

Legality of Ill-Treatment of Stray Dogs: A Study

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Abstract- The authors in this paper discuss about the growing populations of the stray dogs and how the increase of the population of these stray dogs pose a danger to the humans and how these dogs are violating the rights of the Human beings. The Municipal authorities and other authorities responsible for sterilization of stray dogs are not working efficiently to control their population and no steps are being taken to control them. The problem has aggravated to such an extent that judiciary had to intervene but no unanimous decision has been provided as such and they problem still persists. In such situations people tend to take laws into hands and started killing the dogs as it happened in Kerala.

The methodologies used by the authors are Doctrinal.

The authors have also suggested some particular ways in which the growth of the stray dogs can be checked and their population to be controlled effectively so that these stray dogs do not become threat to the society as is the present scenario. The suggestions include the sterilization of stray dogs efficiently not just on papers but by prompt actions by the Municipalities combined with non littering of food on road side. With these steps taken authors believe that stray dogs can be controlled without going into extremities.

I. INTRODUCTION

It is said that “dogs are best friends of human beings” true but in many parts of our country it may not be called so. As the number of stray dogs have increased rapidly in our country due to easy availability to the domestic waste thrown at different places across the city. The number of stray dogs on road is posing a huge problem in the life of normal people. The most important fundamental rights of the individuals i.e. Right to Life (Article 21) are now being curtailed by the stray dogs across the countries. However harsh it may sound, but the person who is attacked by a group of stray dogs at the middle of night would not disagree with my perceptions.

Judicial activism in our country has developed many folds and Supreme Court has gone further and has established that right to clean environment and right to have a peaceful sleep at night as the basic fundamental rights under Article 21 of the constitution but growing menace of the dogs have been violating the basic human rights as a person who is returning from office at night is more worried about how he would walk to his house as the stray dogs will give him a hard time, even he reaches home safely which is probably quite difficult keeping in view the birth rate of the dogs, he will not having a sound sleep at night because the howling and fighting of the dogs will carry out whole night. So the stray dogs are the creatures which are violating the fundamental rights of the humans in our country.

At this point where the fundamental rights of the individuals are violated the animal rights of the dogs shall not be violated as per Indian law street dogs and by the recent judgment of High court of Delhi with respect to street dogs what you cannot do with them is are as follows beating and driving away street dogs, is not allowed. The person who stops another person from feeding a dog shall be put behind bar. So the Animal rights are now placed at a higher footing than the fundamental rights of the individuals as dogs as the dogs can neither be dislocated from their location or kept in protective custody but only action which can be taken against the dogs is to sterilize and vaccinate the dogs and then put the dog back in the same location from which the dog was taken from.¹

With reference to clause of nuisance as defined under torts and IPC

Section 268 in The Indian Penal Code

268. Public nuisance.—A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes some convenience or advantage.

The definition here talks about a person making nuisance causing common injury danger or annoyance but the same is caused by some other creature what recourse do we have? we cannot call authorities to help in this situation or call the municipalities and tell about them that we have been given the powers just to sterilize and vaccinate but if they indulge into howling and fighting at the dead of the night we do not have any other option but to tolerate this form of nuisance day after day because dogs cannot be prosecuted under the Indian Penal Code for causing Nuisance but humans can be prosecuted for cruelty to animals under IPC and also violations for Animal rights. So basically the human beings have no other option but to bear with the daily nuisance created by the dogs and any approach to the concerned authorities would not yield much of a result.

This is not end of the menace of dog. The other threat and danger that our society are facing in day to day life are like road accidents caused by these stray dogs often wonder on to the roads, putting pedestrians, cyclist at risk of serious injury or even to deaths, and these dogs are not properly maintained, so they may have organism in their faces that can cause even blindness

¹<http://jaagruti.org/2013/07/09/pet-dogs-and-street-dogs-dos-and-donts>

to the people.² There are numerous cases regarding the child death caused by stray dogs, but some of the very worst cases which had happened in our India's capital city New Delhi and which is full filled with all the amenities to control the menace of Dogs , but they were failed to do their part of duties in order to protect the life of the human beings and these stray dogs showed us that how dangerous they are when they are in furious state of mind . So one of the incident which happened in Delhi was a pack of stray dogs bit a seven-year-old boy to death after he accidentally fell on one of them while playing at a graveyard near his house ³and the another case was a six-year-old boy was mauled to death by four stray dogs when he was playing in the garden and out of sudden these stray dogs attacked on him.⁴According to the municipal health departmentthe number of cases of dog bites was 53,051 in 2001, which dropped to 45,183 in 2006. However, the number rose to 54,661 in 2007 and in 2012 the figure went to 82,247. It was said that the number of cases could rise further, as many people take anti-rabies vaccination after a dog bite at private hospitals.⁵

After all this heinous cases which had occurred in New Delhi or in any part of our country .What remedy do we have in our country against this menace of dogs .You will be totally stunned that actually we don't have any strict laws against them. So it is just like a dictatorship that whatever they want they can do with us, but we cannot do anything to them. The only thing we can do to them under the purview of are laws is that If the Municipal corporation thinks it to control street dogs populations. It cannot resort to killing or dislocating. It can be only sterilize and immunize the dogs, and then leave them at the locations that they had been picked from.Please also note, the Municipality Corporation cannot just pick up dogs, simply because some persons/ administrators don't like their being around. Even the dogs that are complained about can only be sterilized and immunized and then left back at the location that they had been picked up from.“A bite by a rabid dog can be fatal if the person does not vaccinated. At present, there is no treatment for rabies. Despite the availability of a vaccine, India reports 20,000 deaths every year.” said RanjitMankeshwar, in-charge, anti-rabies vaccination clinic at the JJ Hospital, who gets 200 patients of dog bites every month.

The prime reason for the high rates of stray dogs in our country is the easy availability of the food which is particularly because of the littering of waste food on the road and no efficient way of disposal of waste which becomes the staple food for the stray dogs unlike in developed countries wherein the stray dogs cannot survive more than few days, the next factor being the high reproduction rate of the dogs. The authorities have come to conclusion keeping in mind the animal lovers and the laws in force in India, the only precautions that can be taken against the

dog is to sterilize the creature and vaccinate him and leave him in the same place where he was uplifted but what they fail to understand is that even if the dog is sterilize the canine teeth it posses it is capable to tearing apart the flesh of human beings and in various cases it is the cause of deaths of the infants and causing grievous hurt to other individuals. A scientific study has revealed that dogs tend to become more ferocious when sterilized and thereby causing more harm to the people.

As per the Indian law , street dogs cannot be beaten , killed or driven away or displaced or dislocate, they can only be sterilized in the manner envisaged in the Animal Act 1960, vaccinated and then returned back to their original locations.

The Animal Birth Control Rules (ABC rules) formulated under Prevention of Cruelty to Animals Act of 1960 mandated killing of only rabies-afflicted, incurably-ill or mortally-wounded dogs. Regarding 'trouble-causing' dogs, the Act says, on receipt of a complaint, the animal welfare board shall take away a dog and sterilise it. In spite of many incidents of stray dogs biting school children and pedestrians, the Corporation did not take any action on the basis of above mentioned rules. The non-availability of free anti-rabies injection in General Hospital which forces the victim to buy the medicine from private medical shops and hospitals is also a serious issue and the corporations do not take responsibility to bring about any reforms to the present situations. The rules specify that only "incurably ill and mortally wounded dogs as diagnosed by a qualified veterinarian" be euthanized. Dogs suspected of having rabies must be captured and isolated. If rabies is confirmed, they must be allowed to die natural death in isolation.

The situation has worsened with time and judiciary has approached to intervene in the present matter.In various cases our honorable supreme court has rejected the plea regarding the killing of dogs and has held that it is inhuman to kill the dogs mercilessly but also has failed to provide any mechanism to stop the menace of these stray dogs. These canine animals are not threat of any injury but are also make people susceptible to the diseases such as rabbies if the person has not been vaccinated. Due to increase in the number of stray dogs numerous petitions have been filed in across different High Courts our country but has not served the requisite purpose so people agitated by no action taken have taken prompt action to kill the dogs to stop the menace as it happened in Kerala few days back. The judiciary has also failed to tackle the present situation as the judiciary is divided on few platforms as Kerala High court has passed the order to kill the stray dogs which has been stayed by the Supreme court and Bombay High Court also gave permission to kill the stray dogs in 2009 but the judgment was again challenged later in that year and stay order was provided by the Hon'ble Supreme Court.

II. CONCLUSION& SUGGESTIONS

Now the growing menace of dogs have raised a vital question as to whose right has superintendence over the right of the other, now the question is shall we protect our Human rights or shall we protect the animals for whom our own Human rights are being end endangered. There are people who are directly affected by the stray dogs in form of dog bites and howling at night, there are as many as 500 dog bites reported in Delhi and

² <http://www.who.int/bulletin/volumes/87/12/09-021209/en>

³ <http://timesofindia.indiatimes.com/city/delhi/Stray-dogs-bite-7-year-old-Delhi-boy-to-death/articleshow/48353184.cms>

⁴ <http://indianexpress.com/article/cities/delhi/stray-dogs-maul-6-year-old-boy-to-death-in-jamia-nagar>

⁵ <http://www.hindustantimes.com/mumbai/82-247-cases-of-dog-bites-reported-in-2012/article1-1037687.aspx>

thus we can imagine the noise by howling of these dogs at night⁶. The decision of the courts are also diversified in this particular matter and Supreme Court has also not provided any substantial judgment on this regard as the legislatures and other Municipal Authorities are not able to cope with this particular situation with the number of complaints increasing day by day and the laws in force i.e. dogs can only be sterilized and to be returned to that particular are not competent enough to deal with the situation as population of canine animals have increased many fold and effective measures are to be implemented to combat with the growing menace of dogs.

Taking into consideration the increasing menace of stray dogs in the city and other areas, various ideas came up to prepare an action plan to curb the growing menace. Sterilisation is an effective way to control the population of stray dogs but this procedure can only be effective, if only the municipality and other agencies do their work efficiently. Though this can only control the breeding of dogs. Nextly the stray dogs who are ferocious can be taken by the municipality and other agency to an incubated place where they are sterilised and kept in captivity within some acres of land where they can have a restricted jurisdiction and also people would be safe of their menaces., the last and foremost way to deal with the stray dogs is to dispose off the domestic waste effectively as done by developed countries and also *Swachh Bharat* campaign initiated by our Prime minister, which is an effective way to deal with the problems of stray dogs as they mostly feed on the food littered in the streets and in the event of non-littering and municipal authorities doing their work efficiently of sterilisation of dogs can be an effective way to bring down the population of dogs and effectively deal with problems of stray dogs.

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⁶<http://www.thehindu.com/news/cities/chennai/deaths-due-to-rabies-high-in-india/article7717560.ece>

