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Rethinking Beef Laws vis-a-vis its Constitutional Rationality

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ABSTRACT

This research paper is intended to expound on the evolution i.e. historical facets and the contemporary position of the rationale behind beef laws across the globe. The author intends to provide its readers with an assiduous understanding of the religious sentiments analogous with cattle slaughter across the nation. India being a multilingual and democratic welfare nation, the rule of law here commands for the welfare of the citizens and the country at large. Cattles, being a highly important economic medium both alive and in its meat form, creates perplexity as to what serves for the better economic growth. The author also intends to dive deep into the constitutional validity of the administrative and executive discretions exercised in so far as beef laws are in question. India, aims towards unified legal statutes and governance, however the author has drawn analogies which pose a little doubt, so far as uniformity is concerned in matters of cattle slaughter. The paper comes to a gradual halt, after the cattles slaughter laws have been described concisely keeping the religious doctrines at par followed by administration retaliation by probing into contemporaneous judgments. Adequate international references have also been drawn to give a holistic view on the subject. The author, at the culmination stage, has come up with a bunch of humble recommendations that have been gathered after extensive research with an aim to provide its readers with an insightful and enriching learning experience.

Keywords: religious sentiments, Beef Slaughter, Constitution, slaughter.

I. INTRODUCTION

Legislators in India have long debated whether and to what extent the state should provide for the protection of cows. Legislators and proponents of cow protection endeavored to enact a blanket prohibition on cow slaughter even before the Declaration of Independence. However, because of the colonial government's professed goal of upholding its neutrality in matters pertaining to religion, their requests and pleas went unanswered. This goal appeared attainable once the Constituent Assembly was established in December 1946 and the British were expelled from India the following year.

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When the process of creating the Constitution got underway, Mohandas Gandhi and many other prominent figures received letters and telegrams asking for the criminalization of cattle slaughter.

Gandhi was dismayed by the rise of communal violence and by Partition at this time, despite the fact that he had initially supported the idea of cow protection. He urged people not to dwell on anything that might further divide followers of other religions.

It has taken little time for the long-standing, deeply-ingrained Hindu feeling in favor of cow preservation to rise to a point where it is difficult, if not impossible, to ignore. Given its cultural and monetary significance, Congressman from the United Provinces, Vishwambar Dayal Tripathi encouraged the Constituent Assembly to include cow protection as "part of fundamental rights" during deliberations.

II. HISTORICAL DEVELOPMENTS

Cow protection or the outlawing of cow slaughter were not included in the early draft of the Constitution, which was presented to the Assembly in November 1948. The majority of those in the Constituent Assembly who argued against cow slaughter did so on the basis of cattle's value to agriculture and the economy rather than on religious reasons. Frank Anthony, an Anglo-Indian representative representing the Central Provinces and Berar, questioned why this provision was introduced in such a roundabout manner.

All these debates and heated arguments paved the way for stricter legislation in terms of cow protection thereby finally, The Indian Constitution's Article 48, which states that the state "shall endeavor to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds and prohibits the slaughter of cows and calves and other milch and draught cattle," was added.

This was the first time that the Indian judicial system has ever mentioned the ban on cow slaughter. There was no equivalent clause in the Government of India Act of 1935 or the penal or procedural codes. Although it is commonly recognised that the Constitution was intended to be a secular constitution, this nonetheless occurred. The Directive Principles set forth in Part IV of the Constitution are merely suggestions for governmental action and policy and are not legally binding. Therefore, Article 48 could only become effective once legislatures passed laws.

The Indian Cattle Prevention Bill, introduced in Lok Sabha in 1955 by Seth Govind Das, was one of many attempts made in the 1950s in the Indian Parliament to pass legislation that would

apply Article 48 on a nationwide basis.

III. VARIED RELIGIOUS DOCTRINE AND FAITHS ARISING OUT OF SECULARITY

The Preamble to the Constitution affirmed that India is a secular republic with the implementation of the Forty-second Amendment to the Indian Constitution in 1976. Nonetheless, the Supreme Court of India established that India has been secular from the founding of the republic in the case of *S. R. Bommai v. Union of India*.³ The court's ruling reinforced the independence of religion and state. "Religion has no place in the concerns of the State," it declared. Combining state power and religion is not recognised or permitted by the Constitution i.e. it has a constitutional injunction.

Considering the fact that there exists no constitutional mandate of religion on the state, and in accordance with Part III of the Indian Constitution, which dwells upon "all persons equal entitlement to freedom of conscience and the right freely to profess, practice and propagate religion"⁴ has created a never ending tussle between religions in matters of their conscience in relation to beef.

(A) Hinduism

The preponderance of academicians cite economic arguments to explain why Hindus revere animals, including the value of dairy in the dietary, the utilization of cow manure as fuel and fertilizer, and the historical significance of cattle in husbandry. Ancient writings like the Rig Veda and the Puranas emphasize the significance of animals. Yajurveda in its significant verses have highlighted cow protection by quotations like "O sagacious king! Don't harm this bull, the giver of thousands of comforts, the source of immense milk and worthy of protection. Harm not God's creation, the cow, the giver of milk for mankind and of innocent nature."⁵ Rigveda in its 7.56.17 verse entails that, "cow slaughter is a heinous crime equivalent to human murder and he who commits this crime should be punished" In the first century CE, cow reverence started to appear frequently. By the year 1000 CE, vegetarianism and the ban on meat was becoming generally acknowledged in conventional Hindu traditions. The Hindu notion that all living things have souls, that life is interwoven in all of its forms, and that non- violence against all living things is the highest ethical virtue inspired this practice. Hinduism includes vegetarianism in its culture. Cows are identified with God Krishna, one of Vishnu's incarnations (Avatars), which adds to their endearing nature. Ancient smritis as well as other early Hindu scriptures

³ *S.R. Bommai vs Union of India*, (1994) 3 SCC1

⁴ Article 25, The Constitution of India, 1950

⁵ Yajurveda 13.49

clearly demonstrate that ahimsa (non-violence) is the foundation of Indian vegetarianism. Hinduism's respect and reverence for animals go beyond a pledge to vegetarianism and have indeed shaped a fundamental aspect of the religious doctrine theology. Hinduism also prominently sustains the notion that Cow signifies the presence of all 33 crores god and goddesses prayed and regarded sacred by them.

(B) Jainism

Jainism outlaws the usage of violence against every living thing. The Jaina sutras indicate that all living things are fond of life, suffer, experience pain, prefer to live, and long to live, people must refrain from all forms of killing and slaughter. According to Jainism, all beings should work toward each other's survival and prosperity rather than murder and massacre one another. According to Jain tradition, neither laypeople nor monks should force or let anyone work in a slaughterhouse. Jains hold that appropriate sustenance can be obtained from vegetarian sources without harming animals like cattle.

(C) Islam

Islamic dietary customs were introduced to India in the 12th century with the establishment of the Delhi Sultanate as an Islamic state. God created animals to benefit man, and the Quran advises Muslims to eat cattle meat, but condemns eating pork (verses 16:5-8; 23:21–23). Particularly on festival occasions like the Bakri-Id, the slaughter of cattle had been and was still an accepted religious practice among Muslim monarchs.

The cow killing taboo and its usage by Muslim army commanders to send a political statement by committing the taboo within temples are mentioned in the earliest books on the invasion of the Indian subcontinent. For instance, Al-early Biruni's 11th century chronicle mentions the invasion of Multan in the eighth century by Muhammad bin Qasim. Manan Ahmed Asif, a historian of Islam in South and Southeast Asia, claims that in this Al-Biruni narrative, "Qasim first asserts the superiority of Islam over the polytheists by committing a taboo (killing a cow) and publicly soiling the idol (giving the cow meat as an offering)" before allowing the temple to remain a place of worship.

IV. DEVELOPMENT IN 21ST CENTURY IN INDIA

The killing of cows has become contentious due to societal ideals and religious beliefs. The protection of cows in India is a major issue that is getting worse every day as a result of the nation's hidden economic decline.

In India, the concept of a uniform civil code has been debated for many years, and various

political and social reform groups have long called for it. The UCC is a contentious topic in India, as proponents claim it would advance equality and secularism while opponents claim it would impede people's freedom of religion and cultural customs. Overall, the controversy surrounding the UCC in India has drawn attention to the delicate and complicated interplay between law, religion, and culture in that nation, which has to be examined objectively and resolved in a progressive, comprehensive manner. The law is prescribed by Article 44 of the Constitution, which states that the state must work to establish a uniform civil code for its citizens across the whole India. However, Beef slaughter is still debatable and is one of the concerns while looking forward to the implementation of Uniform Civil Code.

Article 48 of the Indian Constitution. A result of the never ending tussle of constituent assembly on cow slaughter?

The issue of including a provision for the protection and preservation of the cow in the Constitution of India was discussed by the members of the Constituent Assembly. Pandit Thakur Dass Bhargava proposed an amendment to include a clause as Article 38A of the Directive Principles of State Policy. "The State shall endeavor to organize agriculture and animal husbandry on modern and scientific lines and shall in particular take steps for preserving and improving the breeds of cattle and prohibit the slaughter of cows and other useful cattle, particularly milch and draught cattle and their young stock," the amendment stated.

Even though some legislators desired to have the clause in the chapter on fundamental rights, a compromise was eventually reached and the modification was proposed to be included as a Directive Principle of State Policy and the article now stands as Article 48 of the Constitution as one of the Directive Principles of State Policy.

Currently, Article 48 reads, "The State shall endeavor 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 and calves and other milch and draught cattle." Hence, under the power endorsed to the states under Article 48, different states of the nations have come up with their own ideologies and set of rules in the form of their state acts on matters pertaining to beef laws.

For a better clarity on the laws pertaining to cow slaughter in the Indian Subcontinent, the author has categorized states and Union Territories into 3 categories:

(A) Category 1: No ban on Beef Slaughter

a) Lakshadweep

The Union Territory of Lakshadweep has absolutely zero restraints or lets say no laws pertaining to animal slaughter and export. Thereby making it a completely individual anatomical state in so far as animal slaughter is concerned.

b) Kerala

The state of Kerala is yet another state, which has zero restraint i.e. absolute individual discretion on matters pertaining to animal slaughter.

c) Mizoram

Another state that has no restrictions, i.e. complete individual discretion, with regard to animal killing is Mizoram.

d) Meghalaya

Meghalaya is another state that allows for complete individual discretion when it comes to animal killing.

Other states which allow the same i.e. no prosecution for animal slaughter are Tripura , Nagaland, Arunachal Pradesh.

(B) Category 2: Partial Ban

Some states have laws that forbid the slaughter of cows and calves but permit the killing of bulls, bullocks, and buffaloes as long as they receive a "fit for slaughter" certificate.

a) Manipur

There are no strict laws in Manipur in case of Animal Slaughter . Beef Slaughter is governed under Proclamation under Darbar Resolution 1939, and it reads that, "if anyone is seen killing a cow in the State he should be prosecuted". No legal impediment is strictly mentioned."

b) Tamil Nadu

The state under Tamil Nadu Animal Preservation Act, 1958, renders that an individual cannot slaughter or cause the slaughter of any animal unless certificate permitting slaughter by competent authority and cannot cause any animal to become fit for slaughter. Additionally, the act also provides for empowering competent authority or any person authorized by the government competent authority to enter and inspect premises if they believe that any offense is being, has been or will be committed. Punishments have been laid down for non compliances.

c) Karnataka

Under the Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964, cannot slaughter of any other animal without certificate from competent authority, which means that

fit for slaughter certificate enables an individual to cause slaughter.

d) Orissa

Under the Orissa Prevention of Cow Slaughter Act, 1960, one cannot slaughter, cause to be slaughtered, offer to slaughter, offer to cause to be slaughtered a cow at any place within the State with an exception being certificate permitting slaughter is present, the animal is infected with any contagious disease or is being experimented upon in interest of medical or public health. However, the individual must inform about slaughter within 24 hours when performed due to disease or experimentation as per the exception.

Some other states and Union Territories in this category are Jharkhand, Bihar, Telangana, Andhra Pradesh, Daman & Diu etc.

(C) Category 3: Total Ban

The northern, central, and western regions of India have the strictest restrictions against the slaughter of cows. Few states (regions overseen by the federal government) forbid the slaughter of cows, calves, bulls, and bullocks.

a) Uttar Pradesh

Uttar Pradesh Prevention of Cow Slaughter Act, 1955 (Amended in 1979 and subsequently in 2002) governs the beef slaughter laws in the state. As per the provisions of the act, one cannot slaughter, cause to be slaughtered, offer to slaughter a cow, bull, or bullock and cannot sell, transport, cause to be sold or transported, offer to sell or transport beef or beef products unless for prescribed medicinal purposes.

The act has provided for the definition of animal which says, Animals include: Cows, Calves, Heifers, Bulls, Bullocks. As per the act, if such an offence is committed it is cognizable and non-bailable offence.

b) Rajasthan

Rajasthan Bovine Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act⁶, 1995 governs the animal slaughter provisions in the state. It reads that, one cannot slaughter, cause to be slaughtered, offer to slaughter, offer to cause to be slaughtered a bovine animal and moreover, possession and sale of beef or beef products is prohibited. Additionally one cannot cause bodily pain, disease or infirmity to bovine animals and cannot intentionally injure bovine animals. The act also empowers competent authority or any person authorised by

⁶ https://prsindia.org/files/bills_acts/bills_states/rajasthan/2018/Bill%20of%202018%20Rajasthan.pdf. Last visited on 27th January, 2023

the competent authority to enter and inspect premises as well as seize bovine animals if they believe that any offence is being, has been or will be committed.

The act has provided for the definition of animal which says, Animals include: Cows, Calves, Heifers, Bullocks. As per the act, if such an offence is committed it is cognizable and non bailable offence.

c) Uttarakhand

Uttarakhand Protection of Cow Progeny Act, 2007⁷ (Amended in 2015) governs the animal slaughter provisions in the state. It reads that, one cannot slaughter, cause to be slaughtered, offer to slaughter a cow or cow progeny with an exception that certificate permitting slaughter of bull or bullock is present and if the cow/bull/bullock is infected with contagious disease or is incurable and is suffering from intolerable pain. One cannot possess, cause to possess, sell, transport, cause to sell or transport beef and beef products. Additionally one cannot leave cow progeny vagrant or cow wandering after milching. There is a compulsory registration of cow progeny in urban areas.

The act has provided for the definition of animal which says, Animals include: Cows, Calves, Heifers, Bullocks. As per the act, if such an offence is committed it is cognizable and non bailable offence.

d) Madhya Pradesh

Madhya Pradesh Govansh Vadh Pratishedh Adhiniyam, 2004 (Amended through Madhya Pradesh Gauvansh Pratishedh Adhiniyam, 2010⁸, governs the animal slaughter provisions in the state. It reads that, one cannot slaughter or offer to slaughter cow progeny and cannot possess beef. The Act empowers competent authority or veterinary officer or any person authorized by the competent authority or the veterinary officer to enter and inspect premises and vehicles within local jurisdiction if they believe that any offense is being, has been or will be committed.

The act has provided for the definition of animal which says, Animals include: Cows, Calves, Bull, Bullocks. As per the act, if such an offence is committed it is cognizable and non bailable offence.

V. GLOBAL SCENARIO

The requirements of beef as a protein source is having a constant rise worldwide. Historically,

⁷ <https://ahd.uk.gov.in/files/EngRules2018.pdf>. Last visited on 27th January, 2023

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https://www.indiacode.nic.in/bitstream/123456789/4224/1/The_Madhya_Pradesh_Govansh_Vadh_Pratisedh_Adhiniyam_2004.pdf. Last visited on 27th January, 2023

beef is considered to be one of the luxurious eating items in many developed countries and many developing countries are in the same path as well.

The European Union is considered to be one the leading producers of beef. In Europe, the European Convention for the Protection of Animals for Slaughter came into effect in 1982 with an aim to “to help harmonize methods of slaughter in Europe and make them more humane” because of the need to emphasize on public awareness and animal welfare. Also European Convention for the Protection of Animals for Slaughter has been adopted by the signatories considering the alluring to guarantee the security of animals which are to be butchered.

Every nation has its own legitimate structure with explicit regulations to manage animal slaughter. In Estonia, the animal slaughtering process is considered to be one the strictest where the community is required to take the consent of the public authority 10 days prior to the event (later extended to twenty days) and perform the entire process in presence of a government animal welfare inspector. In the Netherlands, after discussions with community leaders and representatives of slaughterhouses, the Dutch government allowed religious slaughter as it is necessary to meet the actual needs of the local religious community in the Netherlands.

Also in many European nations such as in Finland, Iceland, Norway, Sweden etc under their domestic animal welfare protection acts made the process of sedation mandatory in order to make sure animals are slaughtered painlessly. Many countries also made it a mandate even for slaughtering animals for religious purposes.

In countries such as Belgium, Cyprus, France, Luxembourg, Switzerland it is mandatory for animals to be stunned before being slaughtered except for religious purposes where no stunning will be required. The method of stunning practice has been criticized in several occasions along with the provisions where no stunning is required causes immense pain and suffering to the animal. European nations also impose heavy monetary penalties whosoever violates their animal slaughter laws.

The authors would like to draw attention to the Asian continent perspective as well where many developing countries are facing cruelty of animals, the crucial reason behind this is that slaughtering is not done in a proper manner. Moreover, many countries have laws with regards to animal welfare but failed to implement it on the ground level and some were deficient in policies and guidelines. In our neighboring country, Sri Lanka 70% of its inhabitants identify as Buddhists, making up the majority religion in the nation. Because they believe cows to be sacred, the majority of them do not eat beef, but a small minority of Muslims (approximately 10%), Christians, and few Hindus do. Reactionary Sinhala-Buddhist organizations, many of

which are Rajapaksa allies, have been calling for a ban on cattle slaughter for some time now. In 2020, Sri Lanka will finally outlaw the slaughter of cattle. Philippines also showed commitment by rapid training workshops in order to increase the knowledge and spread awareness for animal welfare and human handling of slaughter regulations are also improved.

VI. CONTEMPORARY ISSUES OF HEALTH AND HYGIENE IN BEEF SLAUGHTERING

In order to guarantee the safety and acceptability of the meat that people eat, a group of procedures known as meat hygiene necessitates the implementation of particular standards, codes of conduct, and regulatory action by the competent authority. At all phases of production, processing, and transportation, hygiene standards must be followed, and they must take into account the environment, staff, and equipment used in slaughter and meat processing. Meat is known to be the main source of serious food borne diseases. Meat provides the right amount of moisture and nutrients, which is ideal for the growth of germs including trichinellosis, taeniasis, and echinococcosis-hydatidosis that can cause food poisoning and zoonosis. Poor hygiene and safety procedures, insufficient food hygiene regulations, inadequate regulatory frameworks, inadequate investment in safety equipment, and inadequate education of meat handlers all contribute to the prevalence of food-borne disease in underdeveloped nations. Cross-contamination of meat occurs as a result of improper treatment of the animal and unclean cutting and processing techniques, which can result in outbreaks of meat-borne pathogens.

5-8% of the butchers being screened in Hyderabad and New Delhi by the National Research Centre on Meat (NRCM) had antibodies for zoonotic illnesses like Brucellosis and Leptospirosis, according to the NRCM.⁹ Some researchers found 468 cases of echinococcosis and 19 cases of cysticercosis in a 1976–1978 survey of 1,100 killed cattle at Kerala slaughterhouses, with the former affecting 365 livers and 340 lungs. 79% of cattle had illness in their livers, and 73% had it in their lungs.¹⁰

More than 60% of the carcasses of cattle killed in Karnataka in 2001 were found to contain schistosoma eggs and worms, according to a study by Sumanth and other researchers.¹¹ According to a 2007 report by Ravindran, more than 50% of the cattle killed in Wayanad had an infection.¹²

⁹ <https://timesofindia.indiatimes.com/city/hyderabad/why-butchers-in-delhi-hyderabad-have-high-rate-of-infection/articleshow/69180641.cms>. Last visited on 27th January, 2023.

¹⁰ Prabhakaran, P.; Soman, M.; Iyer, R. P. and Abraham, J. (1980), Common disease conditions among cattle slaughtered in Trichur municipal slaughter house – a preliminary study, *Kerala Journal of Veterinary Science*, Vol.11, No.1, pages 159–163

¹¹ S. Sumanth, PE D'Souza and MS Jagannath (2004), A study of nasal and visceral schistosomiasis in cattle slaughtered at an abattoir in Bangalore, South India, *Rev. Sci. Tech. Off. Int. Epiz.*, 23 (3), pp. 937–942

¹² Ravindran R, Lakshmanan B, Ravishankar C, Subramanian H (2007). "Visceral schistosomiasis among domestic

VII. CONCLUSION

Sir Paul McCartney, an advocate of animal welfare said that “if slaughterhouses had glass walls, the world would be vegetarian. Humans have an instinctive concern for other sentient beings and a desire to prevent their harm. This may also be the reason that when we see a truck carrying farm animals, we automatically turn away. We can't allow ourselves to dwell too long on it because we already know where they're going. The authors have come up with a bunch of observations and humble recommendations that have been gathered after extensive research about the position of beef slaughter and meat industry across the globe. No ill-treatment should be done to a living species and thereby slaughtering in sedated condition can be an alternative as prevalent in the countries of Finland, Iceland, Norway, Sweden.

In India, despite the fact that India's domestic market for meat is expanding along with the number of fast food restaurants, the CPCB research observed that the meat industry is still one of the least well structured. Environmental issues, a lack of understanding, and poor private participation are some of the barriers to producing hygienic meat and meat products. The solid waste and effluents from slaughterhouses are disposed of improperly. In the majority of cities and towns, solid garbage is dumped in the open with municipal solid waste thereby creating a gap between hygiene and meat industry. Therefore, the authors are of a viewpoint that the meta industry needs to be regulated in terms of hygiene like In Estonia, the animal slaughtering process is considered to be one the strictest where the entire process of slaughtering is done in presence of a government animal welfare inspector.

In India's livestock industry, the gross value added from meat products reached over 1.7 trillion Indian rupees in the fiscal year 2020. About 23.3 percent of the economic value in this sector was represented by this category of goods. Over seven trillion rupees of the nation's GDP that year came from livestock products. Along with hundreds of illicit slaughterhouses, India has around 1,176 slaughterhouses and 75 abattoirs. India, currently the second-largest exporter of meat products, is anticipated to surpass China as the global leader seriously needs to come up with revolutionary steps to regulate the meat industry in terms of quality and hygiene so as to take this industry to newer heights as according to report.
