

VETTING THE  
ANIMAL WELFARE  
LEGISLATION

# INTRODUCTION

- Culture of Ahimsa
- Constitution - Compassion to all living creatures
- Basel conference on "Animal Research at Crossroads"
- Synthesis

# PRINCIPLES FOR TESTING LEGISLATION

- Judicial scrutiny
- Constitutional?
- Fundamental rights
- Rational and purposive
- Unfettered discretion
- Unjustified delegation

# MISCHIEF RULE

- What is the existing law?
- What is the mischief that is sought to be remedied?
- How far is the proposed remedy appropriate or effective?

# LEGISLATIVE HISTORY

- THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1890.
  - Did not deal with animals used in experimentation.
- THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1960.
  - Rukmini Devi was the author of legislation
  - Chapter IV of this Act specifically provided for regulation of experimentation on animals.
- Consultative Group on Animal Research
- Draft of new Animal Welfare Bill

# OBJECTIVE OF REVISION

- Positive, welfare and wellbeing approach
- Greater control over legitimate human behaviour
- Everything is permitted unless banned
- Everything is banned unless permitted
- Stood the tests of time and wiser to just amend
- "Policy appropriate to the situation" is a matter of debate in Parliament
- The legal principles for drafting the bill

# DRAFT PROVISIONS

- Evidence based policy decisions
- Not opinion based response
- Guidelines for outcome
- Notes on clauses

# POINTS FOR DEBATE

- Definition of Animal
- "Animal" = "any domestic or captured animal"
- Section 47 IPC = "Any living creature other than a human being."
- More scientific definition required?
- The constitution of central regulatory body
- The welfare of animals
- Punitive measures for enforcing the Act.

# REGULATORY BODY

- Central advisory / regulatory body.
- Representatives of all stakeholders
- Regulatory functions well defined
- Amenable to misuse or delegation?

# WELFARE OF ANIMALS

- Research = invasion of their body
- Established protocols = surgery
- Any breach of such protocols:  
    effective in house correction

# OFFENCES

1. No evidence of fall in standards
  2. Better option - "eplitude"
  3. mens rea / strict liability
- Similar provisions abroad
  - Cf Section 323 IPC provides only for imprisonment of 1 year for voluntarily causing hurt to a human being

# OFFENCES ...contd.

- Taking away driving licence and shop licence.
  - Offends fundamental right and is unconstitutional.
- Cognizable offence = police may arrest without warrant
- Denying a person of his liberty is a serious matter
- The law Commission recommended replacement of arrest with notice in all cases except very serious offences
- Power to compound the offences a safety valve

# PUNISHMENT

- Prescription of enhanced fine
- Hostility to crime/deterrent to crime.
- Retribution, deterrent or compensatory.
- Minister has called for guidelines
- Equality fairness and justice
- Unconstitutional if excessive.

# DELEGATION OF POWERS

Only authorised persons

Cannot be without guidelines

# A METAPHOR

1. Even an expert cannot prevent a friend from making a fool of himself
2. Don't assume that a job is easy because it has been done before
3. Logic is counterproductive when applied in an illogical manner

Thank You