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The Legal Debate Surrounding Animal Sacrifices: Examining the Rights of Animals and Religious Freedom

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ABSTRACT

Where on one end, India is said to be home to one of the most religious yet tolerant societies, the other side of coin is still dreary over questions such as animal sacrifice done under the impression of pleasing Gods and Goddesses.

This paper draws a word picture of the landmark judgment by the Hon'ble High Court of Tripura that ruled that animal sacrifice is not a religious practice and that it cannot be protected under the right to freedom of religion. The Court held that the 'Right to Religion' protected by the Constitution is not an absolute right and cannot be used as an excuse to carry out animal sacrifices.

The author, with the help of this case comment on Subhas Bhattacharjee v.. The State Of Tripura will try to draw out the contentions put forth both in favour and against a ritualistic practice that involves offering an animal to a deity or a God as an act of worship or devotion. Practice is largely seen in Hinduism that holds a significant place in its culture.

Keywords: *Animal Sacrifice, Legality, Constitution Rights.*

I. INTRODUCTION

In India, animal sacrifice is an ancient religious practice that is still in use today. Animal sacrifice is believed to have originated from the *Vedic* times, where it was an integral part of *Vedic rituals*. As per Hindu mythology, gods are pleased with animal sacrifices and it is said that they can provide protection, joy, and prosperity. It is believed that when the gods are appeased through animal sacrifice, they can grant any wish that is asked of them.

Animal sacrifice is widely practiced in India and it is believed to bring peace and prosperity to the person performing the ritual as well as to the community. Although the practice has been widely criticised by animal rights activists, it continues to remain an important part of the Hindu tradition and culture.

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II. BACKGROUND OF THE CASE

Subhas Bhattacharjee V. The State Of Tripura (Writ Petition(C) (PIL) No.2/2018) Tripura High Court

Retd. Judicial Officer 'Subhas Bhattacharjee' filed a PIL, where he challenged the practice of Animal Sacrifice based on superstition, mainly in two temples i.e., '*Chatur Das Devata Temple*' and '*Mata Tripureswari Devi Temple*'.

This case presents the intriguing question concerning the right of offering an animal sacrifice by the state. Mata Tripureswari Devi Temple and Chatur Das Devata Temple situated within the State of Tripura have been aggrieved by the orders of the Hon'ble High Court of Tripura which held that the sacrifice of an animal in a temple, not being an essential part of religion, is violative of Article 21 of the Constitution of India.

III. CRITICAL ANALYSIS

- (1) As is the question of offering animal sacrifice not being an essential part of the Hindu religion, the prevalence of animal sacrifice for religious purposes has been widely covered through various facets of Hinduism. As per the accepted practices of the cult Vedic commentators, such as Udgita, Ananda Tirtha, Atmananda and Sayana, refer to *Rig Veda verse 10.86.14*², in which Indra says, "*They cook for one 15 plus 20 oxen*" and verse *8.43.11*, which describes Agni as one whose food is the ox and the barren cow. These verses, thus, strengthen the claims of particular schools of Hinduism which make animal sacrifice an integral part of it. The Vedas have clear indications pointing towards animals being offered in yajnas.

"Sacrificing an animal to please a supernatural Deity is a common feature found in many cultures, including that of Hinduism, during the early part of their development. The Deity was invariably an aspect of Durga or Kali and the rituals were very simple. Buffaloes, goats, sheep and cockerels were the usual sacrificial victims. It was believed that these victims would go to heaven."³

² See <https://www.sacred-texts.com/hin/rigveda/rv10086.htm>

³ See Swami Harshananda's A Concise Encyclopaedia of Hinduism

“One who is of such a cleansed soul may slaughter a cow (as an offering in sacrifice). They, therefore, that are not of that kind should perform Sacrifices with herbs and plants (and not animals).” - *Mahabharata Santi Parva Section CCLXIII*⁴

Hence, the petitioner, i.e. the State of Tripura strongly felt that the observations made by the respondents don't take into account the different schools of Hindu thought.

Furthermore, the Mata Tripureshwari temple falling under one of the 51 'Shakti Piths' of Hindu mythology. One such form is - '**Dash Maha Vidya**' known as —Shoroshi form, which has been worshipped as per the Tantrik worship method of the Tantrik Cult. The Tantric cult has various steps of the worship, with the last one to present —**Ahuti** in the form of sacrifices of the goat(s), pigeon(s), buffalo(es) etc. before the Goddess, which is an integral part of the worship.

(2) Since the Hon'ble High Court of Tripura observed that **Section 28 of The Prevention of Cruelty to Animals Act, 1960** has to be interpreted in light of the various constitutional provisions. Another provision deserves reading in the form of a fundamental duty under **51A(f)**- *to value and preserve the rich heritage of our composite culture*. Now, if the same were to be read together and in light of the aforementioned section, it allows for preservation of the rich heritage and culture of the state in the form of the right to offer an animal sacrifice in temples.

(3) **Article VI of the Tripura Merger Agreement, 1949** states the following:

The Dominion Government guarantees the succession according to law and custom, to the gaddi of the State and to the Maharaja's personal rights, privileges, dignities and titles.

It is to be noted that for the past 500 years the practice of sacrificing goats daily (except Doshomi) & one buffalo at the night of Amavasya is followed and the succession so mentioned in the Tripura Merger Agreement included the succession of such customs and practices.

(4) In response to one of the concerns expressed by the Hon'ble Tripura High Court that many a times the animal is not even killed in one blow, thereby leaving the animal smock and in extreme pain and suffering, the **Council of Europe's Convention for the Protection of Animals for Slaughter**⁵ and the **European Union (EU) Council Regulation**⁶ provide that animals should be stunned before they are slaughtered. Both

⁴ See <https://www.sacred-texts.com/hin/m12/m12b090.html>

⁵ See *European Convention for the Protection of Animals for Slaughter* art. 12, May 10, 1979, E.T.S. No. 102

⁶ See *Council Regulation 1099of 24 September 2009 on the Protection of Animals at the Time of Killing* art. 4, 2009 O.J. (L 303)

also provide that Member States may allow derogations from the stunning requirement **to allow for ritual slaughter.**

IV. CONCLUSION

The Hon'ble High court was of the opinion that the state's action to sacrifice animal on the daily basis is neither permissible by the Indian Constitution nor by any other Statute⁷.

The Tripura High Court has deemed animal sacrifice to be an unlawful practice, ruling that it is not protected under the right to freedom of religion. The Court noted that such practices are a crime and an affront to the fundamental values of humanity, and should be prevented. This decision is a positive step towards protecting animal rights and a recognition that animal sacrifice should not be legitimized under the guise of religious freedom. The Court considered the petition, filed by a bona-fide citizen, to be valid since the practice of animal slaughter was deemed to be tortuous to animals and could lead to infections. This ruling reinforces the proactive approach of the courts to remove negative religious practices even in Islam, as seen in the Mohd. Hanif Qureshi and Shayara Bano cases.⁸

The Court entertained the petition on the ground that it was filed by a bona-fide citizen who raised a very valid concern since the practice was tortuous to animals and it could even lead to infection around the area due to all the bloodshed. In conclusion, it is clear that the practice of animal sacrifice, for whatever purpose, is an outdated and cruel practice that has no place in modern society. It is our responsibility to ensure that animals are given the respect and safety that they deserve, and that their lives are not taken away from them for any purpose. Animal sacrifice is an act that should not be tolerated and should be stopped as soon as possible.

⁷ See *Animal Welfare Board of India v. A. Nagaraja & Ors.* (2014) 7 SCC 547, (India). Article 21 of the Constitution of India includes animals as well in the definition of 'persons' and hence, the right to life extends to animals as well.

⁸ See *Shayara Bano v. Union of India*, WPC No. 118 of 2016. The Court entertained the petition on the ground that it was filed by a bona-fide citizen who raised a very valid concern since the practice was tortuous to animals and it could even lead to infection around the area due to all the bloodshed.