FAQ's

Q 1) Can people who feed animals in their areas be stopped by RWAs or Building Societies or their neighbours under the law?

A) Article 51A of the Constitutional Law of India, speaks about the duties of every citizen of India. One of these duties includes having compassion for living creatures. So the animal lover is protected under the Constitution.

Article 19 of the Constitution of India, deals with the right to freedom and in this freedom comes the right to profession, occupation, trade and business. Therefore, it means that every citizen has the right to occupation and if someone has taken up the caring of animals as his occupation, it is legal and he has every right to carry on with his occupation.

Article 21 of the Constitution of India states the right to personal life and liberty. This is a very vast right. If someone wants to feed and provide shelter to dogs, he is at liberty to do so. He has the same right to liberty that the law provides to every citizen of India.

Section 503 of the Indian Penal Code 1860, provides that intimidation is a criminal offence which is cognizable. Anyone who threatens or intimidates any person taking care of dogs is liable for criminal intimidation under Section 503 of Indian Penal Code and can be arrested without a warrant.

But, above every other law and right, there is a natural right which is a universal right, inherent in the nature of ethics and contingent on human actions or beliefs. It is the right that exists even when it is not enforced by government or society as a whole. It is the right of the individual and considered beyond the authority of a government or international body to dismiss. Therefore, if there are any rights at all, there must be right to liberty, for all others depend on this. And the choice of loving, caring, feeding and giving shelter to dogs is the natural right of any individual.

In a judgment passed by the Delhi Court, it has been stated that the Animal Welfare Board of India and the municipal authorities have in their guidelines specified the problem often faced by individuals and families who care for and feed stray animals. The Court has said that it is necessary to bring on record that these individuals and families who care for stray animals are doing a great service to humanity as they are acting in the aid and assistance of municipal authorities by providing these animals with food and shelter and also by getting them vaccinated and sterilized. Without the assistance of such persons no local municipal authority can successfully carry out its ABC programme. The court has proceeded to say that the local police and the RWAs are under obligation not
only to encourage such adoption but also to ensure protection to such persons who take care of these animals specifically community or neighborhood dogs so that they are not subjected to any kind of harassment.

The Court has also reiterated that every individual has the right to live his life in the manner he wants and it is necessary that society and the community recognize this.

Q2) Can an RWA/Society or any individual remove or have removed dogs in a colony and throw them away anywhere?

A) Under the GOI Animal Birth Control Rules 2001 and the municipal sterilization programme, no sterilized or any other dogs can be relocated from their area. As per five different High Court orders, sterilized dogs have to remain in their original areas. If a dog is not sterilized, the residents can simply approach an animal welfare organization to sterilize and vaccinate the dog. They cannot relocate him. Relocation is not permissible as it would cause more problems such as an increase in dog bites with new dogs that are unfamiliar with residents and therefore more likely to be hostile, moving into the area.

The Government of India has issued a circular Dy No 1237 dated 30/9/2006, specifically directing all RWAs and any other recognized citizens’ associations as follows:

- As per Section 11 of The Prevention of Cruelty to Animals Act,1960, beating, kicking, over-riding, overloading, over-driving, torturing or otherwise treating any animals so as to subject it to unnecessary pain amounts to cruelty on animals. And whoever indulges in an act of cruelty to animals makes himself liable for action under Prevention of Cruelty to Animals Act.

- There are designated agencies in Govt/local self-government organizations that are authorized to deal with stray animals. Such organizations regularly undertake inoculations, sterilization of animals and other programmes.

- Recognized Associations may approach such institution for redressal of their grievances if any, with regard to stray animals. Un-recognized associations may also approach such bodies with their grievances, but they should not pretend to represent the residents in general.

- All problems of stray animals have to be handled within the institutional framework available. No association, recognized or unrecognized, shall take recourse to any action regarding stray animals on their own, either themselves or through any person employed by them like security guards.
Where there is no recognized association, residents may take up grievances through the AWO/Office of the CWO.

While residents and Associations are free to address institutional agencies for redressal of grievances in this matter, no resident/association will interfere with the freedom of other residents in caring and attending animals. Intimidating in any manner, those who feed and care for animals is a criminal offence. Apart from action under appropriate criminal law, such persons will render themselves liable for action under CCS Conduct Rules.

Q 3) In a complaint under Section 428/429 of the IPC in respect of a dog belonging to the complainant who has been poisoned by a neighbour, what kind of evidence should be looked for?

A) If the owner believes that a neighbour is responsible for poisoning their dog, the owner should immediately contact the nearest police officer. The police officer should visit the site and note the condition of the animal. The dog has to be taken to a vet, either private or government, for a post-mortem to determine the cause and approximate time of death. In the meantime the police officer can collect any physical evidence that is available, indicating both the perpetrator and the method used. The police officer must record the statement of witnesses who have seen the poisoning or witnesses who can record the attitude or history of previous cruelty of the alleged perpetrator towards the deceased. Thereafter, the police officer must put up a challan before the court of the concerned magistrate.