



COW SLAUGHTER AND THE CONSTITUTION: CRITICAL ASSESSMENT

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ABSTRACT

"I have been long pledged to serve the cow but how can my religion also be the religion of the rest of the Indians" said by Mahatma Gandhi shines a light on the ideologies of the builders of our nation, how they wanted to secure the cultural and religious rights of all the citizens of this nation. Cow slaughter in India has been an altercate and a sensitive issue since decades. The issue started with the clashes between the cultural practices of both the Hindu and the Muslim communities of one worshipping the cow and the other sacrificing it. This issue raised many questions.

The paper begins with a brief history of cows and cow slaughter in the ancient scriptures of Hinduism and Islam and the disputes around this issue. It further provides a keen view on the Constituent Assembly Debates regarding this matter and various provisions of the Articles of the Indian Constitution and emphasises on the idea of secularism with regards to cow slaughters.

RESEARCH QUESTIONS:

1. What was the need for a separate provision for cow slaughter in the constitution?
2. What was the reason behind adding the issue of cow slaughter in the DPSP and

not in the fundamental rights of the constitution?

3. Whether article 48 of the constitution that prohibits the cow slaughter challenges the idea of secularism given as the fundamental right in the constitution?

RESEARCH OBJECTIVES:

The objectives of this paper are as follows:

- To study and analyse the idea of secularism along with the provisions in the article 48.
 - To study and analyse the need of giving article 48 the status of DPSP and not as a fundamental right.
- To understand whether the religious sentiments override the idea of secularism.

COW SLAUGHTER AND RELIGIOUS TEXTS

The problem lies in the interpretation of ancient text.

The beef eating was common in Vedic period. Indra, the Vedic god is described as stating " they cook for me fifteen plus twenty oxen". At other places he is referred to as having eaten the flesh of bulls . Cattle were also sacrificed for Agni, who is described in Rig Veda as" one whose food is ox and barren cow"¹.

Many other texts were found from later Vedic texts and one of them ,the Taittiriya Brahmana ,refers to the sacrificial killing of the cow which is " verily food".² That the sacrificial victim was generally meant for human consumption is indicated by several texts ,especially the Gopatha

¹ Rigveda X.86.14, (VIII.43.11)

² Taittiriya Brahmana III.9.8



Brahmana(I.3.18), where it is stated that the carcass was to be divided into thirty six shares. Cattle were also killed in ordinary domestic rites.

A Rig vedic passage (X.85.13) refers to the slaughter of a cow on the occasion of marriage and later, and later in the Aitreya Brahmana (III.4), we are told that " if a ruler comes as a guest or anyone else deserving honour comes, people kill a cow" So it's not that cow were not being slayed during Vedic times. From the post Mauryan period onwards the Brahminical attitude to cow liking had begun to change.

Dr. D.N Jha has said that—"I'm inclined to think that ,which may have been emerging as an emotive symbol among the brahminical circle during the medieval period ,became much more emotive with the rise of Maratha kingdom and shivaji who was thought of as the protector of cows and Brahmins. But it was in the late 19th century that this animal was first used by the Sikh Kuka Movement for mass political mobilisation against the British. At around the same time ,in 1882 to be precise, Dayanand Saraswati founded the Gorakishni Sabha and he used it for uniting a wide variety of people against the muslims.³

Further in Manusmriti , it is mentioned that god made some animal to be eaten and there is no sin in eating them.

Laws of Manu⁴,chapter 5,v 31-40-

³ "The myth of the holy cow " by D.N. Jha

⁴ Manusmriti in Manav Dharma sastra , chapter 5, v 30, Manusmriti

31. 'The consumption of meat (is befitting) for sacrifices,' that is declared to be a rule made by the Gods; but to persist (in using it) on other (occasions) is said to be a proceeding worthy of Rakshasas.

32. He who eats meat, when he honours the gods and manes, commits no sin, whether he has bought it, or himself has killed (the animal), or has received it as a present from others.

33. A twice-born man who knows the law, must not eat meat except in conformity with the law; for if he has eaten it unlawfully, he will, unable to save himself, be eaten after death by his (victims).

34. After death the guilt of one who slays deer for gain is not as (great) as that of him who eats meat for no (sacred) purpose.

ISLAM AND COW SLAUGHTER

In Quran chapter two (Al Baqara) from verse 2.67 – 2.73, it's about Cow. Cow slaughter is permitted with restrictions like a cow neither too old nor too young, but between the two conditions (2.68). Also the cow has never till a land or water the field (2.71) and the cow should be bright yellow in color (2.69). In 2.70 (from the 2nd chapter of quran verses) it's clearly said that the cow which follows all this is not clearly known and one should take refuge of God and will be guided. So it's very clear that Cow sacrifice is practically not possible and not a straight forward ordered or command of God.

Islam really pays attention to the rights of animals, and in Islamic slaughtering, the



scientific findings conclude that the animals feel no pain (or less pain) in comparison to other methods of slaughtering because of its appropriate method. For instance, in Islamic slaughtering, it is said to be good-tempered with the animals, to have sharp knife, to have high speed operation and so on, then observing such items can help the animal to have less pain during the slaughtering.

The Quran Verse 2:173 in Surah Al-Baqarah (The Cow) says, "He has only forbidden to you dead animals, blood, the flesh of swine, and that which has been dedicated to other than God. But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], there is no sin upon him. Indeed, God is Forgiving and Merciful."⁵

Anything that does not fall in any of the above categories is permissible to be eaten according to Islam. So yes, like a cow, goat, camel, hen, etc being a animal that falls out of the above restricted ones, is permitted to be slaughtered for food.

Again the problem is the interpretation of religious text. The dispute of cow slaughter has a history which goes back to the founding of republic. During the framing of the constitution, the status of cow was the most fraught and contentinous topic of debate. Seth govind das a member of constituent assembly framed it as "civilisation problem" from the time of lord Krishna ," and called for the prohibition of cow slaughter to be made part of fundamental rights, on a par, with the prohibition of untouchability. In this he was

supported by other members of constituent assembly such as Shibban Lal Saxena, Thakur Das Bhargava, Ramnarayan singh, Raghu vira. Proponents of cow slaughter ban advanced a mix of cultural and economic arguments, invoking the sentiments of "thirty crores of population", on the one hand, and the indispensibility of cattle in agrarian economy on the other. But the other argument was that fundamental rights were meant for human being and not animals .After much debate the constitution drafting committee agreed upon a compromise ;Prohibition of cow slaughter will find a place in constitution ,but not as an enforceable fundamental right .It would be included as a directive principle of state policy, which was meant to guide the state in policy making.so, in the final form, this directive principle (Article 48 of the constitution) carefully excluded the question of religious sentiments. Nor did it require the state to ban cow slaughter outright. Members of the constituent assembly found these compromise both unprincipled and unsatisfactory . Shibban Lal Saxena objected to such back door and asked the assembly ,why the drafting committee was ashamed of providing for the prohibition of cow slaughter frankly and boldly in so many plain words.

Z.H Lari one of the muslim representative in the constituent assembly ,stated that his community world would not stand in the way of community desire ,but asked the majority to express the status of cows "clearly and definitely" , so that muslim could know what is the actual position of cow slaughter .⁶ However, clear and definite

⁵ Holy Quran, Surah Al-Baqarah, 2:173

⁶ Constitutional assembly debate-CAD 24,nov,1948.



expression was on the main issue that the assembly was unwilling to commit. Article, 48 that left nobody satisfied came into existence on January 26, 1950.

CONSTITUENT ASSEMBLY DEBATE

Arguments For A Ban On Cow Slaughter

The petitioners for the cow protection law included the likes of Seth Govind Das, Pandit Thakurdas, Shibban Lal Saxena, Ram Sahai and Raghu Vira among others. Incidentally, all of them also belonged to a dominant Hindu background. Thakurdas, a Congress member from East Punjab and an outspoken advocate of Hindu sentiment, proposed the amendment for the prohibition of cow slaughter in the draft constitution. He began his speech by tendering economic arguments for cow protection and said that the solution for agricultural failure and human health lied in cow protection. -“ the best way of increasing the production (of food crops) is to improve the health of human beings and breed of cattle, whose milk and manure and labour are more essential in growing food. Thus, the whole agriculture and food problem of the country is nothing but the problem of improvement of cow and its breed.

The hypocrisy displayed by the framers of the constitution has persisted in modern India.

Various judicial pronouncements have revealed the undercurrent flow of religion and caste in the otherwise ‘secular’ laws on beef consumption and cow slaughter. What has also remained unchanged is the

victimisation of minorities in the name of the holy cow.

INTERPRETATION OF ARTICLES OF CONSTITUTION AND RIGHTS

Article 48

Why does the article 48 of the Indian constitution talk of prohibiting cow slaughter?

“Beware of false knowledge. It is more dangerous than ignorance”

- George Bernard Shaw

This quote completely explains this question. The article 48 (DPSP) of the Indian constitution is stated as follows. Article

48 says that-

48. 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.⁷ The article doesn't only include cows but includes other milch , draught cattles and calves.

There is a reason why cow is made important in this constitution and even in Hinduism. It is due to the value of products that we get from them. There are certain countries which permit the slaughter of these animals as a result of which they need to import dairy product ruining their balance of payment(foreign currency reserve). an example-Amul Formed in 1946, it is a brand managed by a cooperative body, the Gujarat Co-operative Milk Marketing Federation Ltd. (GCMMF), which today is jointly owned by **3.6 million milk producers** in

⁷INDIA CONST. art. 48.



Gujarat. This cooperative has achieved milestones the latest one being. In a country like India with high population density and 70% population (87 crore people) depending on agriculture, it is almost impossible to increase the land under agriculture. Dairy farming was the best alternative as proved by companies like Amul. Rearing animals like cow amounts to both morality and economy at the same time and is a **good way to accomadate villages in the Indian economy without converting it into cities**. This article was therefore said to be based on Gandhian Principle as he believe that India's soul lies in villages.

The "Preservation, protection and improvement of stock and prevention of animal diseases, veterinary training and practice" is Entry 15 of the State List of the Seventh Schedule of the Constitution, meaning that State legislatures have exclusive powers to legislate the prevention of slaughter and preservation of cattle. Some States allow the slaughter of cattle with restrictions like a "fit-for-slaughter certificate which may be issued depending on factors like age and gender of cattle, continued economic viability etc. Others completely ban cattle slaughter, while there is no restriction in a few states. Prohibition of cow slaughter is a Directive Principles of State Policy contained in Article 48 of the Constitution It reads,

"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."⁸

⁸ INDIA CONSTI. Art.48.

Indian constitution has clearly justified that those article between 36 to 51 shall not be directly enforced by law. Its some directives passed to State Govt, whether they wish to follow or not. because having jurisdictions on directive principles may challenge your FUNDAMENTAL RIGHTS that's what now going on. Some group of citizens of India are being deprived from their fundamental rights which can be judicially enforced by law through State governments. Its not a law but a Derivative principle for states and thus it needs to be implemented at state level depending upon the food habit within states as India is too diverse.

Honourble supreme court in Mohammed Hanif qubreshi v. State of west Bengal⁹ and State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat¹⁰ interpreted article 48 and said that the prohibition of slaughter is only on animal (both cow and its progeny) which are useful ,either as milk giving or as draught (working). But then in 1958, Quareshi decision had made it clear that a total ban on slaughter of cows and calves (both male and female) is valid. But so far as other such animals in the progeny, such as she-buffaloes, bulls and bullocks are concerned, the ban on slaughter of animals which have ceased to be draught or milch is not in public interest and hence invalid.

Overruling Quareshi in 2005, Mirzapur decision made it explicit that an effective total ban on slaughter of cow and its progeny is valid. The reasons given were agricultural and economic and also on the finding that cow and it progeny never becomes useless,even after the cattle cease

⁹Mohammad Hanif Quareshi and Ors. v. The State of Bihar, AIR 1958 SC 731.

¹⁰ (2005) 8 SCC 534.



to breed ,to work ,or to give milk. They still continue to give dung for fuel,manure and biogas and, they ,cannot be said to be useless.

It should be noted that if the utility of the cattle dung and urine increased from 1958 (Quareshi) to 2005 when the Mirzapur judgment was delivered. Or is it that the earlier court failed to consider such a known fact? It is equally possible that the later Court over valued the utility factor for the justification on the cow slaughter .It could even be a camouflage of the religious factor super added to the utility factor .Chief justice R.C. Lahoti had observed in his judgement that cow and his progeny ,i.e, bull,bullocks and calves are worshipped by Hindus on certain auspicious days and that a good number of temples are to be found where the statute of "Nandi" or 'bull' is reguraly worshipped. It is really thinkable to notice that the need for this observation by the court where the parties themselves have not argued on any religious grounds or article 25, unless judicial process was inclined towards the religious sentiments as well.

Going back to the Constituent Assembly Debates,it is needed to trace why prohibition of cow slaughter finds a place in the Constitution under a misleading title of organization of agriculture and animal husbandry. If the purpose is the one in the title,then why should there be an absolute ban on slaughter of cows,even when they stopped milching or breeding. There has to be something attached to the cow which makes it protection prone than a buffalo or a bull or an ox,which are milch or draught as well.It could be religious reasons because our constitution establishes a secular state.

Article 51-A

Fundamental Duties:-it shall be the duty of every citizen of India.

(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.¹¹

Artticle 51 was added in the constitution in the 42nd amendment, in accordance with the recommendations of the Swaran Singh Committee. The citizen, it is expected, should be his own monitor while exercising and enforcing his fundamental rights-remembering that he owes duties specified in Art 51-A to the State and that if someone does not care for their duties they should not deserve the rights.¹² The duties as such are not legally enforceable in the courts, but if the state makes a law to prohibit any act or conduct in violation of any of the duties,the courts would uphold that as a reasonable restriction on the relevant fundamental right.

Article 51-A(g) enjoins it as a fundamental duty of every citizen "to have compassion for living creatures", which in its wider fold embraces the category of cattle spoken of specifically in Article 48.¹³

The concept of compassion for living creatures enshrined in Article 51A (g) of the Constitution of India is based on the background of the rich cultural heritage of India-the land of Mahatma Gandhi, Vinobha, Mahaveer, Budha, Nanak and others. No religion or holy book in any part of the world teaches or encourages cruelty. Indian society is a pluralistic society. It has

¹¹INDIA CONSTI. Art.51. cls A. sub-cls(g)

¹² Durga Das Basu, Constitutional Law of India , pg.139.

¹³ AIR 2006 SC 212, para 24.



unity in diversity. The religions, cultures and people may be diverse, yet all speak in one voice that cruelty to any living creature must be curbed and ceased. A cattle which has served human beings is entitled to compassion in its old age when it has ceased to be milch or draught and becomes so-called 'useless'. It will be an act of reprehensible ingratitude to condemn a cattle in its old age as useless and send it to a slaughter house taking away the little time from its natural life that it would have lived, forgetting its service for the major part of its life, for which it had remained milch or draught. We have to remember : the weak and meek need more of protection and compassion.¹⁴

In T.N Godavarman Thirumalpad v. Union of India & others , the court read article 48-A and 51-A together as laying down the foundation for the jurisprudence of environmental protection and held that “ today the state and the citizens under fundamental obligation to protection and improve the environment, including forest , lakes, rivers, wildlife and to have compassion for living creatures”¹⁵

Article 25

freedom of conscience and free profession, practice and propagation of religion:-

25(1) subject to public order, morality and health and to othr provisions of this part, all persond are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

¹⁴ State of Gujarat vs. Mirzapur Moti Kureshi Kassab Jamat and Ors., AIR 2006 SC 212, para 28.

¹⁵ T.N Godavarman Thirumalpad v. Union of India & others, 2003 AIR SCW 23.

In this Article optional religious practice is not been covered.¹⁶

It was also contended that the High Court had misread the judgment in Quareshi case1 as this case had interpreted Article 25 of the Constitution of India and in that light it was held that slaughter of cows could not be considered to be a part of essential religious requirement.¹⁷

It was held by the court that, sacrifice of any animal by muslims for their religious purpose on Bakrid does not include slaughtering of cow as the only way of practicing their religion. Slaughtering of cow of cow on Bkrid is not an essential part of their religious ceremony. It is done for economic reasons. It is an option for the muslim to slaughter cows on Bakrid. And an optional religious practice is not covered by Article 25(1). Whereas in the case of Hindu's cow, bull, bullock and calves are worshipped. Hindus follow a tradition of first feedin the cow before eating themselves a belive that they should first offer food to god and then eat. Number of temples are found where the statue of 'Nandi' or 'Bull' is worshipped.¹⁸

Article 19

Protection of certain rights regarding freedom of speech :-

(1)All citixens shall have the right to:-

(g)to practice any profession, or carry on any occupation, trade or business.¹⁹

This freedom means that every citizen has the right to choose his own employment or

¹⁶ AIR (2006) SC 212.

¹⁷ State Of W.B vs Ashutosh Lahiri, 1995 AIR 464.

¹⁸ State of West Bengal v. Ashutosh Lahiri, 1995 AIR 464.

¹⁹ INDIA CONST. art. 19, cl. 1(g).



to take up any trade or calling subject only to the limits as maybe imposed by the State in the interest of the public welfare, and other grounds mentioned in CI²⁰. Just as a right to carry on a business also includes a right to close down a business that has already started, reasonable restrictions can be imposed to protect the public interests.

Whether 'restriction' includes prohibition:- It cannot be properly categorised if reasonable restriction can include total prohibition. Thus:-

- a. Total prohibition would be reasonable where a business or a trade is inherently dangerous.
- b. Trading in essential commodities
- c. Upholding a coercive sanction for the realisation of tax

But outside these exceptional categories, a total prohibition on a right to carry business would be regarded as 'unreasonable' restriction.²¹ The burden of proving that the total prohibition on the exercise of the right alone may ensure the maintenance of public interest lies heavily upon the state.²²

A law which maybe made by the state under any specified grounds, such as public order, defamation, contempt of court cannot be challenged as unconstitutional or inconsistent with the guarantee of freedom of speech and expression except where the restrictions imposed by the law can be held to be 'unreasonable' by a court of law.²³

The question that was raised before the court is whether the 'total prohibition' on the

slaughter of cows infringed the fundamental right of the butchers under the Article 19(1)(g), freedom to practice any trade and profession. The supreme court defined public order as a state of tranquillity, which prevails among the members of a political society as a result of the internal regulations, enforced by the government which they have established.²⁴

The decision of the Court in Narendra Kumar & Ors. v. The Union of India and Ors., which upholds the view that the term "restriction" in Articles 19(5) and 19(6) of the Constitution includes cases of "prohibition" also. Their Lordships drew a distinction between cases of "control" and "prohibition" and 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. As the State failed in discharging that burden, the notification was held liable to be struck down as imposing an unreasonable restriction on the fundamental right of the petitioners.²⁵

In the case of Hanif Qureshi v. State of Bihar, the directive contained in the latter part of article 48 enjoins the prohibition of slaughter of any species of cattle mentioned, irrespective of their utility from the stand point of agriculture or animal husbandry, such prohibition cannot be held to an unreasonable restriction upon the right conferred by Article 19(1)(g).²⁶

²⁰ Saghir Ahmed v. State of U.P, (1955) 1 S.C.R; Saudan Singh v. N.M.D.C, 1989 S.C 1988.

²¹ Chintamanrao v. State of Ajmer, (1950) S.C.R 759.

²² Faruk v. State of M.P, 1970 S.C 93 (96).

²³ Durga Das Basu, Constitutional Law of India, pg.59-60.

²⁴ Ramesh Thapper v. State of Madras, AIR 1950 SC 124.

²⁵ Narendra Kumar and Ors. V. Union of India, (1960) 2 SCR 375.

²⁶ AIR 1958 SC 731.



In the case of Abdul Hakim v. State of Bihar reported that the ban imposed by the States of Bihar, Madhya Pradesh and U.P. which came up for consideration before this Court and in this context it was observed as under: "The test of reasonableness should be applied to each individual statute impugned and no abstract standard, or general pattern, of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict." In the same case the ground of challenge was article 19(1)(g) read with article 19(6).the ban was held to be a 'total' and hence an unreasonable restriction on fundamental rights²⁷.

His Lordship has discussed the question of reasonable restriction under Article 19 (6) in the case of State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat and Ors. and after considering all material placed before the Court, and advertent to social, religious, utility point of view in most exhaustive manner finally concluded thus :

" (i) that a total ban on the slaughter of cows of all ages and calves of cows and calves of she-buffaloes, male and female, is quite reasonable and valid and is in consonance with the directive principles laid down in Art. 48; (ii) that a total ban on the slaughter of she-buffaloes, or breeding bulls or working bullocks (cattle as well as

buffaloes) as long as they are as milch or draught cattle is also reasonable and valid and (iii) that a total ban on the slaughter of she-buffaloes, bulls and bullocks (cattle or buffalo) after they cease to be capable of yielding milk or of breeding or working as draught animals cannot be supported as reasonable in the interest of the general public." It was a 7 judges bench where 6 judges were of the opinion that "the ban is not on the total activity of butchers (kasais); They can slaughter animals other than cow progeny and carry on their business activity"²⁸

In Haji Usmanbhai Hassambhai Qureshi and Ors. V. State of Gujarat it was held that the test of reasonableness of the restriction on the fundamental right guaranteed by Article 19(1)(g) was held to have been satisfied²⁹.

Right To Eat

Right to eat food of ones choice is certainly a part of the constitution but the limits recognised by the courts state that the food should be obtained legally.the newly formed rules certainly impact the choice of food that a person may have.³⁰

Right of Animals

Protecting animals from cruelty is the biggest reason behind the formation of rules. Earlier the centre had proposed an Adhaar like UID to track animals, while also instructing parliament to keep a check on smuggling animals. The judgement on jalikattu expanded the animal rights

²⁸ State of Gujrat v. Mirzapur MotiKassab Jamat & Ors, AIR 2006 SC 212.

²⁹ Haji Usmanbhai Hassambhai Qureshi and Ors. V. State of Gujarat, AIR 1986 SC 1213.

³⁰ Alive Magazine, March 2018.

²⁷ Abdul Hakim Qureshi & Ors. V. State of Bihar, AIR 1961 SC 448.



jurisprudence in the country. In its furtherance milking is now being claimed as sexual harrasmentof cattle and the question of animal rights is conflicting with human right of eating animal produce.³¹

LEGAL COMMENTS

- The preamble of the Universal Declaration Of The Rights Of Animals of London reads “all animals have rights” and uses the word ‘genocide’. Article 6 of this declaration categorically declares that “all companion animals have the right to complete their natural span of life” and Article 14 states that “The rights of animals, like human rights, should enjoy the protection of law.”³²
- In the case of Hanif Qureshi it was held that “Art. 48 enjoins the state to prohibit the slaughter of cows and calves and those animals which are presently or potentially capable of yielding milk or of doing work as draught cattle, but does not...extend to cattle which at one time were such or draught cattle but which have ceased to be such.” And also that “a total ban on the slaughter of cows of all ages and calves of cows and calves of she-buffaloes, male and female, is quite reasonable and valid and is in consonance with the directive principles laid down in Article 48”³³
- In Mohd. Hanif Quareshi and Ors. v. The State of Bihar, the view of the High Court is that “slaughtering of healthy cows on Bakrid is not essential or required for religious purpose for muslims or in other

word it is not a part of religious requirements for a muslim that a cow must be necessarily sacrificed for earning religious merit on Bakrid”³⁴

- The distinction between cases of “control” and “prohibition” was stated in the case of *Mohd. Faruk v. State of M.P* and 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.³⁵
- “Preventing a citizen from possessing flesh of cow, bull or bullock slaughter outside the state amounts to prohibiting a citizen from possessing and consuming food of his choice”³⁶

CONCLUSION

The whole debate on constitutional validity of cow slaughter is because of the lack of proper interpretation of religious texts without any biasness with logical point of view .It is because of the diversity of our country and a difficulty to accommodate and balance the secularism of our country. The provisions on cow slaughter are a part of DPSP and not in the Fundamental Rights because the makers of the constitution contended that Fundamental Rights are only for human beings and not for animals,

³¹ Virag Gupta, Battle Over Cattle.

³² Universal Declaration of Rights of Animals, September,1977.

³³ AIR 1958 SC 731.

³⁴State of West Bengal and Ors. v. Ashutosh Lahiri and Ors., AIR 1995 SC 464.

³⁵*Mohd. Faruk v. State of M.P.*, (1969) 1 SCC 853.

³⁶ 2017 (2) ABR 140, In the High Court Of Bombay.



moreover it was made as a part of DPSP keeping in mind the cultural diversity of the country and the agrigarian economy. The state can make policies to protect not only cows but also other draught and milch animals. The author is of the view that the makers of the constitution did not want to compromise with the idea of secularism and that's why they didn't expressly define the status of cow in our constitution. In the end, India was able to hide its irrationality from the world by protecting the cow in the directive principle and not in fundamental rights. Article 48 is also one of the rare provisions in the constitution where the Constituent Assembly was clearly fragmented on communal lines. It is undisputed that Article 48 has been worded in terms of scientific organisation of animal husbandry and not on religious sentiments. It is also clear that the formulation of the provision involved a distinctive presence of religious fervour. It is this dichotomy of a religious soul with a non-religious body that gives an impression that the cow protection law is not about religion but about improved animal husbandry.

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