

## **REGULATIONS OF BEEF INDUSTRY: SOCIO-LEGAL IMPLICATIONS**

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The perturbing picture of cattle slaughter today is indeed considered historically a taboo for the very status of the animal being considered as sacred for the Hindus. The visual of a cow importunes every boilerplate about changeless India bogged down in traditions, customs and bygone agricultural practices. Yet, cow has loomed as a pointer for India's diverse political economy and administrative politics over the past decade. Studies reveal the increased level of beef consumption in India when compared to any other meat. With emerging laws on beef consumption, is it moral to ban beef on the grounds of religious sentiments in a secular country like India? The question is subject to multifarious opinions from each nook and corner of the country. The legislative provisions of Article 48 of our Constitution is commendable in this regard which states that "The State shall endeavour to organise 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."<sup>259</sup> The prohibition of cow slaughter being one of the Directive Principles of State Policy along with the "Preservation and improvement of stock and prevention of animal diseases, veterinary training and practice" contained in the Entry 15 of the State List of Seventh Schedule empowers the State legislatures with the power to make legislations curtailing butchering and to preserve cattle. Various states have promulgated different legislations banning cow slaughter to different degrees not all laws being the same. Attention should be drawn to Article 48-A and clause (g) of Article 51-A of the Constitution in this interest which may be reproduced as "The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country"<sup>260</sup> and "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures".<sup>261</sup> The aforesaid provisions make the fact luminous that the Constitution itself requires the state to enact laws banning cow slaughter. So a law banning cow slaughter is not unconstitutional per se. However, various cases challenging different state laws regarding beef regulations have come up in the apex

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<sup>259</sup> THE CONSTITUTION OF INDIA, ART. 48

<sup>260</sup> THE CONSTITUTION OF INDIA, ART. 48-A

<sup>261</sup> THE CONSTITUTION OF INDIA, ART 51-A

court time and again which makes the validity of these laws no longer *res integra*. In the landmark judgement of *Mohd. Hanif Qureshi v. State of Bihar*, three laws pertaining to beef regulations were challenged in which the Court held that the total ban on cow slaughter is reasonable and in consonance of Article 48. The religious grounds were rejected on the proposition that many Muslims did not sacrifice cows on Bakrid.<sup>262</sup> In another case of *Abdul Hakim Qureshi v. State of Bihar*, certain amendments made to the aforesaid three laws were challenged on the ground of Article 19(1)(g) read with Article 19(6) of the Constitution. Relying on the previous judgement, the ban imposed by the impugned act was considered as an unreasonable restriction.<sup>263</sup> In another similar case, drawing a distinction between cases of “control” and “prohibition”, the Supreme Court held that when the exercise of a fundamental right is prohibited, the burden of proving that a total ban on the exercise of the right alone would ensure the maintenance of the general public interest lies heavily upon the State. Since the State Government failed in discharging that burden, the said notification was held struck down.<sup>264</sup> In the case of *Hashmattullah v. State of M.P.*, a total ban on the slaughter of bulls and bullocks in the State of Madhya Pradesh imposed in the M.P. Krishik Pashu Parirakshan (Sanshodhan) Adhiniyam, 1991, was challenged. A 3-judge bench of the Supreme Court struck down the said amending Act as being *ultra vires* the Constitution.<sup>265</sup>

The question of religious sentiments of Muslims was challenged in *State of West Bengal v. Ashutosh Lahiri* where the Supreme Court proclaimed that “slaughtering of healthy cows on *BakrI’d* is not essential or required for religious purpose of Muslims or in other words it is not a part of religious requirement for a Muslim that a cow must be necessarily sacrificed for earning religious merit on *BakrI’d*.”<sup>266</sup> It is pertinent to note that ten years later the 7-judge decision of the *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jammatt* reversed/overruled the earlier 5-judge bench decisions in the aforesaid cases of *Mohd. Hanif Quareshi v. State of Bihar*, and *Abdul Hakim Quraishi v. State of Bihar* etc., to the extent they had ruled that a total ban on slaughter of bulls and bullocks cannot be made on the ground of Article 19(1)(g) read with Article 19(6) of the Constitution. The Supreme Court held that, “In the light of the material available in abundance before us, there is no escape from the conclusion that the protection conferred by the impugned

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<sup>262</sup> *Mohd. Hanif Quareshi v. State of Bihar*, A.I.R. 1958 S.C. 731

<sup>263</sup> *Abdul Hakim Quraishi v. State of Bihar*, A.I.R. 1961 S.C. 448

<sup>264</sup> *Mohd. Faruk v. State of M.P.*, (1969) 1 S.C.C. 853

<sup>265</sup> *Hashmattullah v. State of M.P.*, (1996) 4 S.C.C. 391

<sup>266</sup> *State of W.B. v. Ashutosh Lahiri*, (1995) 1 S.C.C. 189

enactment on cow progeny is needed in the interest of the nation's economy. Merely because it may cause "inconvenience" or some "dislocation" to the butchers, restriction imposed by the impugned enactment does not cease to be in the interest of the general public. The former must yield to the latter."<sup>267</sup> Upon describing cow dung to be more valuable than Kohinoor diamond, the Court made a plea holding that an animal that had served human beings is entitled to compassion in old age. This was followed by Hinsa Virodhak case in which the apex court vindicated the desistance of slaughterhouses and abattoirs during a Jain religious festival on grounds of religious sentiments. An overall analysis of the Constitutional provisions and various judgements explicitly proves that even a total ban on cow slaughter and its progeny is absolutely constitutional and is fully permissible under the Constitution of India. Furthermore as rightly mentioned above, various States/Union territories have already banned cow slaughter either partially or totally such a ban has been upheld by the courts. Therefore Maharashtra is not the first or the only State to ban cow slaughter and its progeny. Henceforth nothing remains illegal or unconstitutional in the Maharashtra Animal Preservation (Amendment) Bill, 1995 which has already been given assent by the President and has now ceased to exist as the law of the land for the "City of Dreams". With reference to socio-psychological factors, cow slaughter is indeed inhuman and barbaric and creates a disturbed envelope of fear, agony and pain. These psychic vibrations can be perceived by sensitive people. The amount of negativity that breeds in a place where slaughter happens all the time where one has to witness the butcher slit the animal, see the blood ooze out, hear the pitiful cries of the animal, gape at its struggle and it writhing in pain is truly a punishment. Further in any advanced and aesthetic society, violence and blood shed is considered to be the last option. Rather than stereotyping religious directives to be dogmatic, one should seek the reasons as to why religion advises us to stop slaughter of all sorts. Reasons behind religious instructions are humanitarian and rational which makes ban on animal slaughter a welcome step in that vision. Freedom cannot be absolute and is usually encompassed by social norms and expectations and if such expectations view cow as an object of reverence or if there is a social revulsion against the slaughter of a particular animal perhaps there arises a case for the need to ban the slaughter of cow.

Globally viewing, beef production is an immediate threat also for the very fact of it releasing greenhouse gases and being a source of imminent water depletion but for all these concerns,

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<sup>267</sup> *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*, (2005) 8 S.C.C. 534

banning beef production cannot be the ultimate solution. While almost all states have prohibited slaughter houses, still India is estimated to be home to around 30,000 illegal slaughter houses. Most of the states permit slaughter after obtaining “fit-for-slaughter” certificate which insinuates that the cow is unfit for any work. The existing laws can be extended to allow slaughter houses but with the application of strict regulations on it. Stringent laws regarding the maintenance of cattle and its health prior to slaughter and limitations regarding the number of slaughter houses per state must be undertaken. Taxing beef production heavily can be another effective way to prevent the rapid increase in its consumption. Once the tax system becomes aggressive on such sectors, the price will shoot up effectively limiting its production due to decrease in demand. Conducting frequent surprise raid on slaughter houses to ensure compliance with the set standards is yet another tactical measure. The argument of hurt religious sentiments to ban beef is yet another ploy of the right wing Hindus to create a homogenous religious collaboration through the imposition of high caste dietary preferences on to the lower social hierarchy, thereby totally overriding the choice of what one wants to eat. A secular state or the concept of secularism is the one in which a state or a country purports to be officially neutral in matters of religion and India being a secular nation, the very topic no longer ceases to be a conundrum. In this context beef consumption cannot be considered to be forbidden, which arises the plain simple question of why kill a cow when you aren't born of one. As nobody is being force-fed, tolerance connotes realization of the fact that just as cows are meant to be milked, they are meant to be meated as well. The extent of leather products used by man irrespective of caste, creed or religion is manifold but he fails to notice the source of them which includes cows and bullocks too. So it is not the eating of beef that is offensive but the killing of cows. When religious beliefs, dogmas and half-baked theories take precedence over logic and reason, the society and the system are indeed setting up themselves for a failure. The good old saying of “Too many cooks spoil the broth” holds utmost true here in the sense that too much of everything can be detrimental. Like we have laws to preserve several species like deers, elephants, peacocks and other animals, it is high time that the important contribution of this animal for human life remains under-rated and we must try to conserve it rather than quarrel over its religious and non-religious aspect. From the journey of “EAT,PRAY,LOVE” to today's deplorable state of “MEAT,PRAY,LOVE”, India has seen a sky-change when it comes to beef consumption and its regulations. It has not just been hypocrisy but total compromise for which our country is

unabashedly known for, the very reason why no law is being implemented completely. Let's sincerely hope and pray that India doesn't reduce itself to the paradigm of a 'cowed-down nation'.