

Legalized Captivity; A Study of the Impact of Captivity on Animals and the Responsibility of The State to Ensure Their Wellbeing

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Abstract

This research paper examines the condition of zoo animals in Pakistan and the role of the state in the protection of these animals in captivity. Zoo animals are often subjected to deplorable conditions and negligence by the zoo administration. Most zoos in Pakistan are funds deficit which leads to a lack of proper living spaces and food. The animals are cramped up in small cement cages without adequate water supply and cleanliness, in weather they might not be accustomed to. There is little to no training for zoo keepers. The realization of the sentience of animals is culturally absent which is then reflected in the ill-treatment of animals in zoos. The paper examines the high profile cases of animal cruelty like those of Kaavan and Noor Jehan, the public response to them, and subsequent debate regarding the existence of zoos and the state's failure to legislate for the well-being of these animals. The only piece of legislation that exists is the colonial era "Prevention of Cruelty to Animals Act 1890" and a landmark judgment passed by Islamabad High Court Chief Justice Minallah. The paper also makes recommendations regarding the treatment of exotic animals and the responsibility of the state, legislature, and society.

Keywords: *Animal Rights, Animal Welfare, Animal Abuse, Animal Cruelty, Pakistan Zoo, Zoo Laws, Wildlife Confinement, Zoo Animals.*

Introduction

The majority of Pakistanis will have visited or shall visit a zoo or any other animal captivity facility such as marine parks, theme parks, and aquariums at some point in their lives. Zoos have been an important mode of Sunday family entertainment or school field trips, for more than a century, not just in Pakistan but also globally. The first zoo within the territory of Pakistan was the Lahore Zoo which began as a small aviary donated by Mr. Lala Mela Ram in 1872 to the Lahore Municipal Corporation (Welcome to Lahore Zoo, 2010). The zoo was largely operated through the Zoo Advisory Committee under the Lahore Local Administration yet the absence of a proper legal governing system for the management of the Zoo slowly became a stark issue post-independence of the state leading to the deteriorating condition of the animals caged within these legalized enclosures. In light of such cruelty, as the state of Pakistan stands at its 75th year of existence (“Photos,” 2022), discourse regarding the cruel act of caging animals for the purpose of entertainment and the horrendous abuses those voiceless souls are forced to undergo necessitates a profound discourse, and this research accomplishes the same. Pakistani State has derelict its duty to protect animal life through lack of legislation regarding the welfare of animals in a caged environment and a comparative analysis with the neighboring countries like India will show an even bigger failure to formulate laws to combat mismanagement. India despite having the same legislation as Pakistan at the time of its inception has left Pakistan far behind in legislation regarding the management and administration of zoos. However, even the laws coupled with good intentions have also been unsuccessful in shielding the zoo animals from a terrible fate. The research will also put forth arguments against the caging of animals in such a cruel manner and how other alternatives not only fulfill the same purpose that zoos are expected to fulfill but also provide for the welfare of animals whilst providing them with their required natural habitat. Finally, the research will close on the proper solutions that the government of

Pakistan can take against the current mismanagement of zoos and lead the way in abolishing this colonial-era institutionalized cruelty to animals.

Literature Review

Previous research has shown the adverse physical, emotional and mental effects confined facilities have on animals. Zoologists, environmentalists and animal rights activists have published numerous pieces of literature to support their claims that places like zoos and aquariums are nothing less than torturous prison cells for animals. The published work regarding detailed studies of animal behavior and their health, both mental and physical, helps understand the significance of protective legislation. Both vertebrates and invertebrates are capable of feeling pain and suffering. Intelligent vertebrates like monkeys can even feel boredom in confined spaces which is also a form of misery (Mather, 2001). Animals in captivity are exposed to increased stressors that cause abnormal behavior (Morgan & Tromborg, 2007). Therefore, zoos do not serve the educational purpose as purported because animal behavior is impacted by environmental factors such as noise, which renders the study regarding wildlife behavior unusable. In fact it has been further argued that captive facilities have hunted animals from the wild, separated them from their families and caged them in conditions detrimental to their welfare and average life expectancy (Theresa Barao et al., 2015).

A recently published study has highlighted how negative visitor behavior can have an adverse impact on captive animals as these captive facilities expose animals to more intense interactions with the public as people, seeking entertainment for a better return, undertake negative behavior that places the animal in a stressful environment (Collins et al., 2023). A further literature study was conducted through a thorough examination of the scholarly research “Study of disease records of zoo animals in Lahore zoo, Pakistan” which highlighted how stressful conditions and captivity results in higher levels of stress resulting in health and

behavioral problems and concluded that the conditions have resulted in 17 Deaths annually (Nemat et al., 2015).

Navya Jain and Muskan Jain in “Animal Cruelty and Rights: Review and Recommendations” argue that animals in captivity are deprived of their natural social and environmental interactions (Jain & Jain, n.d.). Jes Hooper in their paper “Thinking with Civets: The Role of Zoos in the Decolonisation of Animal Tourism” makes a cogent argument against zoos by reason of shirking their duty to provide care to the animals and even all the accredited zoos around the globe are not fully meeting their welfare objectives (Hooper, 2023). Jozef Keulartz presents arguments both in favor and against the existence of zoos basing their findings on studies regarding environmental threats to wildlife species and conservation projects zoos can implement while also acknowledging that zoo projects require commercial viability be it in situ or ex-situ (Keulartz, 2015).

Daniela Berti, in her comprehensive study “Animals in the Public Debate: Welfare, Rights, and Conservationism in India” highlighted the legal nature of animals, which not only brings light to the growing debate regarding the legal status of animals but also informs us of how we can go about providing such status to our animals by taking inspiration from our sister states (Berti, 2019). Further study into the legal status of animals was reviewed in the excellent book in the book “Animals as Legal Beings: Contesting Anthropocentric Legal Orders which studied how the laws in various countries have only cemented the divide between humans and animals rather than acting as a bridge between two living groups (Deckha, 2021). The author argued against the legal propertization of animals and highlighted how even in the most advanced legal systems, animal interests are treated as secondary to those of the property owner, making animal suffering actionable only in a narrow set of circumstances. Their arguments against allocation of doctrine of personhood to be exclusionary to the rights of animals and proposed a solution of beingness to recognize the

relationality of animals as opposed to individualism of Human Law thus resulting in a legal system which will reflect on how animals actually live and how they are taken together to truly understand the vulnerabilities of animals which was an inspiration to the recommendations provided within this research however it is also to be understood that in a country like Pakistan, where there is little to no existing ground work regarding the legal status of animals, it is imperative that proper groundwork is established.

Research Methodology

This research employs both doctrinal, comparative and indoctrinal research methodology to understand and delineate animal issues in confinement facilities, current laws and regulations enforced in Pakistan and comparison of those laws with those implemented in India. Ways to improve protective legislation have also been made part of the discussion. Various literature like research papers, newspaper articles, case studies and animal rights laws in other countries have been taken into consideration for the findings of this study.

Evolution of Zoos

The history of zoos could be traced back to ancient Egypt and Mesopotamia as early as 3500 BCE (“Top 10 Discoveries of 2009 - World’s First Zoo - Hierakonpolis, Egypt,” n.d.). The royalty believed that ownership of the exotic animals reflected their power and wealth therefore there were menageries of wild animals captured through special expeditions, as found in the historic records of these cultures (Zoo, n.d.). Excavations at Hierakonpolis which was the capital of ancient Egypt, led to the discovery of a massive collection of animals including hippopotami, wildcats, elephants, and baboons (Top 10 Discoveries of 2009 - World’s First Zoo - Hierakonpolis, Egypt - Archaeology Magazine Archive, n.d.). Throughout history, many different cultures have followed the same trend of capturing wild animals for entertainment and to flaunt affluence. In ancient China around 1600 BC, at the beginning of the Shang dynasty, Emperor Wen of Zhou created a zoological garden that was

accessible to the public (Front Page Story, n.d.). In the 2nd BCE, Empress Tanki built a private conservatory that was named “House of Deers” (“Zoo Animals & Facts,” n.d.). Roman emperors were known to keep a private collection both for zoological studies and fights in the arena (William Edward Hartpole Lecky, 1869). Zoos existed in most Greek cities by the 4th century. Alexander the Great was known to capture wild animals during his conquests and send them back to Greece (“Zoo Animals & Facts,” n.d.). Later on, gifting exotic animals became an integral part of diplomatic customs. In the 8th century, Emperor Charlemagne received exotic animals as gifts from various rulers from Africa and Asia. His imperial collection was magnificent being home to many majestic animals such as elephants that were not seen in Europe since the times of the Roman Empire, as well as lions, camels and bears, and even exotic birds like falcons (James Fisher, 1967). King Henry I of England was also known to own a collection of wild beasts like camels, wildcats, owls, and a porcupine in 12 CE in his palace at Woodstock (Wilfrid Blunt, 1976). Perhaps the most impressive collection among the English emperors was maintained by King John I in the Tower of London in 1204. The collection in the menagerie was later expanded by gifts from various rulers such as three leopards from Fredrick II given to Henry III as a wedding gift, an elephant from France, and a white bear from Norway (Esther Elizabeth Suson, 2015). During the period of Elizabeth I, the tower was opened to the public, and in the 18th century, there was an entrance fee of three-half pence (Wilfrid Blunt, 1976). Modern zoo-keeping is considered to have begun in 1752 at the Schönbrunn Palace in Vienna with the construction of the imperial menagerie by Emperor Francis I which was opened to the general public in 1765. The zoo is still functional to this day (Ash, 2008).

Abuse of Animals in Zoos and Other Captive Facilities

Wild animals in captivity go through an array of horrifying abuse and neglect on a regular basis. Researchers and animal rights activists vehemently argue that putting them in

an enclosed space and taking their freedom away in itself is an act of cruelty. Every aspect of their lives is controlled and restricted (Madison Coleman, 2021). Little attention is paid to the needs of the animals both by the handlers and the ones in administration since they are responsible for major decision-making such as the kind of feed animals will get, the building of enclosures, medical treatment, etc. animal abuse in zoos and aquariums could be of following kinds:

Unnatural Setting

The enclosures in the zoos could vastly differ from the natural habitat of the animals. Most zoos, especially those in Pakistan, house animals in cramped spaces, greatly hindering the mobility of the animal. A polar bear in the wild would have upto 31000 square miles of space (Mark Derr, 2010). Lion territories are around 15 square miles to 400 (Abigail Tucker, 2010). The brown bear territories can range from up to 70 to 400 square miles (Brown Bear - Ursus Arctos - NatureWorks, n.d.). Deer may have an average home range of about 1 square mile (Bob Humphrey, 2019). Orcas can swim up to 140 miles a day (Astounding Facts About Killer Whales You Would Love To Know - WorldAtlas, n.d.) and dive about 1000 feet deep (Here's How Tiny the Orca Tanks at SeaWorld Really Are, n.d.) whereas in captivity the average size of an orca tank is merely 24 feet (Colleen Weiler, 2013).

The floors are often made of cement for ease of cleaning but for the captives, those can become unbearably hot, with little to no water supply for relief. Whatever water supply is provided is mostly unclean. This is even more painful for animals used to vegetation. There is also noise pollution that animals have to endure like blasting music, shouting from visitors, stressed-out screams from other animals at the facility, and construction and traffic noise.

Mental Health Ailments

Similar to humans, animals kept in depravity can exhibit a range of mental health ailments. Changes in living conditions, lack of mental stimulation, isolation, and abuse can leave them anxious, stressed, or depressed. To cope they can adopt abnormal or stereotypical behaviors. Stereotypical behaviors are a pattern of repetitive or meaningless habits such as swaying or bobbing of the head, chewing or licking the bars or walls of the cage, biting air, self-mutilation, feather pecking, over-grooming, rocking, repeated vomiting, eating vomit, coprophilia (Stereotypic Behavior, n.d.) or constant pacing around the enclosure. This condition is called Zoochosis (Mental Health of the Animals, n.d.). In 2020 a video of a black bear violently swaying his head in Peshawar Zoo made rounds on the internet enraging animal lovers across the country (Peshawar Zoo Bear | To Entertain Residents of Khyber Pakhtunkhwa, Wildlife Officials Have Caged a Bear in a Small Barren Enclosure, Exploiting the Animal by Taking Away Its... | By Pakistan Animal Welfare Society (PAWS) | Facebook, 2020). In the same year, another black bear kept at Bahria Orchard Zoo was reported to have been suffering the same ("Photos," 2022). The Asian elephant Kaavan at the Islamabad Zoo, whose case received global media attention for his tragic life, was seen swaying his head (M Ilyas Khan, 2020).

Animals might even become aggressive toward their cell mates and even towards their handlers or visitors. In 2019 London Zoo during an attempted breeding of the male Sumatran tiger fatally attacked the female despite zoo keepers taking all necessary steps to introduce them (Michael Brice-Saddler, 2019). The same happened with a male tiger who was killed by his mate at El Paso Zoo in Texas (Juan Carlos Llorca, 2011).

Some animals have also been witnessed banging their heads against the walls. An orca was recorded banging her head against the walls of her glass tank at Marineland in Niagara Falls by anti-captivity activists (Charlotte Mitchell, 2021).

Calf rejection and infanticide are also quite high among animals kept in captivity compared to those in the wild (Get Off Your High Horse, 2020).

Physical Ailments

Conditions in confinement can cause numerous diseases and physical conditions in caged animals due to inflammation in the body caused by stress, which weakens their immune system that can be exacerbated by a lack of nutritious diet and improper medical aid (Marsh, 2022). Abnormalities in the skulls of lions in captivity in Europe, South Africa, the USA, Australia, and Asia have been reported by a study (Fischer & Romero, 2019). There can also be dangerous weight loss. Animals can also suffer other issues like ingrown or broken toenails, anorexia, bulimia, weakness, foot sores, joint disorders, and eye, ear, or tooth infections. Since the animals are in close proximity to each other or exposed to humans, there is an increased risk of catching zoonotic diseases from diseased animals. In 2021, 18 out of 20 gorillas were tested positive for Covid which the zoo officials reasoned was because the gorillas lived together in troops (Ron Haris, 2021). In 2020 a tiger at Bronx Zoo in New York was infected with covid caught by the zoo caretaker (Jeanna Bryner, 2020).

Shorter Lives

The death rate of animals in captivity is worryingly high. Stressful and unnatural conditions curtail their life spans. According to the 2002 North American Studbook out of 126 captive-born lions, 41.5% died before the age of two years (African Lion (Panthera Leo) North American Regional Studbook., 2002). The National Oceanic and Atmosphere Administration (NOAA) reports that orcas can live up to 100 years but in captivity, not even one has been recorded to reach its maximum life expectancy (Premature Deaths – Inherently Wild, n.d.). Elephant life spans generally range from 60-70 years but Saheli (Maha Mussadaq, 2012) who was kept at the Islamabad Zoo died at age 22 and Noor Jehan who lived at the Karachi Zoo died at a young age of 17 (Zubair Qureshi, 2023). More than 30

animals died in Peshawar Zoo in the first three months of its inception (Ali Akbar, 2018) and more in the subsequent years (More Deaths at Peshawar Zoo in Feb 2022 – Animal Rights In Pakistan, 2022).

Abuse By Caretakers And Visitors

According to the World Association of Zoos and Aquariums, 75% of the animals held in captivity have been abused (Jones, 2021). Most zoos lack the funds to train the caretakers resulting in animals being abused, manhandled, or neglected.

In an attempt to transfer a pair of lions to Lahore from Marghazar Zoo in Islamabad, the cage was set on fire ludicrously by the untrained zoo keepers. This caused the lions to die of suffocation and burns (Three Booked for Torturing Lions at Islamabad Zoo, 2020).

Animals that are used as photo ops or with whom visitors are allowed to interact have their teeth and claws removed. Zoo authorities routinely drug the animals with antipsychotics, tranquilizers, and antidepressants to keep them docile and calm for the entertainment shows or signs of zoochosis (Alexander Laybourne, 2020). In the 1970s a gorilla at Zoo Atlanta was given Thorazine mixed with soda for almost six months, to keep him calm in his new small cage when he damaged the glass of his original enclosure and it had to be replaced with metal bars. A polar bear named Gus at the Central Park Zoo was given Prozac to stop him from compulsive swimming (Laurel Braitman, 2014). Zebras at Toledo Zoo have been put on the antipsychotic haloperidol (Emma Marris, 2021). The gorillas in Franklin Park, Boston were kept on a variety of drugs for displays of aggression or anxiety (Laurel Braitman, 2014).

Inhumane practices are used to “train” them to be around visitors or perform for them. The animals are taken away from their mothers as infants, beaten, tortured, chained, and exposed to stressful situations to break their spirits and make them more submissive and yielding towards their handlers and visitors. Once the animal becomes complaisant and the

dominance of its human handler is firmly established, it can be used for visitor interaction or shows. In 2019 an emaciated baby elephant was videoed at Phuket Zoo, Thailand (Phoebe Weston, 2019), performing rigorous tricks three times a day. The unfortunate elephant died a month after the rights activist made a petition to save him when his legs snapped while attempting to perform a difficult stunt (Baby Elephant, Dumbo, Dies after Snapping Legs during Tourist Performance at Thailand Zoo - NZ Herald, 2019).

Zoo animals receive cruel abuse from visitors as well. There have been reported incidents of visitors pelting stones and bricks, prodding with sticks, throwing bottles or garbage inside the enclosures, or feeding harmful objects like plastic, poison, rotten food, razors, etc for their sick pleasure or twisted religious beliefs. Amir Aziz, a zookeeper at Karachi Zoo relayed the same regarding visitors being uncouth and hooligans (“A Special Bond,” 2018). In 2017 a giraffe at Lahore Zoo died after ingesting a plastic bag thrown at it by a visitor (“Last Giraffe at Lahore Zoo Dies of Heart Attack,” 2015).

Zoos Within Pakistan

Pakistan is home to 14 zoos, 7 aviaries and 3 aquaria and while each facility boasts the highest of standards, the reality is far darker as most zoos in Pakistan suffer from below-par facilities, sick animals, no proper crowd control which results in negative visitor behavior and improper staff which only exasperates the deplorable condition of zoos. While this research study focuses on the cruelty inflicted on captive animals, it is important for the reader to understand the condition of zoos within Pakistan.

Lahore Zoo

As mentioned, Lahore Zoo is one of the oldest captive facilities in Pakistan and its condition is also deplorable. Untrained staff and negative visitor behavior have created a fatalistic environment for animals which has resulted in gruesome deaths of animals. The

poor conditions at Lahore Zoo have repeatedly remained in the headlines and these were made once again when in January 2023, the Zoo was forced to shift six each urial and deer and two pairs of lions to other zoos, and two cheetal deer females to Jallo Park due to lack of facilities and the growing humid weather (“Poor Conditions at Lahore Zoo Force Relocation of Animals,” 2023). The lack of proper staff and the inability of the Zoo management to properly care for the captive animals has resulted in increased calls for the shutting down of the zoo and relocating all animals to wildlife reservations and sanctuaries. Research conducted between 2009-2013 determined that within the past five years, 390 animals have suffered from a number of diseases at Lahore Zoo which resulted in 63 deaths (Nemat et al., 2015).

Karachi Zoo

Karachi Zoo was built and started in 1899 and is the largest zoo in Pakistan whilst being the second oldest zoo in Pakistan (Karachi - Recreation and Sports., n.d.). While these accolades are impressive, the conditions at Karachi Zoo are not. The zoo has long suffered from below-standard facilities and neglect of captive animals resulting in growing calls to shut down Karachi Zoo and the issue only became worse with the case of the elephant Noor Jehan. The outcry and the deplorable conditions have forced Sindh Government to close down the zoo and shift the animals to a safer sanctuary (“Govt Orders to Shut down Karachi Zoo Permanently,” 2023). The issues with the Karachi Zoo have reached such heights that international wildlife organizations such as Born Free Foundation not only condemned the deplorable conditions at Karachi Zoo but also suggested the closure of said zoo (Karachi Zoo Concerns Continue, 2023). The death of animals in captivity and the negligence of zoo management have become common news over the past two decades.

Peshawar Zoo

Peshawar Zoo is a recent addition to the list of zoos within Pakistan as its construction formally began on 3rd February 2016 and was officially opened on 12th February 2018 (Ali Akbar, 2016). Unfortunately, this election promise became a nightmare for the animals present at the facility as this recent addition quickly became controversial due to the mismanagement of captive animals and the negligence of the management at the zoo. This zoo is an interesting case study for this research as it highlights how even recently constructed facilities face negligence due to a lack of proper rules and regulations concerning zoos. By 2020 a number of individuals filed petitions in the Peshawar High Court against zoo management and documents have revealed that nearly 9 animals had died due to a lack of basic facilities in 2020 and over 34 animals between a period of 2018-2020 (Jawad Yousafzai, 2020). It is clear that even new facilities only exasperate the plight of captive animals.

Bahawalpur Zoo

Bahawalpur Zoo was set up in 1942 by the former Amir of Bahawalpur Sir Nawab Sadiq Muhammad Khan Abbasi and is the fourth biggest zoo facility in Pakistan (Bahawalpur Zoological Garden, 2010). The conditions of the Zoo are extremely deplorable with animals suffering greatly under the mismanagement of zoo officials and lack of water becoming a major issue, especially in the burning heat of Bahawalpur (Kashif Zafar, 2013). The mismanagement at the facilities has caused the death of captive animals and many wildlife organizations have raised serious concerns regarding the condition of animals and have called to shut down the facility itself (“Seven Deer Die at Bahawalpur Zoo after Eating ‘Adulterated Fodder,’” 2020).

The purpose of mentioning and analyzing these zoos is to highlight the deplorable condition of zoos all across Pakistan and how these conditions are not an anomaly of a single

zoo but the norm across the country which is why it is imperative that the state needs to reconsider their support for zoos and focus on reservations and sanctuaries.

Laws and Regulation

Pakistan is home to over 14 zoos (Mehr Jan, 2020) yet if the legal code of Pakistan is perused one not so shockingly discovers the absence of legislation regarding zoos or other captive facilities. The legislators within Pakistan have largely neglected the issues regarding Animal Rights which not only allowed for the deterioration of enclosure facilities but also repeatedly created incidents and mishaps that resulted in a loss of exotic and endangered species (Mehr Jan, 2020). The only legislation that looks to be applicable to these enclosures is the colonial era “Prevention of Cruelty to Animals Act 1890” which provides a foundation for animal protection. It was last amended in 1937 (Mehwish Naveed, 2021). Since the formation of Pakistan, the said act has not been amended nor has there been any subsequent legislation to cater to current animal abuse. The absence of such legal codification has aggravated the condition of zoos as a lack of structure and procedure has created a void that not only allows for animal cruelty to become a norm but also creates a vile space for the illegal trading of animals for personal, social, and political gains (Dr. Mehreen Mujtaba, 2020).

With the lack of proper Standard Operating Procedures, legislation, and any national zoo policy to guide the objective of these institutions, zoos have become torture cells being passed off as entertainment for families. The local management of zoos, in an attempt to maximize profit, neither implemented nor created any form of rules to save the animals from distressing situations, abuse, and neglect. The lack of regulation and penalties have paved the way for cruel treatment of the animals both at the hands of zoo administrators and visitors. The neglectful attitude of zoo officials as well as the lack of proper state checks led to despicable and revolting cases of abuse such as that of Kavaan, Saheeli, and Suzi which were

few that were fortunate enough to garner media attention among many untold tales of animals who found themselves in atrocious circumstances.

Despite International outrage, the parliament of Pakistan has done little to address the situation and zoos to date remain highly unregulated, which is in shocking contrast to not just the Western world but also to our neighboring country, India. The cruel acts and international outrage grew to such lengths that Pakistan Courts had to come into action as the Islamabad High Court, under the now Supreme Court judge, Justice Athar Minallah, oversaw the case (*Islamabad Wildlife Management Board v Metropolitan Corporation Islamabad, 2020*) regarding the condition of Kavaan the elephant as well as two brown bears within the Islamabad Zoo. The Justice passed a landmark judgment, wherein the Court declared that in the eye of the Creator, Life is most precious and it is a fundamental principle and went as far as to ask forgiveness of the caged animals and wished them a safe journey. It was a breath of fresh air in a country where zoos have morphed into a place of abuse of captured animals.

Legislation in India

India, like Pakistan, is also home to several zoos. While the legislation regarding the functioning of zoos within India was also slow-paced, the state eventually recognized its massive bio-diversity and the requirement to legislate for the protection of that animal diversity. The founding fathers of India sagaciously entrenched the concept of the diverse natural landscape of India as part of the overall Indian identity and this was achieved not only through parliamentary legislation but also through historic precedents set forth by the Indian Supreme Court.

The first such instance was the passing of a new “Prevention to Cruelty to Animals Act 1960” which gave a clear definition of acts of cruelty to animals. It also gave an Animal Welfare Board with significant powers that could make a difference in the lives of suffering

animals. These defined acts paved the way for the formulation of the thought that animals have rights as well and ingrained the idea of animal sentience in Indian society.

In 1976, India passed the 42nd Amendment in 1976 (Mudit Goswami, n.d.) which amended the Constitutional duties to the state of India and within these amended Directive Principles of State Policy was enshrined Article 48A wherein It was envisioned that it is the duty of the state to protect and improve the forests and wildlife of the country (Constitution of India, 1950, 1950). Another important amendment Article 51A(g) was also added which made it the duty of all citizens of India to protect and improve the environment including those animals (Constitution of India, 1950, 1950). These Articles laid the foundation for what was to come as only 19 years after the passage of the “Indian Wildlife Protection Act 1972” the Indian Legislature enacted the “Wildlife Amendment Act 1991” to include zoos and their functioning within the act itself (The Indian Wildlife Protection Act 1972, 1972).

The parliament recognized that the maintenance of Zoos requires modernization of these enclosures and for such modernization, there needed to be a central authority whose purpose was the maintenance and upkeep of these institutions as well as a streamlined process for the recognition of these enclosures as Zoos. Chapter IVA deals with the central zoo authority and the procedure for the recognition of Zoos. This central authority struck a massive change within the zoo structure of India as it was empowered to not only specify the standards of the enclosures but also possessed the power to check the condition of zoos all over India in terms of granting and removing recognition in light of the standard of the zoo.

Another major step by the government of India was formulating the National Zoo Policy 1998 which emphasized the role of zoos as Ex-Situ Conservation (Samuel M. Scheiner, 2013) and created an objective for a Zoo which was vastly different from mere entertainment. Currently, there are 198 recognized zoos within India (Zoos in India, n.d.).

Furthermore, the Supreme Court of India has passed a number of judgments, the most notable being the landmark case of Animal Welfare Board of India v. A. Nagaraja (Animal Welfare Board of India vs A. Nagaraja and Others, 2014) wherein the Indian Supreme Court took a strong and compassionate approach towards animals and expanded the meaning of the Right to Life and Right to Dignity to include Animal Life as well and with that also recognized that the Parliament needed to pass further legislation to expand the concept of Fundamental Rights to include animals as well.

While this chapter has taken a cursory view regarding the codification of Animal Rights and Zoo Legislation, it cannot ignore the fact that despite these commendable steps, there are horrid incidents within Zoos all over India such as the shocking incident regarding the beating of elephants in Mysore in 2005 (“Elephants Illtreated In Mysore Zoo Says Animal Welfare Group,” n.d.) or the rampant increase of animal death tolls in National Zoological Park, Delhi, that recorded 245 animal deaths in 14 months (Shivam Patel, 2019) and these incidents only strengthen the argument that zoos cannot be abode to wildlife despite legislation and good intentions.

Discussion

In the face of great outrage, there is an increasing movement in Pakistan to convert all zoos into wildlife reserve parks, and post the aforementioned judgment by Justice Athar Minhalla, the Islamabad Wildlife Management Board under the administrative control of the Ministry of Climate Change has proposed converting the Marghazar Zoo into wildlife conservation. Currently, Rs. 500 Million have been allocated for the conversion of the abandoned Marghazar Zoo into a wildlife conservation information Centre (“Rs500m Allocated for Setting up Wildlife Conservation Centre,” 2023). Several proposals are being tabled to convert all zoos into wildlife reserve parks whose objective should be the conservation and rehabilitation of wildlife animals instead of the sadistic entertainment of

humans. Talks in .3regard to this matter are scheduled to be held with the provinces as maintenance of the zoo falls within the scope of provincial powers.

While it is argued that zoos also offer a place for the conservation and rehabilitation of endangered species as they safeguard the animals from threats of habitat loss, predators, and starvation as well as the eyes of the poachers. The case perusal and arguments made in this paper lead countenance to the idea that zoos are not the educational or conservational facilities they claim to be in modern times but the exact opposite. Wildlife reservations and sanctuaries not only fulfill the same purpose but also offer a controlled wild environment wherein the animals can live in their natural habitat without any fear of external or environmental dangers provided these facilities are properly maintained and regulated. Another important aspect to understand is that previously it was considered that zoos were the only medium that allowed exposure of humans to wildlife yet in the modern age, the very natural habitats of all wildlife are at the tip of our fingers and individuals do not need to see caged animals miserable and away from their natural homes, to bond with them. Modern-day Wildlife Reservations offer a vastly superior experience as an individual is not only able to connect with the animals but also observe their behavior within their natural habitat. Zoos converted into sanctuaries such as those in South Africa, can not only help the population of endangered species but also provide the much-needed interaction between humans and animals.

Conclusion

In light of the discourse regarding cruelty inflicted upon animal confinement facilities, especially zoos, the need of the hour is for Pakistan to take immediate steps for shutting down zoos across the entire country and convert them into natural reservations for the animals. The state of Pakistan has been a silent spectator of the tragic abuse of animals for the past 75 years and has been disastrously unsuccessful in taking any concrete steps to conserve its

wildlife. In a way, the state of Pakistan itself has partaken a role in the abuse of animals in confinement by not legislating any protective laws. In this research, we have not only cast light on the shortcomings of zoo management but have also proven that the issue is not contained to a single institution but is vast and across the board and these issues are of such a serious nature that mere cosmetic changes can offer no solution. In light of this, the research has highlighted these shortcomings and recommended ways to create a basic groundwork that could not only provide a strong base for future legislation and precedents but also create a fertile ground for the creation of a scholarly discourse concerning the most proper legal doctrine to cover animal rights. There is no doubt that the road ahead is long and the damage already done is severe. Every wrong, no matter the length of time it has been allowed to continue, must eventually be righted. It is time that Pakistan corrects this historic wrong by legislating the conversion of all zoo facilities to wildlife sanctuaries under the control of diligent and caring professionals whose aim is the protection of wildlife, while also ordaining strict punishments for those who inflict any cruelty or demonstrate negligent behavior towards the animals.

Recommendations

The first step that Pakistan needs to take is to recognize the sentience of the animals and then legislate for the proper regulation of sanctuaries and reserves, not only convert the zoos into these rehabilitation facilities and consider their responsibility fulfilled.

While the aforementioned judgments are a positive start, we cannot ignore the fact that laws are truly made in parliament which is why it is recommended that the National Assembly pass two pieces of legislation initially. These two pieces of legislation can take inspiration from Indian Legal History to ease the formation process. The first legislation should be an amendment to the Constitution of Pakistan 1973 within Chapter 1 concerning

Fundamental Rights for the inclusion of Rights of Animals and these rights must be recognized as the following.

- The Right to Life
- The Right to Peaceful Coexistence with Humans
- The Right to Freedom

This addition will have a positive impact towards the protection and conservation of wildlife within Pakistan. Recognition of the “Right to Life” will not only act as a deterrent against cruelty but will also ensure that cruelty to animals is now a constitutional offence against which action could be taken by authorities and courts of law. The “Right to peaceful coexistence with humans” will recognize that animals are a part of our natural habitat and we must work with them and not against them to exist. This will ensure that unauthorized hunting, poaching and general cruelty are no longer subjected to the animal kingdom and will act as the first step towards the phasing out of zoos since it is impossible to have peaceful coexistence when one classification is jailed and kept in a horrid manner for the entertainment of another classification.

The “Right of Freedom” promises to not only allow captive animals to return to their natural habitats but will also promise that eventually all zoos within Pakistan will be converted to natural reserves, bringing an end to this brutal captivity which has brought untold suffering to animals.

These Constitutional Amendments will not only protect animals in captivity but also offer legal rights to wildlife and pets as abuse against animals will become a Constitutional violation thus through the implementation of this recommendation, the parliament will be able to impact beyond captive animals. This amendment will bring forth two questions upon which parliamentary debate will be centred around. Since Fundamental Rights are subject to Writ Jurisdiction, could an individual submit a writ petition for the protection of animals?

The second question would be, whether this recognition of rights will impact trophy hunting which has acted as an animal preservation device against endangered species like Markhors? (Ehtesham Khan, 2021) (Zofeen Ebrahim, 2019).

The answer to the first query is yes and that is where we will truly witness a change. A huge issue in the lack of procedural and penal legislation regarding animals within Pakistan is that there is no due process. Provision of writ jurisdiction will ensure that immediate relief is granted to an abused animal, especially those in captivity and the abuser, whether it is an individual or an organization that can be deterred since immediate action can be taken against any abuse. It will also force authorities to take such cases seriously as said authorities will know that if they do not take action then Higher Courts will get involved. As for the second query, it would be recommended that the amendment not contain an exception clause but an explanation clause stating that as long as said hunting is regulated and ecologically viable, it will not be considered a detriment to the Rights of Animals. The reason for it to be an explanation clause, rather than an exception clause is for two reasons. Exception clauses can lead to legal loopholes wherein individuals and organizations like zoos can take refuge whereas an explanation will simply explain the context of the law rather than creating legal exceptions which could be abused.

The Amendment must also contain the addition of a new Chapter concerning Fundamental Duties. It is imperative that the citizens of Pakistan understand that they exist in a diverse country and are codependent to this biodiversity and it is their duty to recognize and protect the life and freedom of animals. This portion of the Amendment can take inspiration from the Indian Constitution which will not only increase the Constitutional relationship between the subject and the Constitution but will also help the people of Pakistan recognize their duties as citizens of Pakistan.

The second piece of legislation is to formulate a Legal Parliamentary Act regarding the management of zoos. It is impossible to shut down all zoos within the country tomorrow thus we must regulate the zoos until they are morphed into reserves and sanctuaries. This change must be recognized within the preamble of the act wherein it is stated that this act is to regulate the current nature of zoos till all such captive institutions become reserves and sanctuaries. The Act must be divided into two legislations which shall be the Parent Act and the Subsidiary Zoo Rules. This Act must contain clauses concerning the following

- Define a Zoo as a captive facility different from a sanctuary or a reservation and highlight that the definition of Zoo also includes Aviaries and Aquaria.
- Formation of a Zoo Registration Department to register current zoos in Pakistan, both private and state-run.
- A clear process for registration of zoos which shall include inspection of facilities and competency of the zoo staff by a team of competent individuals who shall have expertise in animal care and containment facilities. The inspection team shall also include expert veterinarians who shall determine the condition of each animal within the said zoo.
- The inspection team must draft a detailed report which shall be presented to the board of expert individuals whose expertise is within the field. The board must also contain member representatives from local and international Wildlife organizations which work for the preservation of animals and wildlife. Each individual should be satisfied with their registration and record their reasons for satisfaction and dissatisfaction with the report and the report must be made public.
- A system for review if registration is denied.
- The facility must be inspected by the inspection team even after registration under the guise of surprise inspections and the facility cannot deny the same and if so then the

inspection team can register an offence against the facility. Punishment for denial of inspection should be severe resulting in a fine and imprisonment.

- If the facility is not found up to standard then no more than 30 days should be allotted for rectification and a fine for not keeping standards. If the facility is still found wanting then the inspection team must register the cancellation of the license. The period of review for the facility against cancellation of license should be no more than 15 days and the hearing is to be placed in front of the board where the doctrine “Presumption of Guilt” must be followed.
- If the license is cancelled and the hearing declares the same valid, then the facility should be closed immediately and the department, through the aid of state institutions, shall be obligated to provide all aid immediately and transfer the captive animals to reserves and sanctuaries.

With the above parent Act, the subsidiary rules shall relate to the process of inspection, board meetings, board hearings, petition placement and forms that shall be used within the department. This will not only help regulate zoos until their eventual change into sanctuaries but will also result in new jobs as well as increase the scope of wildlife and animal education within Pakistan as coming generations will look into wildlife protection as a career rather than a hobby of the select few.

Furthermore, the state of Pakistan must bring forth a policy to slowly convert all zoos into reserves and sanctuaries. The policy must contain the determination of the budget of such an endeavor. Animals in the reserve need to have space close to the species' home range closely aping their natural habitat eg. Lions prefer grasslands or woodlands and most monkeys live in forest areas surrounded by trees or savannahs. There is no doubt that this is very important and many zoologists such as Dr. Jake Veasey (*Can a Zoo Visitor-Animal Interaction Ever Be Good for Animal Welfare? | Wild Welfare, n.d.*) and climate activists

such as Gayle Taylor (Uma N, 2021) have brought forth ideals that zoos need to be constructed as sanctuaries closely imitating the natural habitats so that the animals do not endure suffering. Each sanctuary or reserve must have its own team of expert veterinarians on call. The animals are dependent on their handlers for their survival and well-being. Management should be ordained to train the keepers in wildlife psychology and treatment. This will enable the keepers to better comprehend the needs of the animals and be well equipped to respond to various situations including the ones that pose danger to the animal, other animals, or the keepers themselves. Beating, whipping, declawing, or using animals to display circus-like tricks for visitors needs to be prohibited. Animals need to be allowed to move freely to get mental and physical stimulation without being chained or tethered. Visitors should be closely watched by zoo management to ensure they do not indulge in acts that could be traumatizing or frightening for the animals. Any such individual should be promptly ejected from the facility and penalized depending on their transgression.

These recommendations are meant to solely provide a solid groundwork upon which further steps can be taken to provide a better life for captive animals.

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