

# THE BEEF BAN DEBATE: PREVAILING MISTRUST OF THE LEGISLATURE'S COMPETENCE AND THE JUDICIARY'S PRUDENCE

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*The cow and the working bullock have on their patient back the whole structure of Indian agriculture"*

*- Lord Linlithgow, Governor-General of India (1936-1943)*

## INTRODUCTION

It is often said that the Legislature is the best judge of the needs of its people. It understands the foremost requirements of its populace, be it legal, social, or economical, and devises its policies accordingly. Another important pillar of our democracy, the Indian Judiciary, described by some as the 'sentinel on qui vive' is, as one would prefer to believe, always on the alert protecting citizens' rights. The apex court of the land, the Supreme Court of India, is perhaps one of the most revered and trusted constitutional body in the country. Together, through a system of checks and balances, these organs of our government have efficiently shepherded our young democracy to great heights over several decades.

A major complication which these institutions have encountered for quite some time now, is the question whether to ban the slaughtering of milch and draught cattle. The debate over banning of beef resurfaced recently after the Maharashtra Animal Preservation (Amendment) Act, 1995, received assent of President Pranab Mukherjee on 26th February 2015, and was subsequently published in the Government Gazette on 4th March 2015. The origin of this debate in the independent India can be traced back to circa 1948, when the framers of the constitution debated this issue in the Constituent Assembly. Since then, this dilemma has been a recurrent attribute of the world's largest democracy.

'Beef' as defined by the Oxford English Dictionary, means the flesh of a cow, bull, or ox, used as food. According to the Karnataka High Court, the dictionary meaning of beef is- the flesh of slaughtered full bull, or cow; or, a full grown bull, ox or cow especially one intended for use as meat.<sup>272</sup> Since the commencement of the constitution, various states, Bihar and Uttar Pradesh being at the top of the list, have regulate the slaughter of various species of bovine cattle such as cows and their calves, bulls, bullocks and buffaloes (male and female).

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<sup>272</sup> R. Fiyaz Ahmed v. The Chief Conservator Of Forests, AIR 2001 Kant 492; 2002 (4) KarLJ 145.

Before delving deeper into this topic, it is important to note that Entry 15 of the State List in the Seventh Schedule of Constitution of India, 1950, which lays down that the enactment of laws relating to preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice, shall be the domain of individual states of the Indian Union- gives the State Legislatures exclusive power to enact and implement laws regarding the slaughter of cattle in their respective states. This explains the lack of a nation-wide uniform legislation on the issue by the Central Government.

After the Constitution came into effect, there have been quite a few cases challenging legislations of various states, relating to slaughter of animals. The judicial approach, if one analyses, has varied in this regard, probably because of the changing needs of the Indian society and economy. This issue has many dimensions, ranging from legal, economical and social to religious, cultural and not to mention, political. Owing to the diverse population of the country, various individuals, sections of the society, groups and organizations have justified or opposed such laws on various grounds. Those in favor have defended such laws, inter alia, on economic grounds, whereas those against it have condemned it because in deciding what an individual should eat, the State encroaches upon the Fundamental Rights of the people.

This article mainly focuses on the justifications behind the impugned laws, their legitimacy and the ramifications thereof, and the role played by the judiciary and legislatures in achieving the socialist ideal. It also covers the economical and cultural aspect of the topic, and touches upon the religious and social facet of the debate to get a wholesome idea of the subject matter. Political agenda of laws relating to animal slaughter, if any, is beyond the scope of this essay.

## REVISITING THE HISTORY

Beef eating, like in the western world, was popular with the Vedic Indians also. Practically all the important ceremonies and sacrifices were attended with the slaughter of cows and bulls. The *Gomedha* and *Asvamedha* sacrifices are important in this respect.<sup>273</sup> In Rig Vedic times, goats, sheep, cows, buffaloes and even horses were slaughtered for food and for religious sacrifice and their flesh used to be offered to the Gods.<sup>274</sup>

A survey of the ancient Indian scriptures, especially the Vedas, shows that amongst the nomadic and pastoral

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<sup>273</sup> Mahadev Chakravarti, *Beef--Eating in Ancient India*, (Jun., 1979).

<sup>274</sup> State Of Gujarat vs Mirzapur Moti Kureshi Kassab, (2005) 8 SCC 534.

Aryans, animal sacrifice was a dominant feature till the emergence of settled agriculture. Cattle were the major property during this phase and they offered them propitiate the gods. Wealth was equated with the ownership of cattle.<sup>275</sup> The religious ban on killing cattle and eating beef arose to prevent the population from consuming the animal on which the Indian agriculture depends.<sup>276</sup> It is part of the known history of India that the Moghul Emperor Babar saw the wisdom of prohibiting the slaughter of cows, as and by way of religious sacrifice and directed his son Humayun to follow this example. Similarly Emperors Akbar, Jehangir, and Ahmad Shah, it is said, prohibited cow slaughter.<sup>277</sup>

The present history of India, in so far as the flood of cattle slaughter is concerned, would always remain related to this unfortunate lapse of the Constituent Assembly and its failure to agree to the inclusion of the clause in the Fundamental Rights Chapter.<sup>278</sup> The Constituent Assembly debate, in which the two Muslim members, Mr. Z.H. Lari and Syed Mohammad Saidulla, were willing for cow slaughter prohibition to be kept as a Fundamental Right, is an eye-opener to all, and decisively shows that this issue should not be treated as a Hindu-Muslim issue or a majority versus minority issue.<sup>279</sup> Thus, it can be said that the sacredness of the cow is not just an ignorant belief that stands in the way of progress. Like all concepts of sacred and the profane, this one affects the physical world; it defines the relationships that are important for the maintenance of the society.<sup>280</sup>

## A RELIGIOUS DEBATE?

More often than not, attempts have been made to give this issue a religious color, particularly by the local fanatics. Adjudicating on such matters is equivalent to walking on eggshells, as, the history of our secular democracy suggests that communal riots leading to loss of lives and destruction of property in relation to sensitive subjects like these are not unheard of, to say the least.

On a few occasions, it has been contended in the courts that by banning the slaughter of cow and its progeny, the right to religion of the citizens is being infringed. In *Mohd. Hanif Quareshi & Others vs. The State Of Bihar*<sup>281</sup> (Hanif Quqreshi), it was argued that the fundamental right under Article 25(1) of the Muslim community was violated as the impugned Acts prohibited sacrifice of a cow on *Bakr Id Day*, which was a religious practice. The

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<sup>275</sup> *ibid*

<sup>276</sup> Marvin Harris, *India's Sacred Cow*, Sociology 101; <http://sociology101.net/readings/Indias-sacred-cow.pdf>.

<sup>277</sup> Mohd. Hanif Quareshi & Others vs. The State Of Bihar, 1958 AIR 731; 1959 SCR 629.

<sup>278</sup> Report of National Commission on Cattle, 2002, Chapter 1, para 58.

<sup>279</sup> *ibid*, para 164.

<sup>280</sup> Marvin Harris, *India's Sacred Cow*, Sociology 101; <http://sociology101.net/readings/Indias-sacred-cow.pdf>.

<sup>281</sup> 1958 AIR 731; 1959 SCR 629.

courts had rejected this argument saying "*We have, however, no material on the record before us which will enable us to say, in the face of the foregoing facts, that the sacrifice of a cow on that day is an obligatory overt act for a Mussalman to exhibit his religious belief and idea.*"<sup>282</sup> In the case of *State of West Bengal and Ors. v. Ashutosh Lahiri (1995)*,<sup>283</sup> it was contended that the State of West Bengal had wrongly invoked Section 12 of the West Bengal Animal Slaughter Control Act, 1950, when it exempted from the operation of the Act, the slaughter of healthy cows on the occasion of *BakrI'd* on the ground that such exemption was required to be given for the religious purpose of Muslim community, and therefore, the power to grant such an exemption was challenged.<sup>284</sup> The Supreme Court, invalidating such power of exemption, held that "*...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>285</sup>

Despite the fact that neither the legislature nor the courts attach any religious criterion to the issue, there have been various instances of violence by zealots, acting as vigilantes under the garb of protecting "their" religion. A recent attack, in September 2015, on the deceased Mohammad Akhlaq, and his son who was critically injured, in Dadri, Uttar Pradesh by an angry mob after airing of rumours that the duo had slaughtered a cow and were in possession of beef,<sup>286</sup> is an appropriate example of diving the country on communal lines.

As individual states of the country have been empowered to make laws concerning slaughtering of animals, the trend has been that in states where a substantial population is involved in consumption of beef, the legislature, keeping in mind the cultural requirements of the people, has deemed fit not to impose a ban, for instance in Goa, and in north-eastern states of Arunachal Pradesh, Meghalaya, Tripura, Nagaland, Sikkim and Mizoram.<sup>287</sup>

It must be highlighted that all communities, whether they are the Hindus, Muslims, Christians, etc., in one way or the other, whether directly or indirectly, are collectively responsible for cow slaughter and smuggling of cattle in the country.<sup>288</sup> The Hindus, therefore, cannot escape from their responsibility and shift the blame for cow-

<sup>282</sup> The bench also took into consideration the report of Gosamvardhan Enquiry Committee set up by the Uttar Pradesh Government in 1953, which consisted, among others, 3 Muslim members who concurred in the unanimous recommendation for total ban on slaughter of cows.

<sup>283</sup> 1995 AIR 464; 1995 SCC (1) 189.

<sup>284</sup> Dr. Ashok Dhamija, *Constitutional validity of Cow Slaughter Ban in Maharashtra – a detailed analysis*, TILAK MARG, (March 4, 2015); <http://tilakmarg.com/opinion/constitution-validity-of-cow-slaughter-ban-in-maharashtra-a-detailed-analysis/>

<sup>285</sup> *State of West Bengal and Ors. v. Ashutosh Lahiri*, 1995 AIR 464; 1995 SCC (1) 189, para 9.

<sup>286</sup> Kunal Pradhan, Kaushik Deka, Gayatri Jayaraman & Damayanti Datta, *Beef, ban and bloodshed*, INDIA TODAY, (October 15, 2015); <http://indiatoday.intoday.in/story/beef-ban-and-bloodshed/1/493111.html>

<sup>287</sup> *The states where cow slaughter is legal in India*, THE INDIAN EXPRESS, (October 8, 2015); <http://indianexpress.com/article/explained/explained-no-beef-nation/>

<sup>288</sup> Report of National Commission on Cattle, 2002, Chapter I, para 167.

slaughter to non-Hindus, amongst whom there are also people who abhor cow slaughter or beef eating. There have been a series of pronouncements by the Supreme Court of India on the laws prohibiting the consumption of beef. The chain began in 1958 in the case of *Mohd. Hanif Quareshi & Others vs. The State Of Bihar* wherein the Bihar Preservation and Improvement of Animals Act, 1956<sup>289</sup>, the Uttar Pradesh Prevention of Cow Slaughter Act, 1955<sup>290</sup>, and the CP and Berar Animal Preservation Act, 1949<sup>291</sup>, were challenged on the grounds that they violated articles 14, 19(1)(g) and 25 of the Constitution of India. The most recent judgment of the Supreme Court on this matter can be found in the case of *State Of Gujarat vs Mirzapur Moti Kureshi Kassab*<sup>292</sup> (Mirzapur Kassab) in 2005. Herein the impugned legislation was the Bombay Animal Preservation (Gujarat Amendment) Act, 1994, applicable to the State of Gujarat, and the bench decided the matter by deviating from the established precedent. In the intervening decades, there have been sundry judgments, mainly on the lines of *Hanif Quareshi*. However, the new millennium witnessed a shift in the approach by the apex court. While some consider this shift as a violation of the *stare decisis* doctrine, others regard it as a progressive outlook towards the problem. In such circumstances, it becomes imperative to analyze the factors necessitating such variation and determine if the State has failed in its duty as a 'welfare' state.

## BALANCING RIGHTS AND PRINCIPLES

The very fact that the Directive Principles of State Policy are non-enforceable in a court of law creates a notion in mind that they are something lesser than Fundamental rights of a citizen. In one of its earliest decisions in *State of Madras v. Smt. Champakam Dorairajan*<sup>293</sup> in 1951, the Supreme Court held that the Directive Principles of State Policy have to conform to and run as subsidiary to the Chapter on Fundamental Rights. No doubt, *Hanif Quareshi* in 1958 was decided on the same lines wherein it was opined that "... that the State should certainly implement the directive principles but it must do so in such a way that its laws do not take away or abridge the fundamental rights, for otherwise the protecting provisions of Chapter III will be 'a mere rope of sand'." This

<sup>289</sup> Bihar Act II of 1956; This Act received the assent of the Governor on the 8th December, 1955, and the assent was first published in the Bihar Gazette, of the 11th January, 1956. Section 3 of the initial Act read as follows: "Prohibition of slaughter of cow, calf, bull or bullock- Notwithstanding anything contained in any law for the time being in force or in any usage or custom to the contrary, no person shall slaughter a cow, the calf of a cow, a bull or a bullock; Provided that the State Government may, by general or special order and subject to such conditions as it may think fit to impose, allow the slaughter of any such animal for any medicinal or research purposes."

<sup>290</sup> Section 3 of the initial Act read as follows: "Notwithstanding anything contained in any other law for the time being in force or any usage or custom to the contrary, no person shall slaughter or cause to be slaughtered or offer or cause to be offered for slaughter any cow in any place in Uttar Pradesh."

<sup>291</sup> The preamble of this Act stated that it was "expedient to provide for the preservation of certain animals by controlling the slaughter thereof."

<sup>292</sup> (2005) 8 SCC 534.

<sup>293</sup> (AIR 1951 SC 226).

led the bench of 5 judges in this case to hold that a total ban on the slaughter of she- buffaloes, bulls and bullocks (cattle or buffalo) after they ceased to be capable of yielding milk or of breeding or working as draught animals cannot be supported in light of economic factors (discussed later), hence, the restriction on article 19(1)(g)<sup>294</sup> was not reasonable in the interest of the general public. The court opined that on attaining a certain age, the cattle lost their potential as milch and draught animals, and if a ban was placed on their slaughter, it would lead to pecuniary loss to their owners since they would have to carry an additional burden of feeding them. This argument was supplemented by the observation that the State was unable to provide adequate shelter homes to protect such decrepit animals. In other words, laws made under Article 48<sup>295</sup> ( coming under Part IV [article 36-51] of the Constitution, comprising of various Directive Principles of State Policy) could not be in contravention to the Fundamental Rights contained in Part III.

This view has been contested from the very beginning on the ground that, being part of the same constitution that the fundamental rights and the directive principles are equally important and neither of them is superior or inferior to the other.<sup>296</sup> In *I.C. Golak Nath And Ors. vs State Of Punjab And Anr.*<sup>297</sup>, in 1967, it was pointed out that The Directive Principles of Part IV are as fundamental as the constitutional rights embodied in Part III and Article 37<sup>298</sup> imposes a constitutional duty upon the States to apply these principles in making laws. Further, in *C. B. Boarding & Lodging v State of Mysore (1970)*<sup>299</sup>, it was held that it is a fallacy to think that in our constitution there are only rights and no duties; there is no conflict between Part III and Part IV of the Constitution which are complementary and supplemental to each other. Finally, in *Minerva Mills v. Union of India, (1980)*<sup>300</sup>, it was held that "*harmony and balance between fundamental rights and directive principles is an essential feature of the basic structure of the constitution.*"

The constitutional bench in *Mirzapur Kassab* consisting of 7 judges (by a majority of 6:1) arrived at its decision keeping in mind these developments which had taken place since the *Hanif Quareshi* case in 1958. In *Kassab*, constitutional validity of the Bombay Animal Preservation (Gujarat Amendment) Act, 1994 was challenged,

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<sup>294</sup> It states that All citizens shall have the right to practise any profession, or to carry on any occupation, trade or business.

<sup>295</sup> It reads: " Organisation of agriculture and animal husbandry.—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>296</sup> Mahendra P. Singh, V. N. Shukla's Constitution of India, 343, (11th ed. 2008).

<sup>297</sup> 1967 AIR 1643; 1967 SCR (2) 762.

<sup>298</sup> It reads: " Application of the principles contained in this Part The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws."

<sup>299</sup> 1970 SCR (2) 600.

<sup>300</sup> 1980 AIR 1789; 1981 SCR (1) 206.

section 2 of which amended the Bombay Animal Preservation Act 1954 (applicable to Gujarat), the effect of which was that the slaughter of bull or bullock of any age whatsoever was completely banned. Previously, the ban under this Act extended only to bull or bullock under 16 years of age. Also, there already was a complete ban on the slaughter of cows and its progeny, therefore this point was not under consideration in this case. The Supreme Court held:

*"In the light of the material available in abundance before us, there is no escape from the conclusion that the protection conferred by impugned enactment on cow progeny is needed in the interest of 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."*

There is a constitutional mandate for bearing in mind the Directive Principles of State Policy while judging the reasonableness of the restriction imposed on Fundamental Rights.<sup>301</sup> The courts interpret the constitutional provisions against the social setting of the country so as to show a complete consciousness and deep awareness of the growing requirements of society and the increasing needs of the nation, also, the judicial approach should be dynamic rather than static, pragmatic and not pedantic, and elastic rather than rigid.<sup>302</sup> In *State of Kerala and Anr. v. N.M. Thomas and Ors.*,<sup>303</sup> a 7 judge bench further held that "...directives thus provide the policy, the guidelines and the end of socio-economic freedom..."

The adjustment between the rights of individuals and the social interest and welfare must necessarily be a matter for changing needs and conditions. The proper approach is therefore to look upon the fundamental rights of the individual as conditioned by the social responsibility, by the necessities of the society, by the balancing of interests and not as pre-ordained and untouchable private rights.<sup>304</sup> Thus it can be said that in this era of positivism and creativity, the chapter on Directive Principles of State Policy can also be pressed into service and relied on for the purpose of adjudging the reasonability of restrictions placed on the Fundamental Rights.<sup>305</sup> Had a similar interpretation of Article 48 been applied in *Hanif Quareshi*, the outcome would have been different.

## **ECONOMIC ASPECT**

One of the primary points of consideration in *Hanif Quareshi* as well as *Mirzapur Kassab* was the economic facet

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<sup>301</sup> State Of Gujarat vs Moti Kureshi Kassab, (2005) 8 SCC 534.

<sup>302</sup> Pathumma And Others v. State Of Kerala And Others, 1978 AIR 771; 1978 SCR (2) 537.

<sup>303</sup> 1976 AIR 490; 1976 SCR (1) 906.

<sup>304</sup> I.C. Golak Nath And Ors. vs State Of Punjab And Anr., 1967 AIR 1643; 1967 SCR (2) 762.

<sup>305</sup> State Of Gujarat vs Mirzapur Moti Kureshi Kassab, (2005) 8 SCC 534.

of slaughtering of cattle. It is interesting to note that the bench in both these cases adopted divergent approach to the matter, and hence arrived at conflicting decisions, the latter overruling the former which stood ground for more than four decades.

In *Hanif Quareshi*, after referring to a bulk of documents, the apex court, focusing mainly on facts and figures arrived at two basic premises, firstly, that the old and inefficient cattle further depletes the scanty fodder available in the country, and secondly, that the State's response in setting up *Gosadans* (cattle concentration camp for the old and useless cattle) was inadequate, and that such establishments were not a "practical proposition" to counter the problem at hand. The bench also highlighted its finding that the enormous expenses required for establishing *gosadans* would be better utilized in other national spheres. In addition, the weak and useless animals would further deteriorate the quality of breed.

These observations led the court, in 1958, to hold unconstitutional the ban on slaughter of she-buffaloes, bulls and bullocks (cattle or buffalo) after they went dry or were incapable of working as draught animals (utilized for lifting/pulling heavy loads), as being not reasonable in the interest of general public.

Despite the assertions made by the critics of beef ban that the economic conditions are akin to that of circa 1960 in terms of fodder availability etc, the fact remains that India has progressed from a severely exploited colony to one of the largest economies of the world. Notwithstanding the actuality that huge strides have been made in the industrial and services sector, over 58 per cent of the rural households still depend on agriculture as their principal means of livelihood. Agriculture, along with fisheries and forestry, is one of the largest contributors to the Gross Domestic Product (GDP).<sup>306</sup> The share of agriculture and allied sector to the GDP was a substantial 18.20% in 2013-14.<sup>307</sup> India is the 2nd largest producer of agriculture product and accounts for 7.68 percent of total global agricultural output.<sup>308</sup>

It is important to note that the importance of cow and its progeny was emphasized upon in *Hanif Quareshi* itself. In the words of Justice S R Das, speaking on behalf of the court, "... *They (cow and her progeny) sustain the health of the nation by giving them the life giving milk which is so essential an item in a scientifically balanced diet. The working bullocks are indispensable for our agriculture, for they supply power more than any other animal...The dung of the animal is cheaper than the artificial manures and is extremely useful. In short, the back*

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<sup>306</sup> Data retrieved from: <http://www.ibef.org/industry/agriculture-india.aspx> (last updated October 2015).

<sup>307</sup> Data retrieved from: <http://statisticstimes.com/economy/sectorwise-gdp-contribution-of-india.php> (last updated on 8th July, 2015).

<sup>308</sup> *ibid.*



*bone of Indian agriculture is in a manner of speaking the cow and her progeny.*"Pursuing this observance, the bench in *Mirzapur Kassab* accentuated the importance of the above mentioned by-products.

The belief that cow's which do not yield milk are unprofitable and burden for the owner is totally false and the fact remains that products of cow are sufficient to maintain them even without milk.<sup>309</sup> The products of cattle include milk, dung and urine which have a myriad of purposes, namely, agricultural ( organic farming, vermicompost, fertilizers, insect repellants); medicinal (used in ayurvedic treatment and homoeopathy); cosmetics (used for skin care, tooth powder, anti-dandruff shampoo etc.); nutritional ( milk contains proteins, vitamins, lactose in addition to carotenes, flavones & phenolic compounds and some steroids etc.); environmental ( used as natural fuels and fertilizers and thus maintain the ecological balance); and as a energy resource (draught cattle used for pulling, lifting etc).

It is estimated that two-thirds of the energy required for ploughing the cultivated area comes from animal power, and animal-drawn vehicles haul two-thirds of the rural transport, these functions being predominantly being carried out by bullocks, which constitute 88 % of the work animals.<sup>310</sup> The aged bullocks (above 16 years of age) generate 0.68 horse power draft output per bullock, while the prime bullock generate 0.83 horse power per bullock during carting/hauling draft work in a summer with temperature around or more than 42 degree Celsius. Statistics prove that 93% of aged bullock above 16 years of age are still useful to farmers to perform light & medium draft works.<sup>311</sup>

The court in *Mirzapur Kassab* dealt in great detail with the illustrated usefulness of cattle, scrutinizing its effect on the Indian economy in the twenty-first century and came to the conclusion that the ban on slaughter of cow progeny as imposed by the impugned enactment was in the interests of the general public within the meaning of clause (6) of Article 19 of the Constitution.

It is noteworthy that there has been a decline of milch cattle from 1,90,297 to 1,83,736 (-3.45 %) in rural areas, and from 8,778 to 7,168 (-18.34%) in rural areas between the period 2007-2012.<sup>312</sup> The first and foremost recommendation of the National Commission on Cattle, 2002, was that intensive efforts must be initiated immediately to identify and preserve all the indigenous breeds of cows and bulls. It further advised the initiation of research programs concentrating on chemical, microbiological and immunological analysis of milk and urine

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<sup>309</sup> Report of the National Commission on Cattle, July 2002; Chapter V, Part I, para 37.3.

<sup>310</sup> *ibid*, Chapter V, para 16.3.

<sup>311</sup> Study conducted by the Gujarat Agricultural University Veterinary College, Anand, and the Department of Animal Husbandry, Gujarat State, Ahmedabad. Cited in *State Of Gujarat vs Mirzapur Moti Kureshi Kassab*, (2005) 8 SCC 534.

<sup>312</sup> 19th Livestock Census, 2012- All India Report; pg 34, table 3.5

and dung of various indigenous cattle breeds and buffaloes with special reference to their agricultural, medicinal and nutritional significance. Even the National Livestock Policy, 2013, focuses on conservation of animal biodiversity and improving the productivity of livestock by promoting and disseminating the technologies developed by the research system.<sup>313</sup>

## CONCLUSION

In a democracy, where each individual is free to voice his opinion, there are certain debates which at no time can amass a public consensus. Keeping in mind the multiplicity of views and ideals 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 a 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 states autonomy in the matter of laws relating to animal slaughter. This shortcoming, however, does not in itself provide enough gravity to support devising of a national enactment on the issue.

The supporters of beef consumption have attacked the government on yet another ground, i.e., although beef is being banned domestically, the export of beef still continues, India being the largest beef exporter in the world in 2015 according to U.S. Department of Agriculture. The criticism is well founded, but it is important to note that like the revenue arising from the sale of intoxicating liquor, beef export contributes immensely to the State exchequer and is a policy matter of the government. 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

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<sup>313</sup> National Livestock Policy, 2013; Aims and Objectives 4.1.4 and 4.1.5.

Constitution<sup>314</sup>, and thus, has mandated the courts to refrain from interfering with the policy decisions of the government.

The fact remains that certain sections of the society are discontent with the stand taken by the state legislatures and its approval by the judiciary, and see it as a usurpation on the fundamental rights of the citizens. 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 for the people. This approach should not be confused with majoritarianism or Bentham's 'greatest happiness of greatest number' as various laws, such as those in interest of women, do not cater to the aspirations of majority, but rather, focus on the 'welfare' of women. 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.



The LAW BRIGADE

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<sup>314</sup> Ekta Shakti Foundation vs Govt. Of Nct Of Delhi, [2006] Insc 420 (17 July 2006).