

PINK REVOLUTION OR FOOD FASCISM IN INDIA: A CRITICAL ANALYSIS

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Abstract: The disputes and claims about the question of ruling out cow slaughter in India are an extremely explosive, opinionated and controversial, with cow being sanctified as holy by most Hindus in the country. Just about, all the proponents call for a national codification of the absolute ban on cow slaughter and other cattle. They seek Directive Principles of State Policy to implement an economic and agrarian argument to defend their demand. It is however, remarkable to note that it has always been much of a religious issue rather than based on the rationale of scientific temper or agriculture.

The apex court believed that the fundamental rights are not intruded by the directive. But the ambiguity to the residue of the verdict is if the prohibition on cow slaughter and other 'milch and drought' is made purely on 'usefulness' and 'scientific' grounds i.e. cows of all ages and cow-calves are completely forbidden while buffaloes, bulls and bullocks could be butchered when they become futile, then, why the criterion of usefulness was not similarly made applicable to slaughtering of cows? Are Courts still trying to intact the Hindu religious sentiments?

The fresh rules of the government disallows the commercialization of cattle for slaughter at animal markets which blatantly breach the Prevention of Cruelty to Animals Act by expressly barred what that Act permits. Under our constitutional design, "agriculture" and "the preservation of stock" plunge within the exclusive legislative expertise of the States. This is the grounds why, historically, diverse cow slaughter laws [1] have been took place by different States. It is to get around this that the Central government has called upon the Prevention of Cruelty to Animals Act, a subject on which both the Centre and States can make laws.

Considering to the Supreme Court decisions, the issues one needs to address is not whether or not the judicial intrusions and proclamations on ruling out of the 'cow slaughter' are constitutional because they are in consistency with the different interpretations of Art 48 and erstwhile directive principles of the Constitution, but whether they are unconstitutional as they supplant certain non-negotiable fundamental rights [2].

This paper initially peeps at the judicial discourse on sheltering cows from being massacred by examining the Supreme Court decisions, post- independence, and way back from 1955 to the most recent one. It also shed light on the fact that on what grounds the Directive Principle on the 'Organization of Agriculture and Animal Husbandry' in all this, Husbandry' has been calculated so efficiently, so as to allow a 'reasonable' restriction on fundamental rights of few groups, and if this restriction justly is 'reasonable'

Keywords: 'Beef Ban', 'Useless Cattle', 'Restriction', 'Secularism', 'Agrarian Argument'.

Introduction: Socio-economic justice is primarily attained through the stiff shell of the Directive Principles of the State Policy by the executive. Justiciable fundamental rights are reverse of explicitly non-justiciable principles that aimed to guide elected representatives towards advancing socio-economic conditions. Article 21 of the Indian Constitution, known for "expanding horizons" has encompassed plethora of those rights which never existed and one such is "right to live with dignity". The environmental challenges amid the "looming US withdrawal from the Paris Climate Change Agreement", "27 per cent rise in seawater temperature in the last 30 years", and "constantly ascending pollution in urban spaces" and underlining the disagreements between countries over the Paris Pact and emphasizing that "despite (many) rounds of negotiations", "we are not able to substantially manage the ecology"[3]. "The primary reason for this failure," the editorial argues, "lies in the limited focus of the environmental discourse on science or economics, without considering the philosophical aspects of it"[4]. Through judicial interpretations, various Directives have been granted justiciable facets including right [5] to livelihood [6]. Few Indian public institutions through Supreme Court's activism have shown desire and competence to recover social and economic conditions.

Nevertheless, following much reflection on the issue, a total ban [7] on cow slaughter found the place in the directive principle of state policy and not in fundamental rights. There was one small, snag, however: fundamental rights were meant to inhere in human beings, not animals. Few like Syed Muhammad Sa'adulla argued that this inclusion of the protection of cow on the economic basis is being satisfied by the back door and is

reflective of Hindu religious sentiments. Still, it is alleged to have a secular character. As of today Art 48 of the Indian Constitution reads as follows [8]: *'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 milch and draught cattle'*.

Primarily, the statutes of three states namely, Bihar, Uttar Pradesh and Madhya Pradesh were challenged for the prohibition of cow slaughter by the butchers and its subsidiary undertakings on the bases of the infringement of significant rights of Part – III i.e. Art.14, 19(1) (g) and 25 of the Indian Constitution. The court made the point that an absolute prohibition devoid of any test for the usefulness or age of cattle was 'excessive restriction', but still the upheld a total ban on the slaughter of "cows of all ages, and calves of cows"(but not of other cattle). The court ruled that [9]: *'..a total ban on the slaughter of useless cattle, which involves a wasteful drain on the nation's cattle feed which is itself in short supply and which would deprive the useful cattle of much-needed nourishment, cannot be justified as being in the interests of the general public.'*

However, 47 years later, in Mirzapur judgment, it was determined by the courts that *'milch and draught'* cattle are not tested on the basis of their usefulness but in terms of their functionality and therefore court supplemented the protection of other cattle as well. Thus, it is unconstitutional to voice that after certain age bulls, cows, and buffaloes are fit for neither and hence can be slaughtered. Significantly, it was noted by the Supreme Court that large sections of Christians, Muslims and Scheduled Castes and Scheduled Tribes consumed beef. The Supreme Court discarded these arguments and maintained the laws, but it did so by converging its reasoning completely on evident economic considerations. Featured analyses of agricultural output and milch yields cause these judgments a worry, almost unreal quality. If the court was reluctant to admit and to maintain the possibility of non-economic considerations behind such laws, as though this would wreck the thin disguise of secularism to which the Constitution continued seemingly committed.

It is mistimed that there continues to be a momentous detachment between what is claimed and is desired and what is essentially done. If a nation is involved in an inappropriate and rash action, which efficiently inflames a sizeable section of its population [10], can fail in achieving its objective. The purpose of the government is also under suspicion as it casts a doubt that if these rules were to stop cruelty to animals, then why their extent limited only to cattle? Farmers, too, opposed the move to restrict trade in markets only to animals meant for agricultural use, saying they cannot directly access slaughterhouses [11]. Farmers normally bring their redundant animals to livestock markets from where traders purchase and transport the cattle to abattoirs [12].

The sheer idiocy of such short-sighted means was cleverly emphasized by Justice J.C. Shah in 1969, in words that must be carefully read: *"The sentiments of a section of the people may be hurt by permitting the slaughter of bulls and bullocks in premises maintained by the local authority. But a prohibition imposed on the exercise of a fundamental right to carry on an occupation, trade or business will not be regarded as reasonable if it is imposed not in the interest of the general public, but merely to respect the susceptibilities and sentiments of a section of the people."* [13]

Thus, can the directive principle on the protection of cows in India be drawn as a 'reasonable restriction' to limit fundamental rights and does the latest legislation on the same not arise in breach of the spirit of the Indian Constitution refusing certain communities their basic human rights? The answer lies in the agony caused to the millions employed in the cattle industry, who were not indulged in slaughter of cows anyhow (Apart from 10 states which allow slaughter of cows with restrictions, most occupied in the cattle industry, slaughter bulls, bullocks and buffaloes etc for consumption or export of meat, leather etc) [12] and now would be left unemployed and devoid of a livelihood. The impact of *gau rakshak* vigilantism and the cow protection agenda is borne by some of the deprived communities in India [13] – the Muslims and Dalits. Against this backdrop, it is pertinent that judiciary seems impartial, sustaining constitutional values instead of religious ones. The logic behind this research is that in order to save our holy cow from a merciless massacre, people of the country are adopting violent means such as lynching, slaying, consequently to fight for their basic human rights. Thus all the rulings of the courts, amendments of the government and spirit of the constitution fade away.

Thus, the Constitution does not envisage a complete ban on the slaughter of cows but only seeks to prevent or prohibit the slaughter of a particular class of cattle. To completely eliminate the consumption of beef would be unconstitutional as it would deprive a sizeable section of the society of their right to consume the meat of their

choice. The contention that though the politico-legal treatise [15] on cow slaughter in India appears established on an agrarian and economic line of reasoning with the efficacy of cattle at the core of these debates, the political mobilization exercising the 'cow' as a symbol of amalgamating a religious group, evidently revealing this merger of the religious aspects of cow slaughter, with vote banks and dominance.

Conclusion: Although the population of fine indigenous cattle breeds of India nose-diving each year, the cattle populations of Ongole, Gir and Kankrej breeds in Brazil keep escalating though traded from the Indian sub-continent. There are ample of laws to "preserve" cows, beef ban and banning slaughtering of cows. Except nine [16] states, rest of the country has a ban on all cattle slaughter. As a result of the adoption of the directive principle under article 48 of our constitution, hindrance is conspicuous with the fundamental right to trade and livelihood of an entire section of communities including Adivasis, Dalits, Christians, Muslims and several other castes (many of whom are too scared to admit they eat beef) reliable on that trade. It is only hastening the decrease and downfall of the cattle ownership amongst farmers across India, accompanied by the 'buffaloisation' [17] in bovine populations by these actions. The cattle slaughter bans and the bans on transportation of cattle across states deprive the farmer of any resale value for their cattle.

On the other hand, India's beef production is most sustainable and least ecologically harmful in the world. Primary objective is to produce milk and milk products and then beef as a by-product of buffalo rearing livelihood practices. Threats to inflict a nationwide prohibition on beef consumption and cattle slaughter also disregard the close relationship between those who consume beef and those who care for cattle. Several factors viz., depleting grazing resources of common lands and forests, disappearing roles for indigenous cattle breeds in agriculture production as providers of milk, energy, manure and beef, policies to replace indigenous breeds with crossbreds, coupled with a ban on slaughter of cattle in numerous parts of India, have led to tumbling cattle populations [18] and the cow fast becoming a creature of the past. The objectives of these rules are to "end cruelty (to animals) and ensure basic facilities in markets" and "stop availability of animals for illegal slaughter" [19]. Concurring, that cow is a vital agrarian animal and is essential to be preserved but slaughtering supply the food and leather units. Country, diverse like India ought to safeguard its miscellaneous fabric and thus stability is a perquisite.

Acknowledgment: This research was supported by my colleagues from my institution and university who provided insight and expertise that greatly assisted the research, although they may not agree with all of the interpretations/conclusions of this paper. I thank my seniors, teachers and mentors for their comments and for sharing their pearls of wisdom with me during the course of this research. I am immensely grateful to the reviewers for their concrete and valuable insights. Lastly, I thank my parents who have provided me through moral and emotional support in my life. I am also grateful to my other family members and friends who have supported me along the way. Thanks for all your encouragement!

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