feed directly helps in safer human consumption of poultry.’⁷⁹

11. ‘Hens delivering eggs in these conditions have serious repercussions for humans consuming them as well. Firstly, the unhygienic living conditions of birds can not only lead to high mortality in them but also cause diseases in consumers of eggs as well as people working in these egg farms. “We have seen workers and their children working for long hours at the farm and sometimes they live at the farm. Due to the harmful environment at egg farms, workers are known to contract respiratory diseases like asthma and chronic bronchitis,” said Amruta Ubale, Animal Equality’s Executive Director.’⁸⁰

12. ‘Based on observations made during visits to closed-cage and cage-free poultry farming system in Pune, the findings concluded that the condition of closed-cage poultry farms is very poor and cruel for hens when compared to cage-free poultry system. Odour generation and mites in the farms are two major problems in closed-caged system, which is not observed in the cage-free system. The cage-free system provides enough space for movement of hens and the kind of environment required to express their natural behavior.’⁸¹ The Researcher agrees in toto with the author Priya Menon.

⁷⁹ <https://timesofindia.indiatimes.com/india/centre-to-release-draft-rules-on-better-practices-in-poultry-industry/articleshowprint/68922271.cms>, visited on 31st Aug.2019

⁸⁰ Geetika Mantri, ‘Study reveals cruel practices in Indian egg farming: Why it’s a cause for concern’ Saturday, July 13, 2019, available on, <https://www.thenewsminute.com/article/study-reveals-cruel-practices-indian-egg-farming-why-it-s-cause-concern-105378>, visited on 31st Aug.2019

⁸¹ Priya Menon, ‘Poultry farms should adopt cage-free systems, report says’, TNN | Sep 7, 2017, 19:29 IST.. <https://timesofindia.indiatimes.com/home/environment/poultry-farms-should-adopt-cage-free-systems-report-says/articleshow/60410889.cms>, visited on 31st Aug.2019

13. “On 2^{9th} April, 2019 the Government of India drafted ‘**Prevention of Cruelty to Animals (Egg-laying Hens) Rules, 2019**’ to ensure better conditions for the birds and the Space allowance for conventional colony enclosures of egg-laying hens for commercial egg production, 2019, for better poultry farming practices in India. India is a member country of World Organization for Animal Health (OIE), an inter-governmental body and standard setting body under World Trade Organization (WTO). OIE also prescribes standards for animal welfare. Now, therefore, in exercise of the powers conferred by sub-section (1) of section 38 read with sub-section (1) (e) of Section 11 of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960), the Central Government hereby makes the following rules, namely

Rule 8- Space allowance for laying hens: All new farms or replacement of old cages must meet following specification: Floor space per bird shall not be less than 550 square centimeter and each cage should accommodate preferably a minimum of 6-8 birds, thus ensuring reasonable space for laying hens for lying down, standing up, flapping wings, turning around and access to feed and water.

Rule 10. Prohibition with regard to feed: i) No dead remains as feed-The policy also bars feeding hens with the remains of dead chicks, thereby preventing diseases to the hens and also benefiting healthy commercial egg production in the country. ii) The use of growth promoters shall be prohibited. iii) Antibiotics may be administered for therapeutic purposes (disease treatment) and only under supervision of a veterinarian.

Rule 9. Maintenance records of space allowance: The Bench said the onus of maintaining healthy housing density and keeping records of the total floor area available to hens.

Rule 14. Cancellation of Registration. - If any poultry farm is not maintained in the manner required under these Rules, the registering authority may, after serving a show cause notice in writing, and giving an opportunity to the person to reply on such show cause notice within a period of thirty days, cancel the certificate of registration.

Rule 15. Revocation of Registration: if satisfactory action was not taken when deficiencies were pointed out.

Rule 7. Power to authorise inspection: The rules also called for regular inspection of poultry farms by authorised personnel, who should follow proper biosecurity protocols. No inspector will visit more than one farm within a period of 72 hours for biosecurity concerns to prevent the spread of infection,”⁸² “According to the notification, the rules are expected to come into force on 1st January 2020, after the publication in the Official gazette, even though existing farms may get time till 2025 to switch over to the new guidelines.”⁸³

Hence the recommendations of the **Animal Welfare Board of India (AWBI)** regarding ‘Prevention of Cruelty to Animals (Egg Laying Hen) Rules, 2012’ and the recommendations of **The Law Commission of India in its 269 Report (3rd July 2017)** regarding “Prevention of Cruelty to Animals (Egg Laying Hen) Rules, 2017’ are reiterated in ‘**Prevention of Cruelty to Animals (Egg-laying Hens) Rules, 2019**’ Thus there is a gap in the Act (PCA,1960) which can be bridged by inclusion of PCA,2019.

The Researcher is glad to find that the Law Commission of India in its 269th Report has handled this issue with abundant kindness to birds. But as per the Notifications [G.S.R.335(E)] named ‘Prevention of Cruelty to Animals (Egg-laying Hens) Rules, 2019’ issued by the Govt. of India existing poultry farms may get time till 2025 to switch over to the new guidelines. The Researcher therefore is afraid that cruelty to birds would continue to

⁸² http://awbi.in/awbi-pdf/Circular28_5_2019.pdf, visited on 2nd Sept.2019

⁸³ Centre scripts draft rules for better poultry farming practices , 3rd May 2019 ,Agri businessline <https://www.thehindubusinessline.com/economy/agri-business/centre-scripts-draft-rules-for-better-poultry-farming-practices/article27014908.ece>, visited on 2nd Sept.2019

afflict them up to 2025. The human consumptions of poultry would also likewise suffer till 2025. In such circumstances the researcher asks: Is it not against the principles of natural justice?

14. The Researcher feels that the essential guidelines outlined in 1) *Animal Welfare Board of India vs. A. Nagaraja & Ors. (Jallikattu Case)*⁸⁴, 2) *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat & Ors.*⁸⁵, 3) *S. Kannan v. Commissioner of Police*,⁸⁶, 4) *Mohammadbhai Jalalabhai Serasiya v. State of Gujarat*⁸⁷, 5) *Abdulkadar Mohamad Azam Sheikh v. State of Gujarat*⁸⁸ 6) *People for Animals v. M D Mohazzim & Anr.*⁸⁹, 6) *Mrs Gauri Maulekhi vs State Of Uttarakhand and Another*,⁹⁰ should form a part of the law so that they are not only mere guidelines but also become mandatory to follow them in the interest of uniformity and certainty.

15. Based on observations and widespread complaints, Petitions suggesting that **Prevention of Cruelty to Animals Act, 1960** is misused on a large scale. So as to apply an effective brake to arrest this tendency to misuse the law, the Researcher recommends suitable amendments to **Prevention of Cruelty to Animals Act, 1960**. ‘The rules under the PCA Act 1960, largely suffers from weak penal provisions. While the penal provisions pertaining to fine in the Act may have been a sufficient deterrent in 1960, those provisions have lost their significance due to inflation. As monetary penalties under legislations of various jurisdictions change regularly, it is averred that the penal provisions in the said Act are required to be revised suitably. While keeping in view both the health and welfare of the people and the avoidance of pain and suffering of animals, punishment for all offences under the Act need to be appropriately revised.’⁹¹

16. “On perusal of the Slaughter House Rules, 2001, as well as the FSS Regulations, 2011, it is found that the procedures and standards prescribed in these rules/regulations are satisfactory. However, these rules/regulations are violated blatantly in roadside meat shops and outlets. The appropriate authorities shall ensure strict compliance of these laws by providing for personal responsibility of the concerned officer for a failure which may be treated as dereliction of duty, if so found. Additionally, a mechanism be developed for imparting training to butchers/slaughter men so that sanitary practices are followed during slaughter.”⁹² The Researcher agrees in toto with the recommendations of the Law Commission of India made in their 269th Report. **The photographs herebelow reflect what has already been described in the context of meat shops and outlets in Pune.**

⁸⁴ (2014)7 SCC 547

⁸⁵ (2005) 8 SCC 534

⁸⁶ WP(MD)No. 8040 of 2014

⁸⁷ 2015 JX (Guj)378:2014

⁸⁸ (CR.A/1635/2010),

⁸⁹ CrI. M.C. No.2051/2015 & CrI. M.A. No.7294/2015

⁹⁰ Writ Petition (PIL) No.198 of 2016, High Court of Uttarakhand, 14 August, 2018

⁹¹ Law Commission Of India, *Supra*, note 12, Para.4.6

⁹² Law Commission Of India, *Supra*, note 12, Para.3.16

