

# AM I AUDIBLE? BY INHUMANELY TREATED ANIMAL

Mankind as a race has been accused of many things in the recent past, like depleting the forest cover on the earth, polluting the environment, destroying the habitat of animals, or using the animals for their entertainment. Traditionally, men used to hunt the animals for food but later with development of more tools, men started harassing and killing animals for fun and entertainment.

With the development of society, we have enacted many laws to check this display of power and animals have been granted protection under various international conventions[2], our Constitution[3] and legislations like Indian Penal Code. India was one of the first countries to enact an exhaustive legislation against cruelty to animals in the form of Prevention of Cruelty to Animals Act, 1960 (Act). However, despite more than 50 years of existence of this legislation on the rule book, cruelty to animals hasn't stopped completely and animals continue to suffer.



[1] The article reflects the general work of the authors and the views expressed are personal. No reader should act on any statement contained herein without seeking detailed professional advice.

[2] Universal declaration of animal rights, 1978 UNESCO – ESDAW

[3] Fundamental Duties Article 51 (A) (g)

Under Chapter III section 11 of the Act, definition of cruelty is very wide. Below are few salient aspects of the definition cruelty as per the Act:

- Torturing animals by beating, kicking or causing it unnecessary pain, etc.
- In case any owner of the animal employs any animal, which is unfit for such employment.
- wilfully and unreasonably administering any drug or substance which can be injurious.
- Keeping animal in suffocated cage or keeping it chained for unreasonable time or being the owner abandoning its animal or failing to provide sufficient food, drink or shelter.
- Mutilating or killing any animal.
- solely with a view to providing entertainment— confining, inciting, shooting, harassing any animals.

This definition also includes exception to the cruelty e.g., dehorning of cattle, or the castration or branding or nose-roping of any animal, in the prescribed manner, destruction of stray dogs in the prescribed manner etc.

From ancient times animals were used as an entertainment medium. Earlier circus was one of the best-loved mediums of enjoyment. By performing unnatural and painful tricks, animals in the circus would entertain the audience. Circus was a stress buster for us, but at cost of what? Cruelty to animals? Animals used in circus were severely drugged, ruthlessly trained, electrocuted, chained and/or kept hungry for a particular performance in a circus.



A good move was taken by Ministry of Social Justice and Empowerment by issuing notification dated 14th October 1998 under section 22 of Act, stating that bears, monkeys, tigers, panthers, and lions shall not be exhibited or trained as performing animals (“Notification”). Contents of this Notification were upheld by the Supreme court of India in **N.R. Nair And Ors vs Union Of India And Ors on 1st May 2001 [4]**. Under this case, the Notification was initially challenged by filing a writ petition in the Kerala High Court and by the impugned judgment dated 6th June 2000, the High Court has upheld the validity of the said Notification. However, Notification was challenged again by appellant contending that section 22 of the Act contains no guidelines based on which the Central Government can issue such notification banning exhibition and training of any animal. Supreme Court upheld the decision of Kerala High Court, and by maintaining the validity of the Notification and it held that **“Circus owners are prohibited from either training or exhibiting any of the five animals referred to in the impugned Notification”**.

Even though this decision gave some relief to the animals from pain and distress, it should be noted that circus was not the only medium under which animals were being used.

Animals are also widely used in cinemas, drama, ballets, and cruelty to animals while being used in cinemas, dramas and ballets needs to be checked.




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[4] Appeal (civil) 3609-3620 of 2001.



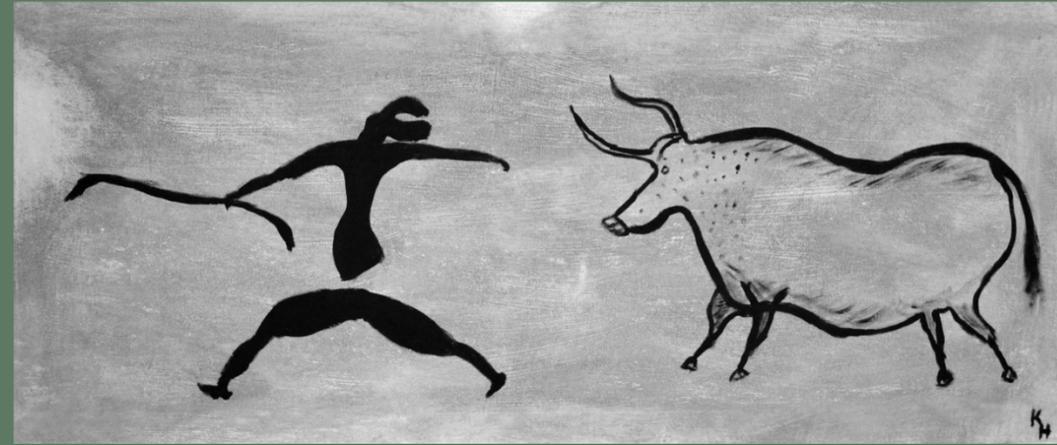
People for the Ethical Treatment of Animals (India) (“PETA India”) has always been active when it comes to action against cruelty to animals. In 2009, PETA India filed case, *People for Ethical Treatment of Animals v. Union of India* [5], under which PETA India has filed the Public Interest Writ Petition against grant of censor certificate to the film "Taj Mahal" under Cinematograph Act, 1952. It was contended that during the shooting of the film, violation of the Act took place. PETA further stated that a movie which wishes to use animals, needs to obtain a no-objection certificate from the Animal Welfare Board of India. In the judgement, Bombay High Court held that any film which wishes to use animals, it is a pre-requisite, that makers of that movie need to obtain a certificate from the Animal Welfare Board of India, which contains various provisions of the Performing Animals Registration Rules, 2001. Animal Welfare Board of India will have the right to scrutinise, how animals are treated during the shooting of the movie and whether makers are adhering to all the rules and regulations of the Act and Performing Animals Registration Rules, 2001 and then the Board may give or reject the certificate to the makers.

This was a landmark case which established that when animals are used in movies, Central Board of Censorship can grant censorship certificate to the makers only if the makers have certificate from the Animal Welfare Board of India.

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[5] Writ Petition (PIL) (Lodging) No. 2490 of 2004

# • Jallikattu



In the context of animal races, Jallikattu case is a talk of the town. Jallikattu is basically a game which is played in Tamil Nadu as a part of Pongal celebration. Bulls are brought in an open ground, participants are required to touch aggressive bull's hump and normalise them.

This can be example of cruelty as bulls are placed in such situation where they are terrified and become aggressive to save their lives. They are often provoked by drugging them, hitting them, keeping them hungry for hours etc. Jallikattu not only painful for animals but also dangerous for the participants.

Cognizance of the same was taken by the government of India, however, Jallikattu tradition never stopped. Even though, in 2006 Jallikattu was banned by the Madras High Court, same was lifted with the Tamil Nadu Regulation of Jallikattu Act, 2009. In 2014, under **Animal Welfare Board of India Vs. A. Nagaraja & Ors.[6]** , Supreme Court banned Jallikattu and struck down the Tamil Nadu Regulation of Jallikattu Act, 2009. However, this ban was once again lifted by the union environment ministry. This process continued for years, many protests took place for Jallikattu and against Jallikattu.

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[6]Civil Appeal No. 5387 of 2014

Recently, a five judge Constitutional bench headed by Justice KM Joseph and comprising Justices Ajay Rastogi, Aniruddha Bose, Hrishikesh Roy and CT Ravi Kumar, conducted hearing, challenging constitutionality of laws permitting Jalikattu, Kambala and bull-cart race in states Tamil Nadu, Karnataka and Maharashtra and reserved the judgement in the case on 8th December 2022. This judgement is awaited.

While we have deterrent laws, the punishments under the Act need to be enhanced. Currently as per the section 11 of the Act, penalties are shockingly low and defined at

**First offence:** ten rupees but which may extend to fifty rupees

**Subsequent offence committed within three years:** 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



The amendments to enhance this penalty are long awaited. A Draft Prevention of Cruelty to Animal (Amendment) Bill, 2022 has been prepared and placed on the website on the Department of Animal Husbandry and Dairying [7] and on Animal Welfare Board of India and the government should take urgent steps to enact the same.

Our judiciary, different NGO's, organisations like PETA and Animal Welfare Board of India have taken favorable steps if any instance of cruelty is brought to their notice. However, as a citizen of India, we also have few responsibilities with respect to protecting animals from cruelty specifically listed under the fundamental duties of the Constitution.

Though animals cannot give their opinion; they are living creatures and they have right to live freely. Human beings for their own fun cannot cause pain to any animals. We can be responsible towards preventing such cruelty at least at our individual levels.

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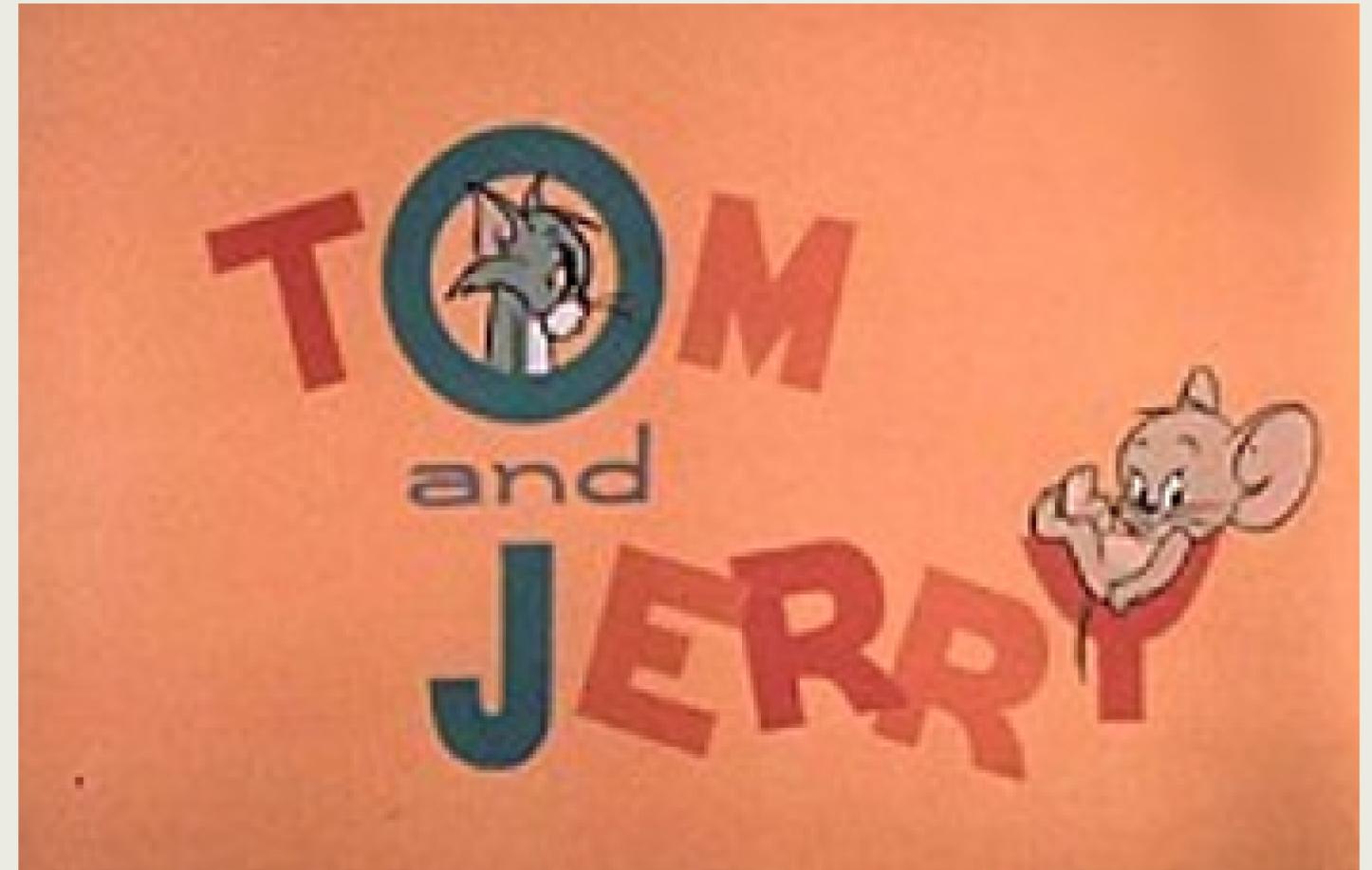
[7] [www.dahd.nic.in/](http://www.dahd.nic.in/)



A change in mindset is necessary, as has been shown by Metro Goldwyn Mayor. We all remember famous cartoon of Tom & Jerry. While chemistry between Tom & Jerry is unforgettable, we also instantly remember roaring lion at start of that cartoon. I remember I never used to miss start of that cartoon as watching the lion roar was one of my favorite things from Tom & Jerry. Until recently I never thought lion being a wild animal, how that shot would have taken by their team. Certain reports on internet claimed that lion was heavily drugged for that scene and was forced to shoot. However, recently a positive move has been made by Metro Goldwyn Mayor by using an animal imagery instead of a real lion for the shoot [8] . PETA has sent a Roaring Ahead in Film Award to the company for its bold decision to replace its logo with an animal-friendly computer-generated imagery version.

We can protect animals by following certain simple ways:

- By not encouraging traditions like Jallikattu,
- By avoiding going to circus where animals are used,
- By discouraging people who are interested in animal races where chance of animal cruelty exists;
- By not using animals for fun rides such as elephant, camel ride etc. and
- By actively complaining any incidents of cruelty to animals[9].



[8] MGM Wins PETA Over With New CGI Lion Logo | PETA

[9] By filing FIR in the police station of respected area where incident took place or contacting nearby NGOs to seek help.



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