

A RETIREMENT POLICY FOR BOVINE ANIMALS IN INDIA: PERSPECTIVES FROM AN ANIMAL WELFARE STANDPOINT

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ABSTRACT

India has the highest global dairy population, yet the laws for the protection and management of bovine animals and other cattle after they have stopped milking or are incapable of breeding, are almost non-existent. Such animals are called ‘unwanted animals’ as they are uneconomical and hence no more desired by their owners. This paper is a brief attempt to analyse the adequacy of existing laws for the protection of such animals and the role of Department of Animal Husbandry and Dairying in promoting welfare of these animals in India. The author has advocated in favour of the need for framing a retirement policy for these animals as it would ensure a life of dignity and prevent them from being subjected to various forms of cruelties in the hands of owners, cattle traders, slaughter-houses and others.

Keywords: Retirement, bovine animals, cattle, abandonment, slaughter, Prevention of Cruelty to Animals Act 1960, India, dairy, animal husbandry, law.

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I. Introduction

INDIA HAS a long history of cattle rearing and other animal husbandry practices dating back to the days of Indus Valley Civilization around 3000 BCE.¹ These domesticated bovine animals

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¹ H Pathak, J.P. Mishra, et.al. (eds.), *Indian Agriculture After Independence* 41 (Indian Council of Agricultural Research, New Delhi, 2022), available at <https://icar.org.in/sites/default/files/2023-02/Indian-Agriculture-after-Independence.pdf> (last visited on Sept. 12, 2023).

enjoy a combination of socio-religious, cultural, political and economic significance in India. Considered to be the backbone of India's agro-economy, these animals have been the saviours of Indian farmers in times of agricultural distress as insurance against crop failures.

The word 'bovine' is defined by the Cambridge Dictionary as 'connected with animals from the cattle group' like cow, buffalo, bull, etc.² These bovine animals are used by their owners or rearers for milking, manuring and breeding purposes. However, once these animals are not yielding sufficient milk for the business or the male bovines are no longer useful for breeding, they are abandoned or subjected to other forms of cruel treatment by the owner and others involved in cattle trade. The prime reason identified for such abandonment is unproductivity, penurious nature of Indian dairy farmers and high maintenance cost of these fallow animals.

Upon abandonment, these unattended animals on the streets feed on garbage and food leftovers dumped by the restaurants, marriage halls, and roadside eateries and sometimes survive by eating the unsold and discarded vegetables, leaves and fruits dumped by the traders at local market. The owners prefer selling these unwanted animals to the cattle traders who supply them to the slaughter houses for butchering after which they are smuggled to the foreign markets. Sometimes, these animals are transferred to shelters called 'Gaushalas' or 'Panjripoles'. These are 'the establishment which in-house wreck, sick, injured, handicapped, and abandoned/homeless cattle/cow to rehabilitate them'.³ They are maintained mostly by NGOs and governmental institutions, which are often overcrowded, understaffed and underfinanced where these animals are forced to live in deplorable living conditions. Notably, despite of more than 2000 gaushalas⁴ across the country, there are more than 5 million stray cattle in India.⁵

These animals are also tortured in numerous ways while being transported to gaushalas or other places once their maintenance becomes uneconomical for the rearer. Abandonment of these

² Cambridge Dictionary, *available at* <https://dictionary.cambridge.org/dictionary/english/bovine> (last visited on August 09, 2023).

³ Government of India, "Guidelines for Environmental Management of Dairy Farms and Guashalas" (Central Pollution Control Board, Ministry of Environment, Forest and Climate Change, 2020), *available at*: <https://tspcb.cgg.gov.in/Shared%20Documents/Guidelines%20for%20Environmental%20Management%20of%20Dairy%20and%20Gaushalas.pdf> (last visited on Sept. 21, 2023).

⁴ Government of India, "Annual Report 2018-19" 7 (Animal Welfare Board of India, Ministry of Fisheries, Animal Husbandry and Dairying, 2019) *available at* <http://www.awbi.in/awbi-pdf/Annual%20Reports/Annual%20Report%202018-2019.pdf> (last visited on Sept. 21, 2023).

⁵ Government of India, "20th Livestock Census" (Ministry of Fisheries, Animal Husbandry & Dairying, 2019), *available at* <https://dahd.nic.in/sites/default/files/Key%20Results%2BAnnexure%2018.10.2019.pdf> (last visited on Sept. 20, 2023).

animals must not be looked merely through the lens of cultural sentiment associated with them in a nation like India where cattle like cows and bulls are worshipped but abandonment has wide ranging implications that have surfaced in the recent past. These issues range from animal welfare concerns to the destruction of crops by the stray bovine animals to the growing instances of man-bovine conflict in India. Issues arising from abandonment shall be further explored in later sections of this paper, however, the focus shall be on the animal-welfare tangent that the author proposes to investigate for the framing of a comprehensive policy in this regard.

The plight of these unwanted-abandoned bovine animals also deserves much needed attention by the policy makers by virtue of Article 48 of the Constitution of India, that casts upon the State, a duty ‘to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows or calves and other milch and draught cattle’.⁶ Additionally, the definition of life under Article 21 of the Constitution was broadened by the Honorable Supreme Court in *Animal Welfare Board of India Versus A. Nagaraj*⁷ to encompass all forms of life, including animal life. The Supreme Court further opined that all animals should be treated with compassion and dignity, not with horrific brutality, as stated in section 11 of the Prevention of Cruelty to Animals Act, 1960, read with article 21, 48A and 51A(g) of the Constitution of India.

The justification for a proper policy in this regard isn’t confined to merely the Constitutional Provisions but also in the religious significance of these animals in India, especially cows and bulls and the growing jurisprudence on animal protection and welfare. Animal welfare is the central theme of many environmental legislations in India like Wildlife Protection Act, Biological Diversity Act and Prevention of Cruelty to Animals Act along with the rules enacted from time to time under these legislations. These laws have been enacted or amended as a follow-up of signing multilateral environmental agreements like CITES, UN CBD, etc. All the above-mentioned laws, except Prevention of Cruelty to Animals Act, 1961, aren’t directly concerned with the welfare of bovine animals in India, nonetheless, they depict the philosophy

⁶ Constitution of India, article 48.

⁷ *Animal Welfare Board of India v. A. Nagaraj*, (2014) 7 SCC 547.

of animal protection and welfare as one deeply embedded in the religious and legislative environment in India.

II. Role of Department of Animal Husbandry and Dairying in India

India has the highest global cattle and bovine population at 303 million in 2022-23.⁸ The cattle and buffalo population of India is about 13% and 42.61% of the global population, respectively sharing more than 50% collectively of the total world population that are generally reared in rural areas by small, marginal, or landless labourers.⁹ At present, the subject of animal husbandry and dairy falls under the authority of the Department of Animal Husbandry and Dairying (DAHD), created under Ministry of Fisheries, Animal Husbandry, and Dairying as a separate department in 2019. The department focuses on livestock development and improvement, illness prevention, preservation, and production of animals. One of the main thrust areas of the department is preservation and protection of livestock through provision of healthcare.

Some of the key initiatives taken by the DAHD include the establishment of National Kamdhenu Breeding Centre to provide shelter and care to abandoned and unproductive cattle. These centres aim to improve the health and productivity of these animals through breeding and genetic improvement programs. The DAHD has launched the Rashtriya Gokul Mission¹⁰, which aims to conserve and develop indigenous breeds of cattle in the country. The mission provides financial assistance to farmers, gaushalas, gosadans and panjripoles for the development and conservation of indigenous breeds and thereby, helps prevent their abandonment.¹¹ Although, it needs to be pointed out here that this mission is not directly concerned with the welfare of unproductive cattle.

⁸ Government of India, “Annual Report 2022-23” 4 (Department of Animal Husbandry and Dairying, Ministry of Fisheries, Animal Husbandry and Dairying, 2023), *available at* <https://dahd.nic.in/sites/default/files/FINALREPORT2023ENGLISH.pdf> (last visited on Sept. 21, 2023).

⁹ Gauri Jairath, Devi Gopinath, et.al., “Overview of the Indian Meat Industry” SR Publications (2022), *available at* <https://www.srpublish.com/overview-of-the-indian-meat-industry/> (last visited on Sept. 21, 2023).

¹⁰ Government of India, “Annual Report 2022-23” 19 (Department of Animal Husbandry and Dairying, Ministry of Fisheries, Animal Husbandry and Dairying, 2023), *available at* <https://dahd.nic.in/sites/default/files/FINALREPORT2023ENGLISH.pdf> (last visited on Sept. 05, 2023).

¹¹ *Ibid.* at 20.

Furthermore, The National Livestock Mission, which is implemented by the DAHD, provides financial assistance to farmers, however, interestingly it also does not address the issue of abandonment of cattle by farmers.¹²

The Animal Welfare Board of India (AWBI), which strives to eliminate cruelty to animals, particularly abandoned cattle, is also supported by the DAHD. The Board prosecutes people who abandon or mistreat cattle and promotes animal welfare through programmes that raise awareness and educate the public. A plan for the development and upkeep of shelter homes for unwanted animals is being carried out by AWBI in the nation. Grants are typically given to NGOs (non-governmental organisations) and SPCAs (societies for the prevention of cruelty to animals) for the building of boundary walls, shelters, water tanks, sewers, internal dispensaries, contingencies, etc.¹³

Overall, the DAHD has taken several initiatives to address the issue of abandonment of cattle in India. These initiatives aim to provide support to farmers for the maintenance of unproductive cattle, promote the conservation and development of indigenous breeds of cattle, and prevent cruelty to animals. However, due to lack of adequate resources, over-emphasis on improving productivity and poor coordination with other Ministries like MOEFCC, the schemes and programmes have a very limited impact turning as many as 35 million cattle stray in the country.¹⁴ Over-emphasis on productivity has led to issues like abandonment, slaughter of unproductive animals or the issue of these animals being shelter-less and turning stray, or left unfed by their owners or other forms of cruelty they are being subjected to, has taken a total policy backseat in India. It is in this regard the Department needs to re-orient its aims and objectives and make it more cattle-friendly and all-inclusive instead of only focusing upon increasing production of these animals.

III. Abandonment: The Menace of Stray Cattle in India

Many Indian States have restricted cattle trade to prevent cattle slaughter, however, this has led to abandonment of unwanted cattle by the owner. Countrywide, there are 5.3 million stray

¹² National Livestock Mission, *available at* <https://nlm.udyamimitra.in/Home/SchemePage> (last visited on Sept. 21, 2023).

¹³ *Supra note* 10 at 118.

¹⁴ Centre for Science and Environment, “State of India's Environment” (2018) *available at* <https://www.downtoearth.org.in/news/latest-state-of-india-s-environment-soe-in-figures-2018-is-out-60767> (last visited on Sept. 19, 2023).

cattle, according to the 19th Livestock Census.¹⁵ With over a million, Odisha is at the top of the list, followed by UP, Rajasthan, MP, West Bengal, and Gujarat. The economics of keeping cattle at an old age is what is driving this ongoing desertion. Depending on the breed, the cost to raise a cow varies from region to region. The economic cost and return of raising a milch cow were determined by Down to Earth in partnership with Go Anusandhan Sanstha, an organisation dedicated to cow research in Mathura: A cow in Sahiwal can make Rs 85 every day. However, a nonproductive herd of cattle can lose Rs 60 every day. The estimated cost of caring for the 5.3 million stray cattle is Rs 11,607 crore.¹⁶

Despite of this convincing argument based on economics of cattle-rearing, especially in a country like India where most of the dairy farmers are small and marginal, abandonment of animals is an offence under Prevention of Cruelty to Animals Act, 1960. The relevant portion of the section is reproduced below:

11. Treating animals cruelly —

(1) If any person—

(a) beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animals to be so treated; or

...

(h) being the owner of [any animal], fails to provide such animal with sufficient food, drink or shelter; or

(i) without reasonable cause, abandons any animal in circumstances which render it likely that it will suffer pain by reason of starvation or thirst; or

(j) willfully permits any animal, of which he is the owner to go at large in any street while the animal is affected with contagious or infectious disease or, without reasonable excuse permits any diseased or disabled animal, of which he is the owner, to die in any street; or

¹⁵ Government of India, “19th Livestock Census” 19 (Department of Animal Husbandry, Dairying and Fisheries, Ministry of Agriculture, 2012), *available at* https://dahd.nic.in/sites/default/files/Livestock%20%205_0.pdf (last visited on Sept. 21, 2023).

¹⁶ Jitendra, “India’s Cow Crisis Part 5: Penalty for Abandoning Cattle Final Nail in Coffin” Down to Earth (2019), *available at* <https://www.downtoearth.org.in/news/agriculture/india-s-cow-crisis-part-5-penalty-for-abandoning-cattle-final-nail-in-coffin-62794> (last visited on Sept. 21, 2023).

The problem with section 11 is multifold. Section 11(i) prohibits abandonment of animals unless the owner has reasonable excuse to do so, now what constitutes a reasonable excuse is still ambiguous, whether the animal purchased for milking is no more useful for the said purpose is an excuse reasonable enough to abandon the same. While there is no nation-wide law that outlines the permissible situations for abandonment, some States like MP, Haryana and UP have enacted laws penalizing abandonment of cattle in the form of levying of cess, imposition of fine or by making it a punishable offence.¹⁷ Another related subsection is section 11(j) which further prohibits the loitering of the animal on the street but only if it suffering from contagious or infectious disease or is disabled, otherwise. A plain reading of the provision creates the impression that in all other circumstances the animal can be left to wander on the streets.

Alternatively, these stray cattle have become one of the major reasons for crop destruction in many states incurring huge losses to farmers.¹⁸ They also spawn snarled-up traffic causing inconvenience to the general public.¹⁹ In recent years, there is significant rise in man-bovine conflict resulting in death and other serious injuries to people.²⁰ Due to these reasons, some of the states have introduced criminal punishments and penalties against farmers who abandon their cattle.²¹

To deal with the menace of stray cattle in India, the Central Government and State Governments have been allocating substantial financial resources for creation and maintenance of cow shelters. The establishment of a Rashtriya Kamdhenu Aayog with an initial financial allotment of Rs. 750 crores was announced by the Union Finance Minister in the 2019 budget. The Gau Seva Aayog (Cow Commission) was founded in Maharashtra in 2018. In a nation where the great majority of people lack access to any form of insurance, Maharashtra created

¹⁷ *Supra* note 16.

¹⁸ “Cow Slaughter Bad, but Stray Cattle Menace Bigger Problem: Farmers in Western UP”, *The New Indian Express*, Mar. 09, 2021, available at: <https://www.newindianexpress.com/nation/2021/mar/09/cow-slaughter-bad-but-stray-cattle-menace-bigger-problem-farmers-in-western-up-2274247.html> (last visited on Sept. 21, 2023).

¹⁹ Dr. Deepa Kulsherastha, Pratigya Vyas, et.al., “Stray Animals on the Road: A Havoc: Legal Aspects” 2 *Journal of Legal Research and Juridical Sciences* (2023), available at <https://jlrjs.com/wp-content/uploads/2023/01/3.-Dr.-Deepa-Kulsherastha-Pratigya-Vyas-Animesh-Verma-1.pdf> (last visited on Sept. 21, 2023).

²⁰ “Over 900 Deaths in Accidents Caused by Stray Cattle in Haryana in Five Years”, *The Hindu*, Aug. 10, 2022, available at: <https://www.thehindu.com/news/national/other-states/over-900-deaths-in-accidents-caused-by-stray-cattle-in-haryana-in-five-years/article65753193.ece> (last visited on Sept. 21, 2023). Also see, “60-Yr-Old Woman Killed in Attack by Three Stray Cows”, *The Times of India*, Mar. 04, 2023, available at: <https://timesofindia.indiatimes.com/city/vadodara/60-yr-old-woman-killed-in-attack-by-three-stray-cows/articleshow/98403114.cms?from=mdr> (last visited on Sept. 21, 2023).

²¹ Karnataka Prevention of Slaughter and Preservation of Cattle Act, 2020 (Act 01 of 2021).

a cow insurance policy with a premium that was totally covered by the state government. The Chief Minister of Uttar Pradesh allotted Rs. 613 crores towards cow welfare in 2019. To raise money for cow protection, he also added a 0.5% cess on items subject to excise duty. In the days leading up to the Madhya Pradesh elections, Shiv Raj Chouhan promised the creation of a special ministry for cows. Vasundhara Raje implemented a 20% cow surcharge on alcoholic beverages and a 10% cow surcharge on the sale of non-judicial stamp papers in Rajasthan to raise money for cow protection.

All of this, meanwhile, is but a proverbial drop in the vast ocean of abandoned cattle that roam these States. India had more than 50 lakh stray cattle, according to the 2012 Livestock Census. This number is likely to have doubled already due to the widespread abandoning of cattle during the past few years. In total, less than 10% of this number can be accommodated by government-funded cow shelters. As a result, governments in the majority of these States have been resolving the issues in all kinds of peculiar ways. To house abandoned livestock, Rajasthan and Madhya Pradesh attempted to establish cow sanctuaries. Schoolyards and other public spaces have frequently been used as temporary livestock shelters. Drone monitoring of wandering livestock was a test that district administrations in Madhya Pradesh ran. The administration of Uttar Pradesh announced that those found abandoning animals would face repercussions in the form of punitive action against them.

Overall, the laws and regulations related to abandoned stray cattle in India are complex and vary from state to state. While there are some common provisions and efforts to address the issue, the problem of abandoned cattle remains a significant challenge in many parts of the country.

IV. Abandonment and Slaughter: The Close Nexus

The majority of States and Union Territories in India forbid the slaughter of all cattle including bulls and steers of all ages, further including male and female calves. These States are Gujarat, Madhya Pradesh, Punjab, Rajasthan, Maharashtra, Himachal Pradesh, Jammu and Kashmir, Haryana, and Delhi.²² Assam and West Bengal, two Indian states, do allow the slaughter of

²² Government of India, “ANNEX II (8) Gist of State Legislations on Cow Slaughter” (Department of Animal Husbandry and Dairying, Ministry of Fisheries, Animal Husbandry and Dairying), *available at*: <https://dahd.nic.in/hi/related-links/annex-ii-8-gist-state-legislations-cow-slaughter> (last visited on Sept. 21, 2023).

cattle if the animal has a certificate from the local authorities stating that it is fit for slaughter and is at least 14 years old. Kerala also permits the slaughter of cattle that are older than 10 years old, unsuitable for work, unable to breathe, or permanently damaged. In the states of Arunachal Pradesh, Meghalaya, Manipur, Mizoram, Nagaland, Tripura, and Lakshadweep, there are no laws or regulations that regulate or expressly forbid the killing of cattle. Most states that forbid the killing of cattle allow the arrest of suspected offenders without a warrant.²³

Despite of anti-cow slaughter legislations in most of the Indian states, the business of beef export is thriving. FAS New Delhi forecasts India's 2022 carabeef/beef exports at 1.5 MMT, up 125,000 MT and increasing by nine percent from the USDA official 2021 estimate of 1.3 million metric tons.²⁴ A cow, depending on size and quality, is worth Rs 40,000 to Rs 70,000 at the point of origin. On top of this, the middleman who buys the cow from the farmer pays between Rs 10,000 and Rs 15,000 to those who would do the actual smuggling. In Bangladesh, each cow sells at Rs 1 lakh to Rs 1.2 lakh.²⁵ Most of the eligible-for-abandonment animals find their way to abattoirs or slaughter houses from where they are smuggled to different parts of the world.

Section 11(k) prohibits offer for sale of the animal by the owner which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment. The provision is silent on selling or offering to sell an animal after it is no longer useful for the owner, that is to say, in case of bovine animals, once they stop milking or breeding, they lose their economic use for the rearer and become no more than a liability for the owner. Once the economic life of these animals is over, rearers no more feel the need to maintain these animals given the low financial well-being of the owners themselves and increasing price of fodder coupled with its shortage. The owners usually prefer selling these bovines to the cattle traders or directly to the slaughter houses (unless legislation expressly prohibits it) for 15,000-20,000 Rs. which helps them buying a new calve.²⁶

²³ U.S. Department of Agriculture (USDA) and Global Agricultural Information Network, "Livestock and Products Annual 2021" 7 (2021), available at: https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Livestock%20and%20Products%20Annual_New%20Delhi_India_09-01-2021.pdf (last visited on Sept. 21, 2023).

²⁴ *Ibid.*

²⁵ Devadeep Purohit, Snehmoy Chakraborty, et.al., "Cattle Trade Goes Far Beyond Bengal", The Telegraph Online, Aug. 15, 2022, available at: <https://www.telegraphindia.com/west-bengal/cattle-trade-goes-far-beyond-west-bengal/cid/1880286> (last visited on Sept. 21, 2023), available at <https://www.telegraphindia.com/west-bengal/cattle-trade-goes-far-beyond-west-bengal/cid/1880286> (last visited on Sept. 05, 2023).

²⁶ Jyoti Punwani, "Maharashtra's Beef Ban" 50 Economic and Political Weekly 17-19 (2015).

The Ministry of Environment, Forests and Climate Change framed the Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules in 2017 banning the sale of cattle-including cow, calf, bull, bullock, buffalo, heifer, steer and camel-for slaughter at animal markets. The rules oblige both owner-seller and purchaser of cattle that the sale is not done for the purposes of slaughter.²⁷ The rules have been framed under sections 38(1) and (2) of the Prevention of Cruelty to Animals Act, 1960 (PCA Act), following the directions of the Supreme Court in *Gauri Maulekhi v. Union of India*.²⁸ However, it has been argued that the Central Government has no power to regulate animal markets as Entry 28 of List II State List (Markets and Fairs) gives the power to State Governments to make laws relating to local markets and fair and this would include cattle markets and fairs. Also, the slaughter per se is not prohibited under PCA if it is for human consumption and no unnecessary pain or suffering is inflicted upon the animal.²⁹

Accordingly, the Prevention of Cruelty to Animals (Slaughter House) Rules, 2001 has been framed, which lays down detailed guidelines on how animal slaughter should take place, with minimum pain or suffering, and the operation of slaughter house. Hence, there is inconsistency between the two Rules framed under the Act violating even Article 19(1)(g) of the Constitution of India.

In conclusion, the nexus between the abandonment and slaughter of cattle in India is a complex issue that involves cultural, economic, and legal factors. While there have been some efforts to address this issue through animal welfare initiatives and the enforcement of cow protection laws, it remains a significant challenge.

V. Punishment under Prevention of Cruelty of Animals Act 1960

The punishment on conviction is also meagre under section 11, ranging only between ten to fifty rupees for the first-time offenders and between twenty-five to hundred rupees for the second offence. The amount of fine is abysmally low given the economic value of these animals

²⁷ Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules 2017, Rule 22(b) and (e).

²⁸ *Gauri Maulekhi vs. Union of India* Writ Petition (PIL) No. 77 of 2010.

²⁹ Prevention of Cruelty to Animals Act, 1960 (Act No. 59 of 1960), s. 11(3)(e).

and inflation in today's time.³⁰ The amount unless revised will not create any deterrence for the offender and in fact will encourage the offender to commit more heinous crimes against animals as one will be free on payment of such trivial sum for the crime committed by him.³¹ Also, these offences are non-cognizable and the police officer can only seize the animal against whom cruelty is being committed and then present the same before the nearest Magistrate or veterinary officer for examination.³² Any private person, who is witness to such cruelty can lodge a written complaint with the nearest police station for taking action. It is noteworthy to mention that the Amendment Bill introduced in 2022 has recommended an increase in this amount from Rs. 10 to Rs. 1000 and from Rs. 25 to Rs. 2500 and from Rs. 100 to Rs. 5000.³³ However, even this amount is not enough given the price of smuggled Indian beef in the international markets (as mentioned above).

VI. Other Relevant Rules and Legislations on Cruelty against Bovine Animals

Registration of Cattle Premises Rules

Registration of Cattle Premises Rules under The Prevention of Cruelty to Animals Act, 1960 deals with cattle and their living conditions. However, these rules apply only to cities or towns, which have a population exceeding one lakh.³⁴ Under the Rules, Cattle includes 'oxen, buffaloes, cows, bullocks and horses including their young ones'.³⁵ For the application of these rules, the person owning the premises where the cattle are kept must have not less than five animals and is required to apply for registration of the said premise before the registering authority.³⁶ The authority shall grant the certificate only if it is satisfied that all basic facilities like flooring, ventilation, water, food supply, drainage is made available in the premises.

³⁰ *Supra note 26.*

³¹ *See generally*, Ankita Putchala, "Should India Reform its System of Imposing Fines for Offences?", The Leaflet, Mar. 05, 2022, *available at*: <https://theleaflet.in/should-india-reform-its-system-of-imposing-fines-for-offences/> (last visited on Sept. 21, 2023)

³² Prevention of Cruelty to Animals Act, 1960 (Act No. 59 of 1960), ss. 34 and 35.

³³ Prevention of Cruelty to Animals (Amendment) Bill, 2022, *available at* <https://dahd.nic.in/sites/default/files/Public%20notice-Draft%20PCA%20bill-2022.pdf> (last visited on Sept. 20, 2023).

³⁴ Registration of Cattle Premises Rules, 1978, rule 1(2).

³⁵ Registration of Cattle Premises Rules, 1978 rule 2(a).

³⁶ Registration of Cattle Premises Rules, 1978, rule 3 and 4.

Regular inspection of the said premises is mandated under the Rules and if there is any deviation found by the authorities, they are free to cancel the registration anytime.³⁷ There is currently no data on how many registrations have been made, the frequency of inspections and cancellation of registration since the enactment of these rules. The rules, is properly implemented, can further contribute in strengthening the bovine welfare laws in India.

Transport of Animal Rules, 1978 and The Motor Vehicles Amendment Act, 2016

A veterinarian certificate stating that the cattle are healthy enough to travel as well as first aid supplies must be included with cattle being transported by train or road, according to the Transport of Animal Rules, 1978. Animals should have an average space of no less than 2 m², and loading should take place on routes and platforms. The animal needs to be adequately fed and given water and each wagon should have at least one attendant. The floor should be cushioned, and there should be enough airflow. When moving cattle on road, special cargo cars should be utilised, or ventilated regular vehicles should be used, and there should be an attendant. In a single vehicle, no more than six animals may be transported. A valid certificate issued by an officer, any person, or an animal welfare organisation recognised by AWBI or the central government is required, according to the Transport of Animals Amendment Rules, 2001. It is important to ensure that all pertinent requirements have been satisfied before transferring an animal. Any permits will be revoked if these requirements are not met, and the police will have to stop the transit. If an authorised animal welfare organisation is available, the animals will be given to them until the authorities make a decision.

The Prevention of Animal Cruelty, Transport of Animals on Food Rules, 2001, apply to animal transportation on forts when the distance between the origin village, town, or city and the final destination is 5 km or greater. According to the regulations, each animal must be sound and in good shape, and need a veterinary certificate. Additionally, veterinary first aid supplies must be brought along for the trip. New-born animals, ill, Animals who are blind, emancipated, lame, exhausted, have given birth within the past 72 hours, or who are likely to give birth while being transported, shouldn't be moved by foot.

³⁷ Registration of Cattle Premises Rules, 1978, rule 4,5,6, and 7.

It is important to make plans for feeding and watering animals while they are being transported. Nobody is permitted to force the animals to walk more quickly by using whips, rods, etc., or by applying any substance to their bodies. If two animals are tied together, there should be at least two feet gap between them. Not more than two animals are to be chained together. Animals cannot be transported before or after sunrise. For transportation on foot, restrictions have been set. An animal should not be forced to walk in inclement weather, such as torrential downpours, thunderstorms, or severely dry or hot temperatures.

The Motor Vehicles Amendment Act, 2016³⁸ laid down strict rules for the transportation of animals on ground level but it has not been effectively implemented. Vehicles carrying animals are mandated to have permanent partition to enable the transportation of animals. The amendment further specifies that the size of partition should not be less than 2 m² for cows and buffaloes, 2.5 m² for horses and mares, 0.3 m² for sheep and goats, 0.6 m² for pigs and 40 m² for poultry. However, the transporters are flouting rules by overloading their vehicles with animals, causing the possibility of them sustaining injuries and transmission of diseases. The amendment lacks mechanism to monitor vehicles that do not adhere to rules. The amendment is restricted to paper because of its poor implementation.

The Motor Vehicles Amendment Act, 2016 introduced several important changes to the transportation of animals in India. Prior to the enactment of this law, the transportation of animals, particularly livestock, was often carried out in an unsafe and inhumane manner, leading to high mortality rates and suffering for the animals. Under the amended law, provisions were added to ensure the safe and humane transportation of animals on public roads. These provisions include the requirement of mandatory fitness certificate by all vehicles used for transporting animals by a registered veterinary practitioner. The law sets out minimum space requirements for animals being transported. These requirements vary based on the size and weight of the animal. Animals being transported must be provided with adequate food and water during transportation. Further, the amendment restricts the use of whips or other devices to control animals during transportation. The law authorizes inspectors to stop and inspect vehicles transporting animals to ensure compliance with these regulations. These provisions aim to ensure that animals are transported in a safe and humane manner and to reduce mortality rates during transportation. The law also provides for penalties for violations, including fines and imprisonment.

³⁸ Motor Vehicles (Amendment) Act, 2016 (Act no. 95 of 2016).

However, the effective implementation of these regulations remains a challenge in many parts of the country, and there have been reports of continued violations of these rules. To address this issue, there is a need for increased awareness among transporters, stricter enforcement of the regulations, and greater investment in the infrastructure and resources needed to ensure the safe and humane transportation of animals.

VII. National Dairy Code

Apart from section 11, the National Dairy Code also addresses the issue of abandonment and slaughter of these animals. The National Dairy Code of Practice for the Management of Dairy Animals in India is jointly prepared by National Dairy Research Institute and World Animal Protection in 2014 to ensure welfare of dairy animals throughout the supply chain. Under the National Dairy Code, minimum standards and good practices have been prescribed for breeding, husbandry, housing, health, upkeep of unwanted animals and recordkeeping. Focusing exclusively on the standards prescribed for the upkeep of unwanted animals, the Code maintains that commercial dairy producers in India are morally obligated to take all practical measures to guarantee the welfare of their animals, including unwanted animals. This duty of care extends to all farm animals.

The code outlines some minimal requirements for the care of these abandoned animals. This code states that unwanted animals shouldn't be abandoned; that every farmer must have a plan in place for the humane management of unwanted animals, and that when animals are transferred to a gaushala, a plan between the farm and the gaushala must be in place to support the ongoing care of the animals. The Code further states that selling unwanted dairy cows and male calves to cattle traders is strongly discouraged because the animals' fate cannot be assured and there is a possibility that they could be sent for slaughter illegally. Selling dairy animals to cattle traders for slaughter is unethical, inhumane, helps to maintain an illegal trade, undermines customer confidence, and is a bad reflection on the entire dairy business.

Gujarat changed its law in 2017 to boost fines and allow life sentences for killing cows, bulls, or bullocks. The sale of cattle for slaughter at animal markets was virtually outlawed when the BJP administration unveiled the Prevention of Cruelty to Animals, Regulation of Livestock Markets Rules in May 2017. Particularly in the non-BJP-ruled states of West Bengal, Kerala,

and Tamil Nadu, this sparked demonstrations.³⁹ The statute was put on hold by the Supreme Court in August 2017. The sale of cattle that are young, less than six months old, in advanced pregnancy, infirm, diseased, ill, damaged, or exhausted was outlawed in 2018 after the government updated the proposed regulations.

VIII. Looking from a Farmer's lens: An alternate perspective

In India, 70 percent of the milk production is contributed by small and marginal farmers. It is major source of livelihood for almost half of the Indian rural population. These farmers own less than 4 acres of land, however, they control 88 percent of the livestock. According to a study of the National Dairy Plan (NDP) carried out by the National Dairy Development Board (NDDB) in 14 significant dairy-producing states, 35% of those interviewed families are milch animal owning households (MAHs). Only 1% of these MAH are huge farmers, while 23% are landless farmers, 41% marginal farmers, 27% of small farmers, and 6% of medium farmers.⁴⁰

Coupled with the marginalization of these farmers, is the no-kill policy of the government where in most states cattle-slaughter is banned and cattle trade⁴¹ is highly restricted. It is argued that the cost of maintenance of the unwanted cattle is so high that it is feasible to abandon the same. In such a scenario, the suggestion that a retirement policy should be rolled out for these animals and farmers must make some kind of financial contribution to that fund, demands the study of income and profit that a farmer is generating by selling milk.

The price of the milk is mostly determined by the cooperatives in many states. The price that the farmer is getting varies across states. Successful milk cooperatives, through a process of efficient procurement, transparent pricing, product development and marketing are being able to transfer at least 75 per cent to 80 per cent of the consumers' rupee to the farmers. Since cooperatives have a limited procurement capacity, the private sector has expanded their dairy business rapidly in last 15 years. According to reports, private dairies in North India that

³⁹ Mabu Sebastian, "Rule Banning Cattle Sale for Slaughter Contradicts the Act Permitting Slaughter of Animals for Food" Outlook (2017), available at <https://www.outlookindia.com/website/story/why-prevention-of-cruelty-to-animals-regulation-of-livestock-markets-rules-2017-/299119> (last visited on Sept. 21, 2023).

⁴⁰ Girija Srinivasan and Narsimhan Srinivasan, SAGE and Access Publications, "State of India's Livelihood Report" 70 (2015), available at <https://www.accessdev.org/wp-content/uploads/2017/07/soil-report-2015.pdf> (last visited on Sept. 21, 2023).

⁴¹ The Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017 bans the sale of cattle-including cow, calf, bull, bullock, buffalo, heifer, steer and camel-for slaughter at animal markets.

predominantly produce SMP, ghee, etc. are now paying farmers Rs. 30-31 per litre for buffalo's milk, down from Rs. 39-40 a year ago. Dairies in Maharashtra pay Rs. 20-21 per litre for the delivery of cow's milk to the processing facilities. They pay Rs. 17-19 to purchase it from the farms. These costs were Rs. 29-30 and Rs. 26-27 per litre, respectively, a year ago. The Maharashtra government is considering setting a minimum support price for buying milk in response to the plight of dairy farmers.⁴²

Based on one study, let's assume that the consumer is charged Rs. 40 per litre on an average and the dairy farmer gets Rs. 23 on an average.⁴³ The milk prices being paid at the moment are unprofitable, according to many dairy farmers. Feed costs, which account for 60% to 70% of the cost of producing milk, have been rising. Additionally, labour costs have been rising. Some of the major states that produce milk have seen a decline in procurement prices. Dairy producers that prepare their milk for export are similarly subject to the whims of world commerce.

The restriction on beef and beef products makes it difficult to reduce the size of the herd by eliminating less productive animals. Many farmers use the cost of milk to determine if dairying is profitable. When return on investment (ROI) is assessed, it looks to be better because farms use manure and other waste. However, many farmers fail to maintain thorough records of the expenses and advantages associated with dairy production. They point out that these calculations are evidence of the unprofitable prices they receive and will cause them to think about closing the firm. The younger generation of farmers is not eager to continue this industry, which is one tendency that is evident.⁴⁴

When cross-breeding was first permitted in the mid-seventies, Ashok More, a small farmer in the Pune taluka who had a few native cows since the 1970s, started doing it with his livestock. He benefited from the cross-bred cows' enhanced milk production, which averaged 10 litres per day, and steadily enlarged his herd size. He had as many as 15 cross-bred cows in the early 1990s. However, an economic slowdown occurred between 1993 and 1995 as a result of the local cooperative's inability to obtain all the milk due to an excess of production in

⁴² Biswajit Sen (ed.), Sage and Access Publications, "State of India's Livelihood Report" 70 (2021) available at <https://www.accessdev.org/wp-content/uploads/2022/06/soil-report-2021.pdf> (last visited on Sept. 21, 2023).

⁴³ *Supra* note 42 at 71.

⁴⁴ *Supra* note 42 at 71-72.

Maharashtra. He made the decision to reduce the herd size since milk selling started to be a problem.

When milk demand increased in the 2000s and he wanted to expand the herd, his sons calculated the income and expenses of the dairy business and decided against joining, claiming that “it was not profitable.” He and his wife run a dairy farm at the moment, with just five animals. He hires a single labourer to milk the cows. He fills the need for pure milk from customers who choose to buy from him directly rather than purchasing packaged milk by selling raw milk locally for Rs. 26 per litre. He claims that he is not making any money at this pricing. However, he uses cow urine that is collected and sold to a trader for Ayurvedic remedies in addition to using dung as farm manure. Profitability increases if the value of these is determined. He believes that the dairy industry is unprofitable until farmers receive a minimum of Rs. 30 for each cow's milk.⁴⁵ By properly factoring the costs involved in the supply chain, it is possible to pay the farmer the amount that would be profitable for him.

IX. Pushing the Frontier: Arguments in favour of Retirement Policy

Since abandonment of unproductive cattle is rampant and the current laws and arrangements in the form of gaushalas are failing to ensure its prevention, subjecting these cattle to various forms of cruelty, there is a moral responsibility on farmers to provide for these animals once they have reached their end of productive life-cycle. To this end, a retirement policy could be devised for these animals guaranteeing a minimum standard of living to them. The retirement policy shall make all the relevant stakeholders particularly farmers financially accountable towards the animals they have used and earned their livelihood from.

Retirement is usually considered to be an anthropocentric concept, which is defined as removal or withdrawal from service, office or business.⁴⁶ Cambridge Dictionary defines retirement as ‘the point at which someone stops working, especially because of having reached a particular age or because of ill health, or the period in someone’s life after the person has stopped working’.⁴⁷ In the context of animals and for the purposes of this article, retirement is supposed

⁴⁵ Supra note 42 at 72.

⁴⁶ Collin’s dictionary, available at <https://www.collinsdictionary.com/dictionary/english/retirement> (last visited on Sept. 11, 2023).

⁴⁷ Cambridge Dictionary, available at <https://dictionary.cambridge.org/dictionary/english/retirement> (last visited on Sept. 21, 2023).

to mean ‘a right to lead a life of dignity after the animal is no longer working, wanted or useful for the owner’. It is noteworthy to mention here that discussion on retirement of animals is not entirely an unventured road, rather retirement of assistance animals or therapy animals⁴⁸ is quite a thing now and even in India, a six-member panel suggested extension of retirement benefits to paramilitary animals⁴⁹ where they would be given stay in old age homes and 70 percent of their maintenance diet. However, it is important to note that this suggestion is limited only to paramilitary animals as of now.

Extension of retirement benefits to the domesticated bovine animals is how this paper contributes to the existing jurisprudence on retirement of animals keeping the broader objective of animal welfare in mind. By promoting the humane retirement of unproductive cows, India can ensure that these animals are treated with dignity and respect while also promoting sustainable and profitable farming practices.

In the light of the discussion in previous sections of this paper, the author proposes that a duly drafted retirement policy for these animals could serve as a major step in the direction of welfare of bovine animals and other cattle population in India. Proper guidelines should be framed by the government under the Prevention of Cruelty to Animals Act 1960 regarding the retirement of these animals. Following suggestions might be helpful in this regard.

Definition of ‘unwanted animals’

The term ‘unwanted animals’ may be defined as ‘animals who are no longer milking or breeding or their yield is sufficiently low to the extent that it has become uneconomical for the owner or the dairy businessman to continue harboring the animal’ and the same should be included in The Prevention of Cruelty to Animals Act 1960.

Section 11 of the Prevention of Cruelty to Animals Act 1960 should be amended to include ‘unwanted animals’ specifically and the penalty prescribed for the violation of section 11

⁴⁸ Zenithson Ng and Aubrey Fine, “Paving the Path Toward Retirement for Assistance Animals: Transitioning Lives,” 6 Front Veterinary Sciences 39 (2019), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6393662/> (last visited on Sept. 02, 2023).

⁴⁹ Rohan Dua, “Paramilitary Service Animals Could Retire with Benefits Like Soldiers Do”, The Economic Times, Jan. 03, 2020, available at: <https://economictimes.indiatimes.com/news/defence/paramilitary-service-animals-could-retire-with-benefits-like-soldiers-do/service-animals-to-retire-with-benefits/slideshow/73081717.cms?from=mdr> (last visited on Sept. 21, 2023).

should be increased substantially reflecting today's economic value of these animals. Increased penalty would create the necessary deterrence against the perpetrator and also reflect upon the intention of the government to protect the interests of these animals.

Eligibility

Individual with more than 2 cows, Cow-Farms, Farmers Producers Organizations (FPOs), Farmers Cooperative Organizations (FCOs), Joint Liability Groups (JLGs), Self Help Groups (SHGs) may contribute under this policy.

Registration of Dairies

It should be made mandatory for all dairies (commercial or not) to be registered using the National Code of Practices for Management of Dairy Animals in India (National Dairy Code). The key highlights of the Code have already been discussed above. Karnataka has already made it a mandatory requirement.⁵⁰ Strict action should be taken against illegal dairies. The animals are subjected to various forms of cruelty in these unauthorized dairies like hot iron branding and administering hormone injections like that of oxytocin to increase the milk output. The Municipal Corporations and other local bodies along with NGOs can raid these illegal dairies and take action against them under the Prevention of Cruelty to Animals Act 1960.

Procedure for retirement

Speaking of retirement of these animals, the policy makers in consultation with expert bodies like National Dairy Development Board and Animal Welfare Board of India, may chalk out a plan outlining when and how an animal should be retired from his service to the owner. Whether this retirement should be age-based or yield-based or based on physical/mental health impairment affecting their ability to work? The government can also consider making provision for full and partial retirement of these animals. In full retirement, the animal will not be expected to provide any service whatsoever, while in partial retirement, certain activities may be permitted by the government to be performed by the animal.

Just like in case of humans, a percentage of their annual yield sales value could be saved by the owner in a separate account maintained by the Department of Animal Husbandry and

⁵⁰ ICAR-NDRI and World Animal Protection, "National Code of Practices for Management of Dairy Animals in India" (2014) available at: https://www.worldanimalprotection.org.in/sites/default/files/media/in_files/english-national-dairy-code.pdf (last visited on Sept. 1, 2023).

Dairying and that money only should be utilized for taking care of animals post retirement, non-deposit of this sum should be made a punishable offence, also resulting in cancellation of license of the owner. As per Integrated Sample Survey on average annual productivity of cattle in India during 2019 to 2020, the productivity is 1777 kg per animal per year.⁵¹ If even 10% of the value of annual sales per animal is deposited in the fund, it would be Rs. 5000 (roughly) [calculated @ 10% of 1777 kg and the value of 1 kg milk at 30 rupees]. Since, the animal (cow) yields milk for 10 years, then the deposited amount at the end of 10 years will be Rs. 50,000 (approx..) excluding any interest earned on it. This amount has to be supplemented by grants from other government departments and local bodies.

A decision should be made as to where these animals will be kept post-retirement. Authorized *Gauthans* or cow-shelters may be created for this purpose. Chhattisgarh government's policy on *Gauthans* is a game changer in this regard. The State government has established 9436 *gauthans*⁵² (as on 30th December 2022) across the State under 'Suraji Gaon Yojana' commencing on January 01, 2019.⁵³ Under this model, the *gauthans* provide shelter, food, water and health care to all the cows who are old, disabled, diseased or abandoned and is also used for making vermi-compost using cowdung and soil. The cowdung is purchased at 2 rupees kg under 'Godhan Nyaya Yojana' from the farmers for preparation of organic fertilizers and manures. The cowdung is also utilized for various other purposes like making handicrafts involving women from self-help groups and for the purposes of power generation.

This has boosted rural economy by creating livelihood for large number of people in villages of Chhattisgarh. The procurement of cowdung from the farmers is done using the funds generated by the *Gauthans* itself which means these facilities are not dependent on the State Government for financing its purchases. The feed for the animals is also grown within the *Gauthan* premises. Under the scheme, Rs. 376 crore 50 lakh has been paid to the beneficiaries so far. In 2021, the state launched 'Gauthan Map' for digitization of cowdung procurement, output of self-help groups, database of cattle-sheds across the state to maintain transparency with respect to working of these *gauthans*.

⁵¹ Ministry of Fisheries, Dairying and Animal Husbandry, "Productivity of Dairy Animals", Press Information Bureau, Mar. 24, 2021, available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1707187> (last visited on Sept. 21, 2023).

⁵² Suraji Gaon Yojana, available at https://nggb.cg.nic.in/assets/files/NGGB_Book.pdf (last visited on Sept. 20, 2023).

⁵³ *Ibid.*

Feed Allowance

For feeding these animals, which is a major expense in the maintenance of the cattle, it is important to earmark areas for pasture. At present, only 4% of total land in India is designated for pasturing of cattle.⁵⁴ This percentage should be increased in a planned manner by the government, keeping in mind the demand of the cattle population in the country. The government of Goa is giving feed allowance to dairy farmers for maintaining the unwanted-low productivity cattle under the Pashupalan Scheme.⁵⁵ Similar schemes can help a long way in reducing financial burden of farmers.

Signing of a post-retirement agreement

A post-retirement agreement may be signed between the owner and the authorized Gaushala identified by the owner for relocation and safe transportation of the animal on the date of retirement.

Licensing requirements

No purchase of animals should be allowed unless the buyer is licensed and submits the post retirement plan to the authorities. Licensing and tagging on the lines of Gujarat bill should be made mandatory. In Gujarat, the Animal Preservation (Amendment) Bill 2017 has provisions for licensing and tagging of cattle. Under the bill, any person who wishes to transport cattle from one place to another within the state of Gujarat must obtain a permit or license from the concerned authorities. The license will be issued only after the cattle are tagged with a unique identification number, which is linked to a database containing information about the owner and the location of the cattle. The provision aims at halting livestock smuggling and ensure that the animals are being transported for legitimate purposes. The tagging of cattle also enables officials to trace the animals' movements and monitor their welfare and health.

Penalties for violating these rules are also included in the bill's provisions. Anyone found transporting cattle without a licence or permit, or with a tag that has been tampered with, faces a fine of up to Rs. 5 lakhs and a maximum sentence of ten years in prison. The measure has, however, also faced condemnation from sectors, who claim that it burdens farmers more and

⁵⁴ *Supra* note 40 at 53.

⁵⁵ Pashupalan Scheme, available at <https://www.ahvs.goa.gov.in/node/142> (last visited on Sept. 21, 2023).

the penalties are too severe. Some people have also voiced concerns about how the tagging system will actually be put into practice, particularly for smaller farmers and those who are located in remote areas.

Auditing requirements

An essential part of maintaining accountability and transparency in the use of public funds is auditing the expenditure of shelter homes. Shelter homes or gaushalas are frequently supported by government entities or non-governmental organisations (NGOs). The auditors may also pay a site visit to the shelter houses to evaluate the level of services offered and make sure they adhere to the necessary requirements.

Transportation post-retirement

When the animals are transported to authorized *Gauthans* or cow-shelters then existing laws on cruelty-free transportation of animals should be properly implemented by the authorities and punishment for violation should be strictly enforced.

X. Conclusion

Bovine animals, especially cows, are revered by many Indians, not only because of their religious-cultural significance but also because dairy production provides a large portion of an Indian farmer's income. These animals do, however, have a finite productive lifespan, after which they become unproductive and are frequently abandoned or sold to un-authorized slaughterhouses. The abandonment of these animals is an offence under Prevention of Cruelty to Animals Act 1960, however, due to economic reasons, the farmers are left with no other option but to abandon the same. The abandonment not only creates problems for the animal as they are subjected to various forms of cruelty at the hands of cattle traders and slaughterhouses but also for other farmers and general public due to nuisance created by the stray cattle.

Numerous organisations have been working to promote and fund shelter homes for bovine animals in India in order to address this issue. The gaushalas, managed by government, religious institutions or non-governmental organisations, provide elderly or unproductive cattle a secure and compassionate retirement. However, funds are needed for smooth functioning of these shelter homes and a part of this sum can be realized by dairy farmers who have commercial dairy business as part of their dairy social responsibility (DSR). Further, this sum

shall be supplanted with grants from government bodies and income generated by gaushalas on selling manures/dung and cow-urine.

Along with these initiatives, there have been calls for the government to give farmers, financial assistance and incentives to maintain unproductive bovine animals. Some states in India have already introduced programmes to give farmers financial aid for the upkeep of unproductive cows.

In general, the retirement of bovine animals is a significant issue that necessitates a diverse strategy, including programmes for animal welfare, financial assistance for farmers, and increased investment in alternate uses for retired animals. India can contribute to ensuring that these animals are treated with respect and dignity they merit by encouraging the humane retirement of bovine animals. This may play a major role in supporting farmers' livelihoods and advance sustainable agriculture in India.