

The Right to Steak: Constitutional Perspective

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Abstract: *India is a country with diverse cultures, faiths and languages. Being the most multifarious country in the world, it oftentimes leads to tangling of such faiths. This confers an added responsibility on the State to monitor such cultural and ethnic intolerances, besides performing its police and welfare functions. One such instance or religious dogmatism was seen in the Legislative Assembly of the State of Maharashtra, wherein possession and slaughtering of beef and cows respectively was declared illegal by passing the Maharashtra Animal Preservation (Amendment) Act, 1995.*

The State legislature cited the Constitutional directive under Article 48, aimed at organisation and agriculture husbandry, as the reason for enacting the law. However, many precocious and progressive members of the society preserve the right to food enshrined under 'personal liberty' in Article 21, withstanding all kinds of religious sentiments and pretentious animal loving archaic thinkers.

The paper delves into the legal standpoint on the issue of harmonisation of constitutional directives under Part III and Part IV. Should one venture into the motive of the Constituent Assembly in inserting Article 48 under the Directive Principles of State Policy, to decide the legitimacy of an obviously religion motivated legislative move? Is this a debate deciding man's right to food vis-a-vis animal's right to life or a debate concerning man's right to food vis-a-vis cows/ non secular religious sentiments. This paper attempts to achieve a fine balance, in light of contemporary interpretation of the Constitution between these conflicting opinions. Through the use of doctrinal research, the paper attempts to reach an amicable solution by subscribing to various secondary sources of information on this issue.

Keywords: *animal protection, beef industry, cow slaughtering, Fundamental Rights, Indian Constitution*

1. INTRODUCTION

In order to understand the meat eating habits of man, one has to look into the food chain that has transcended over the years. Eating meat and cooking food made us human, enabling the brains of our pre-human ancestors to grow dramatically over a period of a few million years.¹ Therefore, we owe our existence and our anthropology to meat. A recent finding implies that meat must have been an integral, and not sporadic, element of the pre-human diet more than 1 million.² It is opined that the human body is made to consume and digest meat. Another study revealed that the incorporation of animal matter into the diet played an absolute essential role in the evolution of human beings.³ Therefore, it is scientifically settled that eating meat is not unnatural, as most people believe.

Humans are omnivores and organs such as the vermiform appendix specifically was known to serve the function of digesting raw meat.⁴ However, various faiths such as Jainism and Hinduism consider certain animals as sacred and therefore abstain from consuming them as a matter of religious practice. This practice has transcended over the years, making them circumscribe the notion that humans are naturally vegetarians.⁵ India being a secular democracy, every citizen must have the right to choose

1. Christopher Wanjek, Meat, Cooked Food Needed for Early Human Brain, Live science, available at: <http://www.livescience.com/24875-meat-human-brain.html> (last visited 17/04/2015).

2. Charles Q. Choi, Top 10 Mysteries of the First Humans, Live science, available at: <http://www.livescience.com/12937-10-mysteries-human-evolution.html> (last visited 17/04/2015).

3. Katherine Milton, A Hypothesis to Explain the Role of Meat Eating in Human Evolution, Evolutionary Anthropology, available at: <http://nature.berkeley.edu/miltonlab/pdfs/meateating.pdf> (last visited 17/04/2015).

4. *Id.*

5. Michal Bilewicz, Marek Dorogosz & Roland Imhoff, The humanity of what we eat: Conception of human uniqueness among vegetarians and omnivores, European Journal of Social Psychology, available at:

what he consumes. Food is integral to the body and its composition and has a bearing on other rights like education, health, work and information.⁶ Even the Supreme Court has upheld this right on many occasions.⁷ However the question here is the right to choose what one wants to eat and whether the law should regulate one's dinner table.

The arguments raised mostly concern the right of animals to live, the prevention of animal cruelty and the preservation of animal husbandry. The religious sentiment argument has cleverly been eclipsed by constitutional directives. Therefore the paper will only deliberate the debate between man's right to choose his meal over the right of a cow to sustain its species.

2. RIGHT TO STEAK

Since religion has no constitutional bearing on one's right to eat meat, the right to choose what one consumes for breakfast, lunch or dinner can only be restricted by another man's right to food or the right to life of animals. The Cattle Preservation and Development Committee which was chaired by Sardar Datar Singh made the following recommendation:

This Committee is of the opinion that slaughter of cattle is not desirable in India under any circumstances whatsoever, and that its prohibition shall be enforced by law. The prosperity of India to a very large extent depends on her cattle and the soul of the country can feel satisfied only if cattle slaughter is banned completely and simultaneous steps are taken to improve the cattle, which are in a deplorable condition at present.⁸

Although the concerns raised were genuine, one must examine the whole intent of the legislature keeping in mind the prevailing circumstances. Back when the Constituent Assembly were debating the insertion of the said DPSP, the prerogative of the state was to sustain agriculture, which was the primary source of income for the country. But with the era of globalisation, the agrarian economy is replaced and regenerated. In fact, cows are no longer necessary for the sustainability of the agricultural requirements of the country.

Realising this, the propagators of this legislation argue that cows serve as a primary source of milk and cow dung, hence producing a lot of income for these families. And by slaughtering a cow (which would also provide income to a butcher's family through sale of the meat and the skin), you are basically cutting short the long term benefits that a cow can provide.

However, the law is modelled in such a manner, that the possession of meat is a punishable offence amounting to 5 years imprisonment and a fine of Rs. 10000/- under Section 5(d) of the impugned Act.⁹ In fact, it is this very same provision which is being subject to challenge in the High Court of Judicature at Bombay.¹⁰ Therefore, it is clear that the legislature is not concerned about the tanneries industry which slaughter cows for heed but has a problem with people eating meat. This issue becomes highly lopsided and is bordering a religious sentiment issue.¹¹

In the petition filed by the Bombay Suburban Beef Dealers Welfare Association¹² in the High Court, the learned Senior Council argued that if the State is so concerned about preserving the cattle for agricultural purposes, then it makes no sense to restrict the import of beef from another state of from

<http://onlinelibrary.wiley.com/doi/10.1002/ejsp.766/abstract.jsessionid=169C9FB655DA2BACB763F3B01AC48E68.f02t01?deniedAccessCustomisedMessage=&userIsAuthenticated=false> (last visited 17/04/2015).

6. Jean Derezé, Democracy and Right to Food, *Economic and Political Weekly*, Vol. 39, No. 27, 24th April, 2004, 1723.

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11. Id.

12. *Supra* note 9.

outside the country.¹³ The law not only effect beef dealers and consumers, but also takes a toll on the business of restraints that serve beef in their menu. There is no rational nexus between the slaughtering or cows and preservation of the agrarian economy on one side and the import of beef from outside the State. The law requires that every reasonable restriction imposed on the right to eat under the right to privacy under Article 21 has to be just, fair and reasonable.¹⁴ And such restriction has to have a reasonable nexus with the objective of the right being restricted.¹⁵ Therefore, the court has to separate itself from political pressure and non-secular sovereign influences.

3. CONCLUSION

The state has cleverly put forth its policy against cow slaughter under the garb of advancing a DPSP. Even though other States such as Gujarat, Rajasthan, Bihar, Uttar Pradesh, etc. have banned cow slaughter, Maharashtra is the first state to criminalise the possession of beef. This step seems rather drastic and needs to be properly considered as it may have catastrophic impacts on the import and tourism industry. On a global front, India is going to be seen as a country that preserved antiquated ideologies of faith in this progressive global era. The values of animal protection cannot be inferred from a law that bans the slaughter of cows alone. It is also argued by some that the beef ban also affects the quality of life and consequently discriminating the religious minority's right to consume the food of their choice as enshrined under Article 29.¹⁶

It is opined that the Maharashtra Animal Preservation (Amendment) Act, 1995 is completely undemocratic and dogmatic. Although progressiveness may not be determined on what is served on one's dinner table, but the fact that law could be so intrusive and dictating, sows seeds for a totalitarian and utopian outlook. Irrespective of one's religious mandates and other animal right concerns, the law cannot place restrictions on the import of beef and its consequent consumption. Unlike prohibition, regulation can help solve this issue.

What could be done is to provide for special import licenses for beef dealers and place a cap on the quantity of beef that can be imported. This was the government can also tax the imports and generate revenue. Furthermore, the ban on cow slaughter can be maintained provided other industries like tanneries are also regulated. This will help establish a harmony between the two opposing stands.

A right wing Hindu administration, under the governance of the BJP in Rajasthan, is set to establish a government department for the preservation and protection of cows and to start research institutions, or cow science universities, focused on the rearing and health of the animal.¹⁷ This is how crazy the people of this country are becoming. This is exactly the kind of slippery slope effect that the right thinking members of this society are concerned about.

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