

BAN ON CATTLE SLAUGHTER: THE CURRENT DEBATE

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Having a glimpse of the Hindu mythology, we can infer that 'cow' is regarded as very sacred and religious in the eyes of the Hindus. The sanctity of the cow has always occupied an essential part of the Hinduism doctrine. Article 48 included in Part IV of the Constitution of India directs the State to prohibit the slaughter of cows, calves and other milch and draught cattle. Currently, about twenty four states in India have their own respective regulations prohibiting either the sale or slaughter of cows. The states in which there are no restrictions on the slaughtering of cows and which do not consider it to be illegal include Kerala, West Bengal, Arunachal Pradesh, Mizoram, Meghalaya, Nagaland, Tripura as well as Sikkim.

The Ministry of Indian Central Government on 23rd May 2017 issued a notification imposing a ban on the sale and purchase of cows and buffaloes in the animal markets for the purpose of slaughter.² The notification covers cows, buffaloes, steers, heifers and calves and also camel trade. It also says that if any person is purchasing cattle then that person has to issue an undertaking assuring that the cattle will be used for agricultural purposes and not for the purpose of slaughter. The laws which govern the cattle slaughter varies in different states. Entry 15 of the State list of the Seventh Schedule is 'Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice. It implies that the state legislatures have absolute powers to formulate or establish laws relating to the prohibition of slaughter and protection of the cattle. There are some states which permit the slaughter of cattle, but they have to adhere to certain restrictions, for example a 'fit for slaughter' certificate has to be furnished by them pertaining to certain crucial factors like age, gender of cattle etc. Some states completely ban the cattle slaughter while some do not inflict any sort of restrictions.

In the case of *Israr vs the State*, a police constable observed a truck coming from the direction of Kamapur.³ He anticipated that it might be carrying cows for slaughtering. Therefore the

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² <http://www.hindustantimes.com/india-news/centre-bans-cow-slaughter-across-india-cows-can-be-sold-only-to-farmers/story-8sFXJxiNmZ8eD6NXDgbvnL.html>

³ <http://www.livelaw.in/allahabad-hc-upholds-conviction-prevention-cow-slaughter-act-read-judgment>. Article by Aasavri Rai

constable and the other officers halted their police jeep on the side and flashed a torch light at the truck driver as an indication to him to stop his truck. But the driver did not stop as he wanted to go scot free and so he started increasing the speed of the vehicle. The constables followed the truck and in this process, the truck collided with a tree and tilted to a side. In the meantime, the constables reached the spot. Israr, the petitioner was driving the truck. The police after examining discovered that the truck was carrying 16 bulls, out of which two of the bulls were dead. The rest were tied by the horns and were going through severe pain, suffering from injuries and also appeared quite afraid. One of the co-accused revealed to the constable that the bulls were being taken to the state of Bihar for utilizing them for sale and slaughter. The petitioner when questioned by the police, made a statement that the death of the bulls was caused because the truck collided with the tree. However, the post mortem report disclosed that the bulls had died due to non-functioning of the wind pipe, dislocation of the knee joints, twisted neck, excessive blood loss and other various factors.

As per Section 5- A of the Uttar Pradesh Prevention of Cow Slaughter Act, it is illegal to transport bulls and cows within, to or from U.P for the reason of slaughtering. The High Court said that the contention stating the death of the bulls was due to the accident caused with the tree could not be accepted, as there was no enough evidence to support the fact. Therefore, the Allahabad High Court confirmed the conviction of an accused under sections 3, 5 and 8 of the Prevention of Cow Slaughter Act and Section 11 of the Prevention of Cruelty to Animals Act.

When the petition opposing the centre's action came up for hearing in the Supreme Court on June 15 the centre submitted in the court that, the entire matter was being hyped up after the issuance of their notification. According to them, it was only a move taken to ensure that there are proper rules and regulations for governing the cattle trade.

The notification has instigated and resulted into number of protests, outrage and acrimony among everyone in different parts of the country .The Prevention of Cruelty to Animals (Regulation of Livestock Market Rules), 2017, issued by the Ministry of Environment, Forests and Climate Change permits only the farmland owners to indulge into trade at animal markets. The rules which have been incorporated institute some formalities to be complied with by the cattle traders. It provides that both the parties, the buyer and the seller have to render identities and relevant documents, before the trade takes place. After cattle has been purchased, mandatorily five copies of the proof of sale have to be issued, one of the copies

has to be given to the purchaser, the second one to the seller, the third one has to be presented to the tehsil office of the residence of the purchaser, the fourth one to the Chief Veterinary Officer which is in the district of the purchaser, and the last copy will be kept by the animal market committee for its own personal record. The rules also contain a provision for the formation of a District Animal Market Monitoring Committee which would be commanded by the Magistrate who would have the duty of managing the animal markets within the district itself. These rules further also impose a ban and forbid the organizing of animal markets within 50 km of an international border and 25 km of a state border. The rules also restrain certain practices as ‘cruel’ and ‘harmful.’ They include different methods of identifying animals, like hot as well as cold branding, shaving, trimming and painting of horns ,bishops in horses and cutting ear in buffaloes, casting and throwing animals on hard and rough surfaces without proper facilities for bedding, making use of any kind of colors or harmful chemicals on the body parts of animals .They also make it compulsory for the veterinary inspector to verify that the animals are conveyed only in the vehicles licensed by the law. The inspector also has the power to mark any animal as unfit or improper for sale, if at all he feels necessary.

A vacation bench of the court was hearing a plea filed by a lawyer who coined the terms ‘ discriminatory’ and ‘ unconstitutional’ for the centre’s order as it deprived the cattle traders from earning their bread and butter.⁴ It was argued that the decision would majorly affect the section of the poor farmers, compress the quantities of supplies to 1 lakh crore meat industry. The petition also accused the government of enforcing a beef ban illegally and dishonestly in harmony with the BJP’s Hindutva Ideology. He remarked ‘Killing of animals for one of the basic necessities of life, which is food and for offering to God is considered to be a ritual and is a part of the cultural activities for some communities.’ He also had put forth that limitations which had been laid down by the new rules were in violation with the law itself – Prevention of Cruelty to Animals Act 1960, under which it had been notified. The Act acknowledged slaughter of animals for food. According to Section 11 of the Act, slaughter of animals for the purpose of food did not amount to any kind of cruelty. It contained a particular exclusion for destruction of any animal for the reason of providing food to the human race unless the process of destruction or arrangement (preparation) involved or went along with the infliction of any kind of pain, injury or suffering which did not seem to be necessary.

⁴ <http://www.livelaw.in/sc-notice-centre-plea-challenging-ban-sale-cattle-slaughter>.

The number of law suits are mounting up day by day all over the country in relation to the centre's Prevention of Cruelty to Animals (Regulation of Livestock Market Rules) 2017.⁵ A PIL was filed by one of the Meat Traders Association as an attempt to challenge the new rules notified under the Ministry of Environment and Forests. The Goa Bench of the Bombay High Court issued a notice to the Centre and the State government of Goa to file an immediate reply to the allegations raised. The Petitioners claimed that the rules notified acted as an infringement and also abrogated the fundamental rights guaranteed to them by the constitution which included Article 19(1) (g)- Freedom to practice any profession or carry on any trade business or occupation and Article 25(Freedom of conscience and free profession, practice and propagation of religion). They also contended that the traders in Goa obtained their cattle from the open markets at Belgaum, Karnataka and the new rules would hamper their trade.

The Prevention of Cruelty to Animals (Regulation of Livestock Market Rules) have been notified by the Central Government with the main aim to supervise the animal markets and restrain the trans- border trade of cattle. The Environment Ministry gave an explanation stating that the centre had issued the notification in connection with the Supreme Court order given on 13th July 2015 in the matter of Gauri Maulekhi vs Union of India and Others⁶. According to the Environment Ministry, the order of the court was mainly to draft sufficient rules and directions in order to cease the practice of animals being smuggled outside the jurisdiction of the country for the Gadhimai Festival conducted in Nepal where animal sacrifice takes place to a very large extent.

In the year 2015 there was another writ petition which had come forward in Akhil Bharat Krishi Goseva Sangh vs Union of India before the Supreme Court. This petition claimed that there was an unrestrained trade of live cattles across the border to the state of Bangladesh which had followed with the exhaustion of cattle wealth in the country. The petition prayed that the centre be instructed to adopt proper measures in order to forbid the cattle smuggling into the state of Bangladesh and order the states of Rajasthan, Uttar Pradesh, Madhya Pradesh, Bihar and Odisha to inspect unlawful transportation of cattle and to check illicit ambiguities due to which cattle was transported to West Bengal and then to Bangladesh.

Both these cases were mainly filed to combat the trans- boundary smuggling of cattle but it has been interpreted to govern the animal markets within the country. The Supreme Court

⁵ <http://www.livelaw.in/bombay-hc-notice-centre-go-govt-cattle-trade-rules>. Article by Nitish Kashyap.

⁶ <http://www.livelaw.in/supreme-court-orders-new-cattle-rules>. Article by Dr.B. Balagopal

had given instructions to hold back the smuggling of cattle and no where there was any mention to impose a ban on cattle sale in animal markets for the purpose of slaughter. In fact, this issue was not at all taken into consideration while dealing with the above mentioned two cases. On the contrary, the court's orders seems to have been misconstrued.

Rule 22 under the Prevention of Cruelty to Animals (Regulation of Livestock Market Rules) 2017 lay down certain restrictions and limitations on the sale of cattle in the animal markets. There are numerous terms and clauses out of which some of them are as follows⁷.

It would be the responsibility of the Member Secretary of the Animal Market Committee to confirm the following requisite conditions:

- a. He has to ensure that no individual brings a young animal to an animal market.
- b. He has to make sure that no individual brings a cattle to an animal market unless on arriving he has made a written declaration which is signed by the owner of the cattle or his duly authorized agent.
 - (i) Stating the name and the address of the cattle owner accompanied with a copy of the photo identification.
 - (ii) Stating proper characteristic features and details of the identification of the cattle.
 - (iii) Assuring that the cattle has not been brought to the market for slaughtering.

The new rules also contain a specific definition of an animal market. Rule 2 (b) says "animal market means a market place or sale-yard or any other premises or place to which animals are brought from other places and exposed for sale or auction and includes any lairage adjoining a market or a slaughterhouse and used in connection with it and any place adjoining a market used as a parking area by visitors to the market for parking vehicles and includes animal fair and cattle pound where animals are offered or displayed for sale or auction."

The new rules mainly visualize to certify that the animals do not become victims of any of the cruel practices and the animal markets are clean and germ-free⁸. Rule 14 contains a list of certain activities that are strictly forbidden, which are harmful and dangerous for the animals. Some of these activities include compelling the animals to perform any kind of unusual acts like dancing etc for the entertainment of the people or for making money, making the animals

⁷ <http://www.manoramaonline.com/content/dam/mm/ml/news/latest-news/pdf/2017/ban-cattle-slaughter-government-notification.pdf>

⁸ <https://barandbench.com/cattle-slaughter-court>

wear any kind of jewellery or ornaments or putting on them any kind of decorative or beautifying artifacts, tying rope around the penis of the animals which is extreme cruelty and castrating (removing sexual organs) of the animals.

Rule 22 of the Prevention of Cruelty to Animals (Regulation of Livestock Market Rules) 2017 lays down that it would be the responsibility of both the parties, that is, the seller and the purchaser to give an undertaking ensuring that the animal would not be used for slaughtering. Now this seems to be a little complicated provision of the rules as it is most evidently imposing an indirect ban on cattle slaughter. While Section 11 of the Prevention of Cruelty to Animals Act 1960 states: Treating animals cruelly-

(3) Nothing in this section shall apply to

(e) the commission or omission of any act in the course of the destruction or the preparation for destruction of any animal as food for mankind unless such destruction or preparation was accompanied by the infliction of unnecessary pain or suffering.

Therefore we can conclude that the law says that when an animal is killed for the purpose of food, it cannot be considered as 'cruelty' unless the process or acts consists of unnecessary suffering. But Rule 22 does not make reference of any kind of unnecessary suffering, it is only putting a ban on the sale of cattle for slaughter at animal markets. The law is on one hand stating that killing of animals for food does not represent any kind of cruelty and so the slaughtering of animals cannot be said to be cruel. So now the confusion is whether the government trying to maintain that just the bringing of cattle to the market for the reason of trade involves 'unnecessary suffering'?⁹. If at all just getting the cattle to the market is the cause, then the enacted rules should be imposing a ban on the markets itself and it should also aim to put a stoppage on animals from being brought for agricultural purposes or for slaughter. But the rules display the preparatory measures to regulate and control the animal markets. The new rules do not specifically contain a provision imposing a ban on cattle slaughter. But it makes strenuous for the farmers who desire to sell their cattle for slaughter. They also disallow the sale of buffaloes for slaughter in the animal markets.

The contention of the Madras High Court was whether the Central Government had the power to execute the criticized rules.

⁹ <https://scroll.in/article/838939/government-wants-you-to-believe-its-cattle-slaughter-ban-is-about-cruelty-it-isnt>. Article by Rohan Venkataramakrishnan.

One of the petitioners who is also an advocate argued that the Rule 22 (b)(iii) and 22 (e) were beyond the powers of the Prevention of Cruelty to Animals Act 1960 and also violative of Article 14, 19, 21, 25 and 29 of the Constitution. The claim was that Section 11 of the Prevention of Cruelty to Animals Act 1960 contained a list of certain activities which seemed cruel to the lives of the animals and the section did not mention anything about slaughter. The petitioner raised a query and expressed suspicion regarding the centre's capability to establish rules which did not fall within the purview of the act.

The petitioner contended that the new rules framed by the centre would severely impact the farmers Right to Life guaranteed under Article 21 of the Indian Constitution and it would also at the same time serve as a helping hand to the cow vigilantes to bring their plan into effect.

The petition was heard by a Madurai Bench of the Madras High Court. The court issued a notice to the Central Government putting a stay on the rules. The court in its order said that it was incapable to make an assumption in the support and favor of the Central Government, the reason being, the matter in discussion fell within the ambit of the State List and on the other hand the Prevention of Cruelty to Animals was within the scope of the Concurrent List.

There were two petitions filed in the Kerala High Court concerning the rules which have been challenged. Firstly, a youth leader of one of the political parties had filed a PIL in which the court in its order stated that the slaughter of cattle and the consumption of beef was not prohibited by the rules. The court said that the rules aimed to control the sale of cattle for slaughter and the masses were expressing disapproval and protesting without having a brief look at the rules. The PIL was later withdrawn.

The Kerala High Court was also shocked and surprised at the decision of the Madras High Court on suspending the notification.

There were two other petitions filed and the court passed an order in these petitions on June 7, it denied to give any temporary relief but made certain remarks and observations.

The court concluded that the Prevention of Cruelty Act, harmonious to which the new rules had been enacted were mainly to ensure that the animals are not subjected to any kind of cruel acts. It also observed that the rules did not forbid the slaughter of animals for food. Therefore there was high impetus in the petitioner's contention that the rules enacted were beyond the scope of the act as they do not deal with any of the areas including the livestock

nor controlling the activities in the markets. The court said that the rules do not put an end to the slaughter of animals for food. The definition of ‘animal markets’ incorporated in the new rules generated a situation in which only those individuals who raised the animals in their own farms would be free to slaughter them.

The Hyderabad High Court held that the cow is viewed to be a ‘Mother’ and ‘God’ by the people and therefore the Muslims have no power to slaughter them in the name of religion under Article 25(1) of the Constitution, on the occasion of bakri-id.¹⁰ The Lucknow Bench of the Allahabad High Court stated that the food and the food habits came under the Right to Life guaranteed under Article 21 of the Constitution and therefore such ban would affect an individual in his own personal and private life.¹¹

Road Ahead

The Gazetted Notification issued by the centre banning the sale of cows and buffaloes for slaughter at animal markets has already activated severe and wide spread protests in different states including West Bengal, Tamil Nadu, and Kerala etc. This move taken , in order to regulate the cattle trade and prohibit the cruel practices which the animals are exposed to, has made the nationwide atmosphere chaotic, instilled a feeling of enmity and hate among everyone as well as resulted in strong opposition and revolt across the country. In the state of Kerala, beef fests were organized as an attempt to express disagreement to the centre’s action. The state of Meghalaya also had passed a resolution on 13th June censuring the notification.

According to some citizens these rules seem to be interfering with their right to food which is a part of the right to life guaranteed to them under Article 21 of the Constitution. They assert that the government holds no power or authority and is also not vested with the right to decide their food choices, tastes and preferences, in response to which the centre countered that they had no intention of meddling with the citizens right to food but their only motive behind this act is to prevent the cruelty to animals. One of the others reasons for this objection raised by the citizens is that , the notification drafted infringes their fundamental right allotted to them under Article 19 (1)(g) which is the freedom of profession and the right

¹⁰ <http://www.livelaw.in/cow-substitute-mothergod-muslims-no-fundamental-right-slaughter-cows-bakrid-hyderabad-hc/>.

¹¹ <http://www.livelaw.in/food-food-habits-part-right-life-allahabad-hc-slaughter-house-crackdown-read-judgment> .Article by Anubha Singh.

to carry on any business, trade and occupation. Various industries like soap, toothpaste, brushes and also the musical instruments are completely dependent on the cattle slaughter for running their business, so if this notification is granted allowance by the judiciary then it would hamper the lives of these businessmen. It would also paralyse the leather industry, like industries manufacturing footwear, bags and render lakhs of people out of their jobs overnight along with paving way for unemployment in the country. Due to the notification which has been issued out of the blue, the beef prices also are soaring high and it is also considered of imposing an indirect beef ban, under the garb of banning the slaughter of cattle which is one of the other reasons for the increasing outrage. The court has earlier said that eating beef is not an essential part of Islam and because of which the government is of the opinion that there is no law which can deprive them from enacting provisions stating that beef cannot be consumed.

Now on the other hand, India is a secular country. Article 25 to Article 28 of the Constitution guarantees the freedom of religion to the citizens residing within the jurisdiction of the country. So after the issuance of this notification the masses opined that it was a complete infringement of Article 25. They also submitted that it was violative of Article 29 of the Indian Constitution which states that any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own has the right to conserve the same. Having a glance at the current scenario we can deduce that the country-wide controversy is related to a very delicate issue. It is undoubtedly going to have some repercussions on the society. The pros and cons have to be weighed and decision has to be taken accordingly. The matter in dispute involves fundamental rights including right to equality, right to life, right to privacy, right to food, freedom of business, trade and occupation as well as the freedom of religion. There are different states, different communities, and there are emotions and sentiments invested accompanied with a very wide range of perceptions towards the same. The judiciary would scrutinize all the relevant facets connected with this issue, taking into consideration the advantages and disadvantages, keeping in mind and visualizing the impact and the consequences and in conformity with these factors pronounce the final verdict. There is a possibility that a certain section of the society might remain unsatisfied when the order is passed, as it is practically difficult to please everyone's ideologies. The masses should behave in a cordial way and co-operate with each other as matured individuals rather than indulging in protests and rivalry which would in turn disturb the peace, harmony and order in the country.