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World Animal Day – October 4 : Enact Animal Welfare Bill without further delay

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By Janaka Perera

Colombo, 03 October, (Asiantribune.com): It was Mahatma Gandhi who said that a nation's greatness and moral progress can be judged by the way it treats its animals.

Seven countries in the world have no legislation to protect animals from cruelty. They include Somalia, Sudan, Iraq and Iran. Sri Lanka has an antiquated piece of legislation that is 100 years old i.e. The Prevention of Cruelty to Animals Ordinance, No. 13 of 1907. The maximum punishment is a mere Rs. 100 fine. This is hardly a deterrent punishment in today's context.

In having such ineffective legislation as the governing statute Sri Lanka virtually falls into the category of countries with no real legislation on preventing cruelty towards animals.

This is a sad reflection on a country that can still boast of having founded the world's first wild life sanctuaries by pre-colonial Buddhist Kings.

Given the obsolescence of our current legislation on Animal welfare, we stand to fail Mahatma Gandhi's Test in determining the greatness of a nation and its moral progress.

A new draft bill on establishing a National Animal Welfare Authority in Sri Lanka is in the pipeline. The bill, which the Law Commission handed over to President Mahinda Rajapaksa last year, - introduces revolutionary legislation to replace the 100-year-old archaic law enacted during the British colonial period to prevent cruelty to animals.

Although the new bill does not call for a ban on slaughter of animals for food, the architects of the proposed legislation nevertheless expect stiff opposition

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Yes

No

Not decided

Daw Aung San Suu Kyi



Free immediately Daw Aung San Suu Kyi & other 1400 Burmese political prisoners .

As of today Aung San Suu Kyi has been detained for a total of:

12 years and 32 days

Aung San Suu Kyi is now serving her third term of house arrest. She was arrested on 30 May, 2003 after the regime's militia attacked her convoy and killed up to 100 of her supporters.

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by vested interests. They do not even rule out the possibility of attempts being made to postpone or delay the presentation of the Bill in Parliament.

This they say is a reflection of the low priority extended to animals in Sri Lanka's political agenda. The archaic character of the existing laws led a number of animal welfare organizations such as the Kandy Humanitarian Society, Vegan Sri Lanka, Gulgava Mithuro (Friends of Cart Bulls), Sathva Mithra (Friends of Animals) and the Sri Lanka Vegetarian Association to plead for a more effective legal framework to protect animals.

The primary objectives of the draft legislation are:

- (a) The establishment of a separate National Animal Welfare Authority
- (b) Redefining the term 'animal' to include all animals, including strays
- (c) Inclusion of a 'Duty of Care,' which places a legal obligation on persons in charge of animals to see to the welfare of animals in their care
- (d) The appointment of animal welfare inspectors empowering them to take relevant action when necessary
- (e) Increase the maximum penalty for cruelty to animals to Rupees fifty thousand maximum fine or three years in prison or both such fine and imprisonment
- (f) To introduce a statute to regulate the use of animals for scientific research
- (g) The right of any adult person (apart from the animal's owner) to intervene in court proceedings in the best interest of the animal, since under the present laws animals are treated as inanimate objects and
- (h) Banning home slaughter and permitting it only under supervised conditions in duly licensed slaughter houses.

The Authority will have Animal Welfare Inspectors working under it to enforce the law. Anyone can lodge a complaint even against a neighbour if he or she cruelly treats an animal. The NAWA will function in a way similar to the Royal Society for the Prevention of Cruelty to Animals (RSPCA) of the United Kingdom and the Animal Welfare Board of India.

The existing legislation does not (1) ensure 'humane' practices of slaughter adopted in modern societies (2) regulate using animals for research and experiments and (3) regulate the transport of animals and the exhibition and training of performing animals.

Under the current Sri Lankan law the maximum fine for cruelty to animals is a mere Rs.100 , which was the same quantum that was imposed as a fine in 1907. Although the prevailing law includes jail terms for such offenders, it is never enforced.

Addressing a meeting held last year on the draft Animal Welfare Act, former DIG (Crimes). H.M.G.B. Kotakadeniya said that even a fine of Rs.100, 000 has

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little effect on those who make huge profits from animal slaughter. Stressing the need for jail terms, he attributed the total disregard for the law by those cruelly treating animals to the inherent weakness of magistrates.

Although the prevailing law stipulates jail sentences for offenders, it has seldom or never been enforced, despite the judges being fully aware that a fine of Rs.100 was no punishment. He emphasized that judges had to be briefed on this.

One of the inherent jurisprudential difficulties in achieving justice for animals through legal proceedings, according to Senaka Weeraratna, Attorney –at – Law, is that the animal is treated as a 'chattel' or 'private property' rather than as a `person' in the eyes of the law. Consequently, third parties endeavouring to assist animals as their 'next friends', are denied locus standing in court to enforce animal rights. The party which has standing is the owner of the 'property' (i.e. the animal) and in most instances it is the very owner who is the cause of animal cruelty against whom a complaint is made.

Animal Rights activists have questioned the attitude of the law, which has developed in other contexts legal fictions to enable inanimate or non-living entities such as companies to be treated as a 'person' in a court of law. But the same law has not used the legal fact of visible and fully alive animals to be used to grant recognition to animals as 'persons' in legal proceedings.

Weeraratna expresses regret that Sri Lanka's law societies including the Bar Association of Sri Lanka have so far hardly evinced any real interest in animal welfare issues whereas Bar Associations in the USA, England and Australia are now taking an increasing interest in promoting animal rights.

India's leading animal rights campaigner Maneka Gandhi welcomes the European Commission's proposal for creating a special "animal welfare" label for meat and fish products so that it would put more responsibilities on companies to ensure that they are getting their supplies from approved sources.

In an article published in the Law Commission of Sri Lanka Commemorative Law Journal (2003) Weeraratna observes: "Sri Lanka has a proud heritage on animal welfare. It is a historical record that would attract the envy of the rest of the world, given the march of the animal rights movement today in many parts of the globe. We must reconnect ourselves to this heritage."

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