

BEEF BAN IN INDIA: LEGAL PERSPECTIVE



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INTRODUCTION

'Beef' as defined by the Oxford English Dictionary, means the flesh of a cow, bull, or ox, used as food.¹

Beef is the culinary name for meat from dairy cattle, especially skeletal muscle. Since ancient times people have been eating beef. Beef is an excellent source of protein and carbohydrates. India is the third most consumer of meat in the world and it produces 25% of meat production in the world. The respective countries i.e. USA, Brazil, and China are the world's largest consumers of beef.² In Hinduism, cows are considered sacred and they have abstained from eating beef due to their belief and custom.

Cows slaughter is a disputable point in India in view of the cow's religious status and regarded as a living being in Hinduism, Sikhism, Jainism, rather than being considered as an adequate source of meat by numerous in Islam, Christianity, and also a few other religions. All the more particularly, the cattle slaughter has been evaded on account of various reasons, for example, is related to God Krishna in Hinduism, cows being regarded as an integral life of Hinduism and a fundamental financial need for rural people. Cow slaughter has additionally been restricted by different Indian religions on account of the moral guideline of Ahimsa (peacefulness) and the confidence in the solidarity of all life.

Article 48 of Indian constitution³- "Organization of agriculture and animal husbandry- 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 draught cattle."

Meat dishes were constrained off in Maharashtra, the nation's second most populated state, which likewise imprints Mumbai, broadened a restriction on animal slaughter and those who indulged in slaughtering will deserve up to five years imprisonment and Rs 10,000 fine. The state of Haryana too passed a comparative enactment. Likewise talking on a truthful premise

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¹'Beef | Definition of Beef by Lexico'

<<https://www.lexico.com/en/definition/beef#targetText=noun,as%20modifier%20beef%20cattle>> accessed 9 October 2019.

²Hannah Ritchie and Max Roser, 'Meat and Dairy Production' [2017] Our World in Data

<<https://ourworldindata.org/meat-production>> accessed 9 October 2019.

³ Indian Constitution 1950, art 48.

there are just 7 States and UT's at the present minute which don't have enactment concerning the butcher of bovines.⁴

RELIGIOUS PERSPECTIVES REGARDING CATTLE

Because of the multiple benefits of beef, cultures and sects have different beliefs about livestock. Slaughtering cattle is prohibited in some regions, particularly Nepal and most states in India, and their meat may be taboos. Throughout world religions including Hinduism, Jainism, Buddhism, Zoroastrianism, and others, cattle are considered sacred. In many cultures, cattle played major roles including those in ancient Egypt, ancient Greece, ancient Israel, ancient Rome, and ancient Germany. Basically, there will be more emphasis on 2 major religions of the country.

HINDUISM

It is believed by many researchers that beef was eaten by people in ancient India. Hindus in ancient India continued eating beef even when the custom of vegetarianism spread among various castes such as Hindus, Buddhists, and Jains after the 4th century. During the period of Rig Veda according to the oldest Hindu holy literature, beef was eaten by many people but when the guest of high status arrived or during the times of rituals female of the species was eaten.⁵

The pieces of literature such as dharma that showed us religious obligations and other texts such as Brahmamana stated that a cow or bull should be put to death so as to eat it when a guest arrives from the 3rd century B.C. As per this literature, animals i.e. cow and bull are considered sustenance or food. When a part relating to prohibiting the eating of beef and bull

⁴Akash Deep Ashok New Delhi June 2, 2014 UPDATED: June 2 and 2014 16:03 Ist, 'Telangana: Did You Know How India Got Its 29 States and 7 UTs?' (*India Today*) <<https://www.indiatoday.in/india/north/story/indian-states-union-territories-creation-of-states-states-reorganisation-act-telangana-kcr-195397-2014-06-02>> accessed 9 October 2019.

⁵Cow Slaughter - A Conspiracy to Destroy the Seat of Faith of Hindus !' <<https://www.hindujagruti.org/hindu-issues/cow-slaughter>> accessed 9 October 2019.

was written in the literature called 'Shatapatha Brahamana' then that was contradicted by Yajnavalkya that till sustenance was delicate, he would consume both cows as well as bull.⁶

Mahabharata, the epic Sanskrit literature had disallowed killing and eating of beef. It said that cow produces food without being killed, therefore it should be preserved and domesticated for dairy and agriculture use. It was said that vegetarianism was part of the religions of Hindus as it was believed that some of the gods whom Hindus worship were associated with cows.⁷ Some literature written at the same time had views that cows could not be consumed. There were some Hindus who consumed meat but did not eat cattle. It was viewed that it was based on caste i.e. there were more restrictions of food if a person belonging to a higher caste. Different religious assents were used to prohibit killing and eating of beef.

It was said by a few sociologists that people belonging to lower social strata stopped eating beef as they wanted to rise up through the process of Sanskritization. The main reason for the rising of the cow protection movement by the 19th century was to tyrannize the Muslim community. Broadly, Gandhi endeavored to make vegetarianism, especially the unthinkable against eating meat, a focal principle of Hinduism. Gandhi's disposition to beef-eating was attached to his concept of peacefulness. This was one of the reasons why he did not get Muslim support. Gandhiji still never banned eating of beef as he was of the view that until and unless people were not ready to leave slaughter of cow how would the slaughtering of cows be banned and India did not only comprise of Hindu but had other minority religions as well such as Muslims, Christians, Parsis, etc.⁸

ISLAM

Empires like Mughal Empire and Delhi Sultanate etc. led to the establishment of Islamic culture in India. In their religion cow slaughter is a religious practice and is generally done on auspicious occasions like festivals of eid etc. As for Hindus cow is a sacred animal similarly for them pig that is pork is sacred to them and therefore Muslims were not allowed to eat pork.

⁶Pankaj Mishra, 'Beef Eating in Ancient India' (*Beef eating in ancient India*) <<https://beef.sabhlोकcity.com/>> accessed 9 October 2019.

⁷Hinduism and Its Complicated History with Cows (and People Who Eat Them)' <<http://theconversation.com/hinduism-and-its-complicated-history-with-cows-and-people-who-eat-them-80586>> accessed 9 October 2019.

⁸Gundimeda and Ashwin - 2018 - Cow Protection in India.Pdf' <<https://azimpremjiuniversity.edu.in/SitePages/pdf/alumni-features-6-Cow-Protection-in-India-From-Secularising-to-Legitimizing-Debates.pdf>> accessed 9 October 2019.

Though 400 years ago India was ruled by orthodox Muslim rulers there was a ban of cow slaughter in the Mughal Empire. Cow slaughter was first banned by the Babar and it was followed by other Mughal Rulers.⁹It was believed that the Jahangir banned cow slaughter during a Jain festival called Paryushan. The ban was removed by few Mughal Rulers subsequently such as cow slaughter was allowed during the time of Aurangzeb but due to revolt of 1857 last Emperor of Mughal Empire Bahadur Shah Zafar again banned it even though he did not have much power.¹⁰Cow slaughter was also banned by Hyder Ali of Mysore and Chatrapati Shivaji of Marathas and the ban was imposed with strict rules and was made a punishable offense.¹¹

BRITISHERS PERSPECTIVE REGARDING CATTLE

The establishment of British raj brought English culture that is eating beef and whiskey. To show how unreasonable Hindu customs are some Hindus also started consuming beef. Robert Clive, when visited India, found that agriculture of India is so prosperous. Robert Clive also was twice the Governor-General of Bengal. Therefore he was very keen on finding the reason for so prosperous agriculture. He finally found that cow was the reason behind so prosperous agriculture.¹²

Robert Clive discovered that there was a number of cattle than the number of people in rural families.¹³The cow was not only pious to Hindus but also helped them in earning wages by producing milk and by helping in agriculture work. The entire life of Hindus was dependent on cattle. In ancient times in India, artificial chemicals were not used, cow urine and manure were used for agriculture. Artificial chemicals were not good for agriculture as they could destroy essential nutrients.

⁹'Fact Check - Fact Check News' <<https://www.indiatoday.in/fact-check/story/rajasthan-bjp-madan-lal-saini-mughal-cow-slaughter-1297573-2018-07-27>> accessed 9 October 2019.

¹⁰'3_B_A (History) - 108 23 - History of India (from 1707 to 1947 AD).Pdf'

<[https://alagappauniversity.ac.in/uploads/files/3_%20B_A%20\(History\)%20-%20108%2023%20-%20History%20of%20India%20\(from%201707%20to%201947%20AD\).pdf](https://alagappauniversity.ac.in/uploads/files/3_%20B_A%20(History)%20-%20108%2023%20-%20History%20of%20India%20(from%201707%20to%201947%20AD).pdf)> accessed 9 October 2019.

¹¹'10 Things You Didn't Know about Beef Bans' <<https://www.sify.com/news/10-things-you-didn-t-know-about-beef-bans-news-national-pkholsgjegeei.html>> accessed 9 October 2019.

¹²'Why Cow Is Sacred The Untold Story - Uday India : Uday India' <<https://udayindia.in/2017/06/29/cow-sacred-untold-story/>> accessed 9 October 2019.

¹³'3_B_A (History) - 108 23 - History of India (from 1707 to 1947 AD).Pdf' (n 10).

Therefore Robert Clive thought to destroy the prosperous agriculture of India by targeting cows. In 1760 he opened the first slaughterhouse in Kolkata. Many numbers of cows were slaughtered in that slaughterhouse. As a consequence, there was a shortage of cows.¹⁴ Hence for agriculture, no other option was left other than to use chemical fertilizers. Chemical fertilizers were imported from Britain and slowly and steadily Indian agriculture totally became dependent on Britain.

In slaughterhouse Hindus were not ready to work as the cow was sacred to them, so Britishers employed Muslims in the slaughterhouse. This led to clashes and riots between Hindu and Muslim. Later on, after Independence, it also became a vote bank issue. Due to the vote bank issue, political leaders did not ban the slaughter of cows in India. In 1852 first Gaurakshini Sabha was established by Dayanand Saraswati who was the founder of Arya Samaj in Punjab. Gaurakshini was a cow association and its aim was to prohibit the slaughter of cows. Gaushalas were also created for the protection of cows. Slowly and steadily the movement spread to many parts of India.¹⁵

The revolt of 1857 took place in the central and northern parts of India. It basically began with a mutiny of the Indian soldiers but soon spread to various regions. The revolt was fought by peasants with great courage and sacrifice which wrote an illustrious chapter in the history of India. The revolt was not only about the mutiny of Indian soldiers but also against the administration of Britishers and their rule and regulations. The main cause of the revolt was that the new Enfield rifle had a greased paper which had to be bitten before loading the cartridges in the rifle.

The greased paper was made of beef and pork which made the Muslim as well as Hindus more solid as it was against the religious customs of Muslims to eat pork and similarly it was against the religious customs of Hindus. Therefore Muslims, as well as Hindu soldiers, thought that the Britishers were trying to destroy their religion. Henceforth after the revolt of 1857, the last emperor of the Mughal Empire banned cow slaughter and was made a punishable offense even though he did not have much power.¹⁶

¹⁴Surender Negi, 'Sin of British Colonisation: History of Cow Killing in India' (*Indian Indology - Truth beyond agitprop*, 12 April 2017) <<https://indianindology.com/2017/04/12/sin-of-british-colonisation-history-of-cow-killing-in-india/>> accessed 9 October 2019.

¹⁵History Speaks, 'History Speaks: SACRED COW AND THE CONSTRUCTION OF HINDU NATIONALITY IN BRITISH INDIA' (*History Speaks*, 21 February 2008) <<http://indiahistoryspeaks.blogspot.com/2008/02/sacred-cow-and-construction-of-hindu.html>> accessed 9 October 2019.

¹⁶Ron Soodalter, 'Dodging a Bullet: The Indian Rebellion' (*HistoryNet*, 14 March 2017) <<https://www.historynet.com/dodging-a-bullet-the-indian-rebellion.htm>> accessed 9 October 2019.

LEGISLATION FOR BEEF BAN IN INDIA

CONSTITUTIONAL PROVISIONS REGARDING CATTLE PROTECTION

In India, there are many provisions in the Constitution which itself is banning beef in India. It means that the lawmakers which framed the Constitution itself in 1950 were against the ban of beef in India.

In the State list, there is a provision of the “Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice” and the “Ponds and the prevention of cattle trespass” in the 15th and 16th entry respectively for cattle preservation in the state list of the Constitution of India.¹⁷ These provisions show that the states have the power to make laws regarding the beef ban in India. Similarly under Article 48 i.e. Article under the Directive Principle of State Policy of the Indian Constitution prohibits cow slaughter. It states that “Organisation of agriculture and animal husbandry The State shall endeavour 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.”

CONSTITUTIONAL DEBATES REGARDING BEEF BAN

There are so many debates in the Constituent Assembly where there were lengthy discussions on cattle ban. The Indian cow grazed the political, cultural, and social landscape from time to time. Historically, it was a leading source of the country's communal strife. Dalit and Muslim's recent victimization in the name of the Gau Mata put the holy cow back into debate and discourse.

Amid the framing of the Constitution, the subject of cow butcher was a standout amongst the most laden and argumentative themes of discussion. Seth Govind Das, an individual from the Constituent Assembly, confined it as a civilizational problem from the time of Lord Krishna and requested the ban on cow slaughter to be made on the Constitution's part on major rights,

¹⁷Full Text of “Centre And State Powers Under Indian Federalism”
<https://archive.org/stream/in.ernet.dli.2015.119161/2015.119161.Centre-And-State-Powers-Under-Indian-Federalism_djvu.txt> accessed 9 October 2019.

on a standard with the restriction of untouchability.¹⁸ For this purpose, he was upheld by different individuals from the Constituent Assembly including Shibban Lal Saksena, Thakur Das Bhargava, Ramnarayan Singh, Ram Sahai, Raghu Vira, R.V. Dhulekar, and Chaudhari Ranbir Singh, etc. Supporters of a cow slaughter ban propelled a blend of social and monetary contentions, conjuring the conclusions of thirty crores of the population from one perspective and the essentialness of cows in an agrarian economy on the other.

Under Article 48 of the Constitution, the cow is covered, which specifies that the state should enforce a ban on slaughtering cows and cattle. The cow did not find safety in the B.N. draft constitution i.e. Rau or in the one drafted by the Constituent Assembly's drafting committee.¹⁹ The Congress party's fundamentalists laid the groundwork for cow's entry into the country's constitution. But it was the president of the Constituent Assembly, Rajendra Prasad, and later the state, who clandestinely led the campaign.

The petitioners for the cow protection law included, among others, Seth Govind Das, Pandit Thakurdas, Shibban Lal Saxena, Ram Sahai, and Raghu Vira. By the way, they all belonged to a conservative Hindu tradition as well. Thakurdas, a member of the East Punjab Congress and a strong advocate of Hindu sentiment, suggested in the draft constitution an amendment to ban the slaughter of cows. He started his speech by giving economic arguments for cow protection, stating that cow protection was the remedy for agricultural failure and human health.²⁰

Another member of the assembly, Raghu Vira, called the cow "the nation's wife" and gau hatya equated with Brahma hatya. Professor Shibban Saksena, who was among the progressive faces of the assembly, argued that religion itself sanctified the good of mankind. He did, however, astutely not mention the allowability in Islam and other religions for cow slaughter.²¹

¹⁸'Cow Slaughter and the Constitution - The Hindu' <<https://www.thehindu.com/opinion/lead/cow-slaughter-and-the-constitution/article18683942.ece>> accessed 9 October 2019.

¹⁹'Cow Slaughter and Fundamental Rights: Debate on since 1948 - The Economic Times' <<https://m.economictimes.com/news/politics-and-nation/cow-slaughter-and-fundamental-rights-debate-on-since-1948/articleshow/58454897.cms>> accessed 9 October 2019.

²⁰'Examining the Constituent Assembly Debates on Cow Protection' <<https://thewire.in/law/unveiling-indias-long-history-of-hypocrisy-on-cow-slaughter-laws>> accessed 9 October 2019.

²¹'Directive Principle, Not Right: How Cow Protection Became Part of Constitution | Explained News, The Indian Express' <<https://indianexpress.com/article/explained/directive-principle-not-right-how-cow-protection-became-part-of-constitution-4683383/>> accessed 9 October 2019.

ANALYSIS OF STATE LAWS ON BEEF BAN

In states of West Bengal, Kerala, and North- Eastern states such as Arunachal Pradesh, Mizoram, Meghalaya, Nagaland, Tripura, and Sikkim has no state ban on beef. There are most of the states where cow slaughtering is declared illegal like, for example in Tamil Nadu, cow slaughtering is banned upto 3 years jail and Rs. 1000 fine but slaughtering of economic worthless animals is not allowed.²² Similarly, in Telangana and Andhra Pradesh, offenders will face imprisonment of 6 months and a fine of Rs. 1000. In Gujarat slaughtering of cow, calf, bull, and bullock are banned and there is a punishment of Rs. 50,000 and 7 years of jail and, etc.²³

This above state law shows that No state law explicitly prohibits beef consumption. State laws regulating cattle slaughter are lacking in uniformity. The most stringent laws are in Delhi, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab, Rajasthan and Uttar Pradesh and Uttarakhand, where cow slaughter and their offspring, including bulls and bullocks of all ages, are absolutely prohibited.²⁴ Some states prohibit absolute slaughtering of cattle in any manner but then also animals across the border are illegally slaughtered.²⁵ There should be a uniform law for preventing slaughtering of animals which is not possible in India because of diverse populations, religious sentiments, and economic factors.

POST INDEPENDENT LEGISLATION IN PARLIAMENT

To a few decades back in the 1960s, Jawaharlal Nehru was against any prohibition on cow slaughtering. The Constitution makers had included a ban on cow slaughtering in the Directive Principles of State Policy when in 1954 senior Congress MP Seth Govind Das moved a resolution in the Lok Sabha for an aggregate restriction on cow slaughtering. At the

²²'The Indian States Where Cow Slaughter Is Illegal and Punishable. | Struggle for Hindu Existence' <<https://hinduexistence.org/2015/10/11/the-indian-states-where-cow-slaughter-is-illegal-and-punishhable/>> accessed 9 October 2019.

²³'Meat Matters' <<https://www.downtoearth.org.in/coverage/agriculture/meat-matters-57633>> accessed 9 October 2019.

²⁴'States Where Cow Slaughter Is Banned So Far, and States Where It Isn't - News18' <<https://www.news18.com/news/india/states-where-cow-slaughter-is-banned-so-far-and-states-where-it-isnt-1413425.html>> accessed 9 October 2019.

²⁵'MP Goes Tough on Cow Slaughter | India News - Times of India' <<https://timesofindia.indiatimes.com/india/MP-goes-tough-on-cow-slaughter/articleshow/11358042.cms?referral=PM>> accessed 9 October 2019.

point when Nehru rejected the resolution, Das said that the majority was supportive of the resolution where Nehru agreed to resign if such law would be passed.²⁶

Additionally, Uttar Pradesh Chief Minister Dr. Sampurnanand, a prominent Sanskrit researcher, presented a bill on cow slaughtering which was against Nehru's express wishes. The law was passed and Nehru described it as a wrong move.²⁷

In 1966 Loknayak Jayaprakash Narayan wrote to Prime Minister Indira Gandhi for a prohibition on cow slaughtering. Indira Gandhi straight forward refused for such law. This prompted to Hindu associations to gather a nationwide protest. Many cattle protectors group assembled for a huge dissent outside Parliament. From 22 April 1979, Vinoba Bhave ran indefinitely demanding that the West Bengal and the Kerala Governments agree to enact legislation prohibiting cow slaughter. On April 12, 1979, 42 votes to 8 in the Lok Sabha adopted a Private Members Resolution with 12 absentees.²⁸

Also in 1982, the same Indira Gandhi who was then seeking after a Hindu pacification approach kept in touch with 14 Chief Ministers in which she desired to have a ban on cow slaughtering without any devious methods. There would be committees that would examine cattle before sending them to the slaughterhouse.²⁹

MODI GOVERNMENT'S APPROACH TOWARDS COW SLAUGHTERING

The Environment Ministry in May 2017 issued a notification titled 'Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017' which banned all types of cattle

²⁶India and the Politics of Developing Countries: Essays in Memory of Myron Weiner - Google Books' <https://books.google.co.in/books?id=ls38Az4-J64C&pg=PA160&redir_esc=y#v=onepage&q&f=false> accessed 9 October 2019.

²⁷Steven I Wilkinson, *Votes and Violence: Electoral Competition and Ethnic Riots in India* (Cambridge University Press 2006).

²⁸CHAPTER I Introduction | Department of Animal Husbandry & Dairying' <<http://dahd.nic.in/related-links/chapter-i-introduction>> accessed 9 October 2019.

²⁹'Indira Gandhi Asked States to Ban Cow Slaughter' (*The Shillong Times*) <<http://theshillongtimes.com/2017/06/13/indira-gandhi-asked-states-to-ban-cow-slaughter/>> accessed 9 October 2019.

slaughter nationwide except in the state of Jammu and Kashmir. It includes all types of bovine animals like bulls, camels, etc.³⁰

“The environmental ministry released the Press Information Bureau on ‘Rules on prevention of cruelty to Animals (Regulation of Livestock Market) to ensure the welfare of Animals & Protect Animals from Cruelty.’

The basic purpose of the Rule is to ensure animal welfare on the cattle market and to provide adequate housing, feeding, feed processing, water supply, water troughs, ramps, sick animal enclosures, veterinary care, and proper drainage, etc. Two committees are set up to promote this, namely the District Animal Market Monitoring Committee for animal market registration and the Animal Market Committee for market management at the local authority level.

The regulation's primary focus is on protecting animals from cruelty and not regulating current cattle trade in slaughterhouses. It is envisaged that bovine protection will be ensured on the market and that only healthy animals will be sold for agricultural purposes for farmers ' benefit. Through this phase, the livestock markets are meant to become hubs for animal trade for agriculture, and the farmers will have to buy animals for slaughter. The notified regulations would eliminate the scope of the illegal sale and trafficking of livestock, which is of major concern. The specific provisions apply only to animals that are bought and sold in the notified livestock markets and animals that are seized as case properties. These rules do not cover other areas.”³¹

This ban is totally extraordinary in India where only 30% of the cattle which are slaughtered are used for consumption and the rest 70% is used for trading in industries.³² It is very difficult to imagine life without buttons, soap, toothpaste, paintbrushes, and surgical stitches. Also in most of the states cow slaughtering is banned in northern, western and central India. If the central government is issuing such notification then it will hit meat industry as in 2014-

³⁰‘Government Bans Cow Slaughter Across India, Restricts Sale Of Cattle Only For Agriculture Purpose’ <<https://www.indiatimes.com/news/india/government-bans-cow-slaughter-across-india-restricts-sale-of-cattle-only-for-agriculture-purpose-322494.html>> accessed 9 October 2019.

³¹‘Rules on Prevention of Cruelty to Animals (Regulation of Livestock Market) to Ensure Welfare of Animals & Protect Animals from Cruelty: Environment Ministry’ <https://pib.gov.in/newsite/PrintRelease.aspx?relid=162195&utm_source=dlvr.it&utm_medium=twitter> accessed 9 October 2019.

³²‘Cattle Slaughter Economy: How Ban on Sale of Cattle for Killing May Affect Industry, Employment - India News’ <<https://www.indiatoday.in/india/story/cattle-slaughter-economy-kerala-calf-beef-festival-979880-2017-05-29>> accessed 9 October 2019.

15, India exported 2,4 million tons of buffalo meat to 65 countries, or 23.5% of global beef exports, according to the Centre for Monitoring Indian Economy.³³

There was a huge protest countrywide. Like in Kerala people organized beef fest in different parts of the state to protest the center's recent ban on beef which was organized by students and activists.³⁴ The state legislative assembly passed a special resolution asking the center to remove the slaughters ban as it infringed food eating habit rights of people. The protest erupted in Tamil Nadu against the centre for banning cow slaughter across nationwide and the beef fest was organized in IIT Madras to protest for the same.³⁵

CONSTITUTIONALITY OF THE PRESENT GOVERNMENT ORDER

In the case of **Mohammed Abdul Faheem Qureshi v. Union of India, 2017**³⁶ the petitioners challenged the constitutionality of the Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017. In his appeal, Petitioner claimed that the notice was against the freedom of religious practice to sacrifice animals and that imposing a ban on the slaughter of animals for food infringes the right to freedom of religion, conscience, security and personal freedom guaranteed by the Constitution to a citizen.

Parliament passed the 1960 Prevention of Cruelty to Animals Act when Pandit Jawaharlal Nehru was India's prime minister. This Act was amended by Indira Gandhi in 1982 as an Indian Prime Minister. This Act is the same as it was amended 37 years ago by the Indira Gandhi government. According to Section 38 of the Prevention of Cruelty to Animals Act, only the Center is empowered to make animal care laws. The notification released by the Environment Ministry draws authority from Section 38 of the Act. Rule 22 of the notification proved to be most contentious as it seeks to ensure that the selling and purchase of bovine animals on approved animal markets can only be carried out for agricultural purposes and not for slaughter. The official purpose of the new rules is to discourage cruelty to animals-considering slaughter to be a cruel act. In addition, legislation was introduced on the

³³India on Top in Exporting Beef - The Hindu' <<https://www.thehindu.com/news/national/india-on-top-in-exporting-beef/article7519487.ece>> accessed 9 October 2019.

³⁴Beef Fests across Kerala to Protest Ban on Sale of Cattle for Slaughter - The Hindu BusinessLine' <<https://www.thehindubusinessline.com/news/national/beef-fests-across-kerala-to-protest-ban-on-sale-of-cattle-for-slaughter/article9714132.ece>> accessed 10 October 2019.

³⁵IIT Madras Students Hold Protest against Assault on PhD Scholar over Beef Fest' <<https://www.livemint.com/Politics/xQqYQoRkqJgG1DUVt7gmgK/IIT-Madras-erupts-on-demand-for-action-against-assault-at-Ph.html>> accessed 10 October 2019.

³⁶*Mohammed Abdul Faheem Qureshi v. Union of India* [2017] MANU 25572 (SCOR).

prevention of cruelty against animals on a subject referred to in the concurrent list of the Constitution as "preventing animal cruelty." When Parliament passes legislation on a subject listed in the list at the same time, the law prevails to the degree of the contravention over any other acts passed by state legislatures.

The case before the Court is not the first to be brought before the petitioner by the government, whether directly or indirectly, to challenge the regulation of cattle slaughter. In 1958, a five-judge bench of the Supreme Court decided a case- **Hanif Qureshi v. State of Bihar**³⁷ on the same subject. The Bihar Preservation and Improvement of Animals Act, 1956 placed a total ban on the slaughter of all animal classes belonging to bovine cattle species. The petitioner challenged the legislation on the grounds that the right to freedom of worship, freedom of trade and occupation was violated and that the total ban was not good for the general public. Here, the Supreme Court ruled that the total ban on the slaughter of bovine animals was fair, legal and in accordance with the principles of the Directive laid down in Article 48. Nevertheless, the apex court held that a general ban on keeping uneconomic cattle under its jurisdiction was unjustified and violated the right of the butcher to freedom of trade and occupation. Revisiting its own decision of 1958, the Supreme Court, in the case of **Mirzapur Moti Kureshi v. State of Gujarat**³⁸, overruled its almost 50-year-old reasoning that ceasing to produce milk, breed or be used as a drought animal did not make bovine cattle useless.

In the present case, the Supreme Court upheld the stay on Centre's ban on cow slaughtering and said that the direction of the Madurai bench of Madras High Court in the case of **S. Selvagomathy v. Union of India**³⁹ of suspending centre ban on sale and purchase of beef in India will be applicable to rest of India.⁴⁰ 'It also said to the government that the law itself allows cattle slaughtering. It also said that the ban on cattle slaughtering is under the state list which implies that state governments are authorized to make law on the issue and it also infringes the right to carry out free trade.'⁴¹ The Madurai bench of the Madras High Court was the country's first judicial court to pronounce judgment on the beef ban by the central

³⁷ *Mohd. Hanif Quareshi & Others vs The State of Bihar* [1959] SCR 629.

³⁸ *Mirzapur Moti Kureshi v. State of Gujarat* [2005] 8 SCC 534.

³⁹ *S. Selvagomathy v. Union of India* [2017] SCC 23867 (Mad).

⁴⁰ SC Upholds Stay on Cattle Slaughter Rules – What Happens Next? - The Quint'

<<https://www.thequint.com/explainers/breaking-down-sc-stay-cattle-slaughter>> accessed 10 October 2019.

⁴¹ 'Law Itself Allows Cattle Slaughter, SC Tells Govt. - The Hindu'

<<https://www.thehindu.com/news/national/law-itself-allows-cattle-slaughter-sc-tells-govt/article19476483.ece>> accessed 10 October 2019.

government. The interim stay order was granted by the high court on the ban on cow slaughtering notified by the central government.

CONCLUSION

In a democracy, where each individual is free to voice his opinion, there are certain debates which no one can give a plausible answer to a masses keeping in mind the multiplicity of views and ideas held by persons, and the experiences of the past, the debate relating to slaughtering of animals, undoubtedly, falls in this category.

It comes as no surprise that the Constituent Assembly, maintaining the sanctity of the cultural diversity of the land, did not pursue a nation-wide enactment on the matter. Even today, the demand for national legislation is as foolhardy as it is unreasonable, the fulfillment of which in all probabilities will lead to aggravated acts of violence throughout the country. The best alternative so far, as experience suggests, has been to leave the issue to the better judgment of the individual states. It is undeniable that on certain occasions, with the vote bank politics coming into play, the judgment of states has not been exercised in a bona fide manner. For instance, although there is a draconian ban on consumption of beef in Maharashtra, the neighboring state of Goa, ruled by the same party, has no such ban owing to the simple fact that it has a Christian population, adequate enough to make a difference in the state elections. This can be considered one of the demerits of providing the autonomy of the states in the matter of laws relating to animal slaughter.

This shortcoming, however, does not in itself provide enough gravity to support the devising of a national enactment on the issue. The Supreme Court has asserted that the scope of judicial inquiry is confined to questions relating to whether the decision taken by the government is against any statutory provisions, or is violative of the fundamental rights of citizens, or is opposed to the provisions of the Constitution, and thus, has mandated the courts to refrain from interfering with the policy decisions of the government.

In a country like ours, it is practically impossible for a law to satisfy the aspirations of each individual, and this is where the concept of welfare state creeps in. Every law formulated has a particular objective, and unless this objective frustrates the constitutional fabric itself, it must be understood to be for the welfare of the people. Thus, the formulation of laws banning the slaughter of cattle in multiple states by our very own representatives, and its confirmation

by the judicial system is imperative to give essence to the ideal of socialism enshrined in our preamble. Criticism and scrutinization of executive action and judicial decisions, leading to a healthy public debate, is a unique and welcomed feature of a democracy. However, caution must be exercised so that such debates and discussions are not used as a forum to create a sense of insecurity and mistrust towards constitutional institutions, which may prove to be a hindrance to the growth and development of democracy in the long run, and to further ensure that our faith in the pillars of our democracy is not easily misplaced.

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