



## THE CONSTITUTIONAL CONTOURS OF COW PROTECTION: A LEGAL ANALYSIS OF RELIGIOUS RIGHTS IN INDIA

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### ABSTRACT

*The complex constitutional and legal issues surrounding cow protection in India are discussed in this research paper, with particular focus on the ways in which governmental regulations conflict with individual liberties, particularly the freedom of religion and the right to work. In order to show how these forces influenced Article 48 of the Constitution, which makes cow preservation a directive rather than a fundamental right, the study traces the historical development of bovine veneration from Vedic tradition to its politicisation throughout the colonial period. Article 48 and fundamental constitutional safeguards, such as Article 19(1)(g) (freedom of occupation), Article 21 (life and personal liberty), and Article 25 (freedom of religion), continue to clash, according to the research. This tension is highlighted by judicial pronouncements that prioritise animal welfare while simultaneously causing economic and social hardship for minority populations that depend on cattle-related trades, such as those that uphold complete prohibitions on cow slaughter. The paper also looks into the topic of cow vigilantism, in which extralegal enforcement exacerbates tensions within communities and threatens human rights and the rule of law. India presents particular difficulties in balancing secular administration with robust cultural traditions, as demonstrated by a comparative study with international frameworks for religious freedom and animal protection. The paper calls for a more comprehensive and multidisciplinary approach, concluding that effective cow protection policies must strike a balance between religious passion, economic realities, and animal welfare. To ensure both true justice and the rights of all individuals in a secular democracy, policy reforms should address the wider ethical, legal, and socioeconomic ramifications rather than depending solely on religiously driven bans.*

### I. Introduction

The conflict between the instructions to cow protection and the personal rights, especially religious and the right to work, constitutes the core of the existent legal and social controversy<sup>1</sup>. Such a complex connection requires a rigorous analysis of the interpretation and

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<sup>1</sup> Suryapratim Roy & Rahul Sambaraju, "Hindu Zion: the politics of constitutional accommodation" in Mark Tushnet and Dimitry Kochenov, *et.al.* (eds), *Research Handbook on the Politics of Constitutional Law* (Edward Elgar 2023) available <<https://doi.org/10.4337/9781839101649.00046>>.

application of constitutional provisions, the aim of which is to however sustain both state policies and individual freedom in a case of cow slaughter. It is, hence, the critical analysis of the constitutional outlines of cow protection in this paper, which investigates how this controversial area has been established, through legislative acts and judicial decisions<sup>2</sup>.

The paper will also examine the constitutional issues that arise out of these laws, i.e. how cow protection actions come to collide with the freedom of the Indian Constitution. It involves a close reflection of the protection of bovine species, specifically cows, as a legal concern despite various historical perceptions of the sacred status of bovines, as well as how such legal provisions, in a way, violate secular ideals and basic rights of different peoples<sup>3</sup>. Particularly, it will discuss how the cow protection statutes which are frequently motivated by religious feelings may come into contradiction with the secular principles laid down in the Indian Constitution particularly when they collide with the eating habits of some communities as well as their economic endeavors<sup>4</sup>.

Most principles of justice, liberty, and equality are constituted in the Indian Constitution via its Preamble, establishing a secular system that requires giving equal consideration to such issues loaded with religious overtones<sup>5</sup>. Nonetheless, the reinforcement of Hindu majoritarian traditions in the form of cow protection laws undermines this secular construct by determining food habits as well as making the lives of religious minorities economically challenging<sup>6</sup>. This conflict highlights the critical importance of a close legal interpretation to come to terms with the state instructions on cow protection and the constitutional law protection of religious freedoms and rights to continue to work in any occupation, trade, or business<sup>7</sup>. In this reasoning, this paper will present the conflict between Article 48 of the Constitution, a Directive Principle of State Policy (DPSP), as a reference that requires cow slaughter to be prohibited, and such fundamental rights as those guaranteed in Article 19(g) and Article 25<sup>8</sup>.

Furthermore, it will discuss how the right to life and personal liberty guaranteed by Article 21 and how the necessity to take proper care of the environment and to express

<sup>2</sup> Himika Batra, "An Analysis on the Prohibition of Cow Slaughter" 4 *Indian Journal of Law and Legal Research* 2582 (2022).

<sup>3</sup> *Ibid.*

<sup>4</sup> Priyanshu Kar, "The Bovine Quagmire: Analysing Perspectives of Right to Food and Slaughter of Cows for Consumption in India" SSRN Electronic Journal available <<https://doi.org/10.2139/ssrn.3998124>>.

<sup>5</sup> Purnima Janghu & Pranjal, "Emerging Trend of Violent Cow Protection and the Right to Religion in India" 33 *Supremo Amicus* 2456 (2023).

<sup>6</sup> *Supra* Note 2.

<sup>7</sup> *Supra* note 5.

<sup>8</sup> Kenneth R Valpey, *Cow Care in Hindu Animal Ethics* (Springer, Cham, 2020) available at <<http://library.oapen.org/handle/20.500.12657/22832>>.

compassion to living beings that Article 51A(g) adds to the legal situation and makes bovine protection even harder. Such intricate interaction of articles ultimately raises the question of whether the state seeking to protect cow is in tandem with its constitutional duty to maintain a secular and fair society to all its citizens or not.

## II. Historical Background of Cow Protection in India

Although the cult of cows is a very old phenomenon, being integral to the life of the modern-day Hindu, there is a complex history of its evolution, which began with the ancient Vedic tradition and has been politicized during the modern centuries<sup>9</sup>. First, cows were venerated due to their economic value as a source of milk, dung, and labor, but this religious status increased over the centuries<sup>10</sup>. Cow protection movements were highly popular in the colonial era, and in many ways acted as a source of national circumstances and even opposition against the British rule<sup>11</sup>. These activisms emphasized the cow as an icon of Hindu identity, putting a pressure on creating laws to protect it and a precedent to its introduction into political speech.

This historical background had a significant effect on the writing of the Indian Constitution, especially the introduction of the cow protection in the Directive Principles of State Policy as opposed to the constitutive right, which used to represent the variety of opinions which were held when the country was established. This strategic positioning was a compromise between groups that were supporting the total ban on cow slaughter and those who promoted personal liberties and secular management. The controversies that existed in the inclusion of this issue when constituting the Constitution highlight a conflict between religious feelings and economic forms, especially regarding the different communities who subsisted on cattle<sup>12</sup>. As a result, the inclusion of Article 48 came, which encouraged the State to restructure agriculture and animal husbandry on modern and scientific principles and, in the first place, to take measures to preserve and improve the breeds and to forbid slaughter of cows and calves and other milch and draught cattle<sup>13</sup>. Though such an inclusion represented the domination of

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<sup>9</sup> Ravindra Pratap, "Cow Vigilantism and India's Evolving Human Rights Framework" 17 *Muslim World Journal of Human Rights* 45 (2022) available at <<https://doi.org/10.1515/mwhr-2019-0019>>.

<sup>10</sup> Mohammad Taha Yadi, "Gandhian Philosophies & The rigorous Cow Protection laws" 2 *Jus Corpus Law Journal* 161 (2022).

<sup>11</sup> *Ibid.*

<sup>12</sup> *Supra* Note 2.

<sup>13</sup> Kriti Garg, "Religious Crimes in Developing Countries: Indian Perspective" 3 *International Journal of Law Management & Humanities* 673 (2020).

Hindu feelings, it did not prescribe the outlawing of the cow murder but indicated the rule principle of the state policy<sup>14</sup>.

This subtle constitutional stance was open to different interpretations and legislative decisions in different states, which resulted in patchy legislation, either strictly banning slaughter of cows or regulating it with some limitations<sup>15</sup>. This chronological trend demonstrates the process of cow protection, which had socio-economic and religious backgrounds, being transformed into a politicized one, as the dynamic between communal and secular thoughts<sup>16</sup>. To be more precise, the discussions of the Constituent Assembly related to Article 48 demonstrate a complicated bargaining between those who valued the economic and cultural value of the cow and those who protested against the establishment of religiously-driven restrictions upon the food consumption<sup>17</sup>. Such deliberations eventually saw the inheritance of cow protection under the non-justiciable directives of the principle which pointed at a hopeful move towards a governmental desire and not a right that is immediately enforceable<sup>18</sup>. This was a trade-off to recognize the general cultural sentiments but yet not openly infringe upon the core rights of most communities including those involved in the cattle trade.

The further implementation of anti-slaughtering laws of cows in many Indian states, usually supported by the Supreme Court, according to Article 48, is another reflection of the power of these historical and constitutional discourses<sup>19</sup>. This result in a vituperative analysis of the manner in which this body of laws claiming to address the plight of animals, in fact, disproportionately affect certain communities, sparking communal hostility and raising the question of equality before law<sup>20</sup>. The emergence of cow protection movements in the colonial era led by the likes of Dayananda Saraswati and Mahatma Gandhi also cemented the symbolic role of cow in the independence movement, impacting its ultimate constitutional status<sup>21</sup>.

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<sup>14</sup> *Supra* note 9.

<sup>15</sup> Shivangi Gangwar & Aishwarya Pagedar, “*Examining the living metaphor in the Indian Constitution*” 13 *Jindal Global Law Review* 347 (2022) available at <<https://doi.org/10.1007/s41020-022-00183-8>>; *Supra* note 8.

<sup>16</sup> Nazima Parveen, “In the Name of Cow: Legal–Constitutional Discourse and the Contours of Contemporary Indian Politics” 8 *Studies in Indian Politics* 214 (2020) available at <<https://doi.org/10.1177/2321023020963519>>.

<sup>17</sup> Sambaiah Gundimeda, “*Debating cow-slaughter: the making of Article 48 in the Constituent Assembly of India*” 22 *India Review* 1 (2023) available at <https://doi.org/10.1080/14736489.2022.2142757>>; *Supra* note 2.

<sup>18</sup> *Supra* note 2.

<sup>19</sup> *Supra* note 15.

<sup>20</sup> *Supra* note 5.

<sup>21</sup> *Supra* note 8.

Gandhi explicitly linked the idea of cow reverence with the Hindu tradition but he also sought a solution to the issue with non-Hindus regarding cow care, realizing the multidimensional elements of the issue that he believed were inter-faith<sup>22</sup>.

Nevertheless, B.R. Ambedkar, one of the designers of the Indian Constitution, critically analyzed the evidence of tradition and presented the argument against the existence of continuous cow veneration, pointing to the examples of meat consumption (beef) in ancient India and supporting the interests of the marginal groups of society, the livelihood of which was based on cattle. His historical study, based on sacred scriptures, questioned the common assumption that ancient brahmins were unaware of cow sacrifice and meat consumption, and there is a more complex historical truth<sup>23</sup>.

### III. Constitutional Provisions and Their Interplay

The Indian Constitution offers a complex legal environment in regard to cow protection with different articles in support and opposition to the enforcement of anti-slaughter laws. In particular, the Directive Principle of Article 48 leads to the promotion of the prohibition of cow slaughter on the grounds of animal husbandry, whereas Articles 19(g) and 21 safeguard the fundamental rights in the industry, business, and livelihood, which is in a direct contradiction with these prohibitions<sup>24</sup>. Such a collision course makes such a judicial balancing act mandatory, with the judicial system having judged in many cases to balance the State command to preserve cattle protection and individual liberties and liberty of the economy<sup>25</sup>.

Moreover, Article 25 of the Constitution provides the freedom of conscience, freedom to profess, practice and spread religion, which becomes relevant to the issue of whether cow slaughter is a religious ceremony practiced by some communities and therefore involves encroaching upon their fundamental rights<sup>26</sup>. Article 51A(g), on the other hand, imposes a primary obligation on any citizen to preserve and enhance the natural environment, forests, lakes, rivers, and wildlife, and to care about living beings, serving as an additional constitutional justification of the animal protection efforts<sup>27</sup>.

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<sup>22</sup> *Supra* note 8.

<sup>23</sup> *Supra* note 8.

<sup>24</sup> *Supra* note 9.

<sup>25</sup> *Supra* note 9.

<sup>26</sup> *Supra* note 5.

<sup>27</sup> Nanditha Krishna, “*Animal sentience in Indian culture: Colonial and post-colonial changes*” 31 *Animal Sentience* 16 (2022) available <<https://doi.org/10.51291/2377-7478.1751>>; *Supra* note 9.

It is this complex filter of constitutional clauses which, therefore, requires a jurisprudential approach which recognizes the aspirational objectives of the state policy as well as the need to protect the basic rights and freedoms of every citizen. This mutually complicated interplay frequently results in legal complications where the authority of the state to make laws in animal welfare is weighed with the constitutional rights of individuals to conduct business or religion. As an example, Article 48, which aims at safeguarding cattle by encouraging banning the slaughter practice, clashes with Article 19(g), which assures the right to carry on any profession, or pursue any occupation, trade or business and thus directly affects the livelihood of butchers and others in the cattle business<sup>28</sup>. Article 21, which asserts the right to life and individual freedom, often construed to imply the right to a livelihood, complicates this collision by placing the right to practice cattle-related trades under intense constitutional review<sup>29</sup>. Also, Article 25, which ensures freedom of religious affiliation, overlaps with these rights by creating the question of whether cow slaughter is a vital spiritual practice in some quarters, and therefore may be classified as a fundamental right.

These developments in jurisprudence of the Supreme Court, most notably its liberal approach to the interpretation of fundamental rights, imply the need to harmoniously interpret and understand these stipulations in such a way that enshrined freedoms are not delegated to state policies including those based on the Directive Principles<sup>30</sup>. In fact, the doctrine of reasonable restrictions on Fundamental Rights, as applied in cases such as those in *Maneka Gandhi*, would be important in achieving a balance between the competing interests and making sure that legislative action is fair and has a valid intention of the common good without excessive intrusion into individual liberties<sup>31</sup>. This difficulty emphasizes that it has remained a difficult task to balance the aspirational, but untestable, Directive Principles with the operative Fundamental Rights, which often result in lengthy legal battles over validity and applicability of cow protection laws.

Through these constitutional clauses, the jurisprudential journey has demonstrated an unending attempt to show where the limits of the state mandate are drawn in terms of religious and economic liberties, particularly the issues of the rules governing animal welfare. This involves the consideration of whether the employment of animal euthanasia in the case of

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<sup>28</sup> *Supra* Note 2.

<sup>29</sup> Prof. (Dr.) SK Bose, Tarini Kalra & Kanchan Bhadana, "Interplay of Articles 14, 19 And 21 with reference to Maneka Gandhi Case" 7 *Indian Journal of Law and Legal Research* 3907 (2025) available <<https://doi.org/10.2139/ssrn.5312427>>.

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

terminally ill animals, must be allowed on the basis of passive euthanasia as in cases such as *Aruna Shanbaug*<sup>32</sup>. But, the Animal Welfare Board of India has repeatedly encouraged more restrictive interpretations of animal protection legislation, frequently criticizing practices that it regards not to be in conformity with the animal welfare principle. Also, the courts have used the interpretation of Article 51A, especially the compassionate attitude to living beings, to buttress the ban on cow slaughtering, implying that the protection of animals is to be seen not only in the welfare of living beings but in a further moral responsibility<sup>33</sup>.

The growing trend in judicial decision making in regards to compassion towards Animals, taking the form of a constitutional requirement only further complicates the already difficult relationship between religious activities, property rights of the economy, and government stipulated animal protection<sup>34</sup>. Such a subtle intersection between different provisions of the constitution and how they are interpreted by the courts presents the larger problem of how to reconcile the multiple values and economic realities of society under a secularist system<sup>35</sup>.

The Indian secularism model follows the formula of maintaining distance with religion and at the same time respects every religion and their respective workings, which further complicate their interpretations<sup>36</sup>. This strategy will be in order to tolerate various religious practices without favoring any of them and will cause peculiar problems when judging the cases when religious practices clash with the state laws concerning certain issues, such as cow protection<sup>37</sup>.

Such subtle perception of secularism, therefore, requires a precarious balancing act, which would permit the sanctity of religious sentiments, yet at the same time safeguard the constitutional right to animal welfare and the economical rights of the citizens<sup>38</sup>. The distinctive

<sup>32</sup> Hardik Daga & Latika Choudhary, “*Analysing the Animal Euthanasia Scenario in India in Light of the Constitutional Provisions*” 13 *Christ University Law Journal* 87 (2024) available at <<https://doi.org/10.2139/ssrn.5164437>>.

<sup>33</sup> *Supra* note 9.

<sup>34</sup> Uday Singh Cheema, “*The Legal Debate Surrounding Animal Sacrifices: Examining the Rights of Animals and Religious Freedom*” 6 *International Journal of Law Management & Humanities* 598 (2023); Sourav Mandal & Aishwarya Pagedar, “*A brief sketch and some open questions: Legal scholarly publishing on South Asia*” 15 *Jindal Global Law Review* 1 (2024) available <<https://doi.org/10.1007/s41020-024-00230-6>>.

<sup>35</sup> Deepa Das Acevedo, “On the Familiar Pleasures of Estrangement”, in Tom Ginsburg & Benjamin Schonthal, et.al. (eds.), *Buddhism and Comparative Constitutional Law* 345 (Cambridge University Press, 2023); Parhi, S., & Biradar, S. (2023). *The Role of Religious Value in Law Making*.

<sup>36</sup> Kaushal Singh, “*Rethinking Secularism: An Inquiry into its Viability and Adaptation in the Indian Context*” (2024) SSRN Electronic Journal available <<https://doi.org/10.2139/ssrn.4853411>>.

<sup>37</sup> *Supra* Note 36.

<sup>38</sup> *Supra* Note 2.

model of secularism in India versus the intense separation that prevails in Western countries allows the state to intervene in the religious matter to support social justice and equality, but with its own problems of communalism and political manipulation of religion<sup>39</sup>.

#### IV. Judicial Pronouncements on Cow Slaughter Bans

The Supreme Court of India has been critical in setting the legal framework on or around the issue of cow protection, with some of their decisions giving light to the constitutionality and applicability of the legislative prohibitions against slaughter of cows. The decisions have been keen to find a balance of power of the state to impose such prohibition, which is mostly based on cultural and religious feelings, and the fundamental rights including freedom of trade and religion<sup>40</sup>.

For instance, in the case *Mohd. Hanif Qureshi v. State of Bihar* also reviewed the constitutionality of cow slaughter ban by recognizing that the state has a legitimate interest in preserving wildlife, but the effect of such laws on the communities was also taken into consideration. The case also introduced a precedent as it made a distinction between slaughtering cows, calves, and young stock, which could be banned, and slaughtering aged or infirm cattle, which was considered useful and could be allowed to be slaughtered<sup>41</sup>. Afterwards, the *Haji Usmanbhai Hasanbhai Qureshi v. State of Gujarat* distinction was further narrowed down by the case which supported the prohibition of slaughtering of healthy cattle but did not prohibit the slaughtering of cattle that was not economically productive<sup>42</sup>. The most thorough decision was however in *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*, a nine judge court unequivocally maintained the total ban on slaughter of any cattle, be it the bull or the bullock, regardless of age, basing on the economic value of their offspring and dung. This ruling greatly extended the range of acceptable restrictions on the right to trade, which focused the Directive Principle presented in Article 48 on a single economic freedom.

This decision was in contrast to previous predecessors, which shaped that a total ban on the slaughter of cows was constitutional, thus enhancing to strengthen the state authority to enact laws on animal welfare and animal farming preservation<sup>43</sup>. The logic that was followed

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<sup>39</sup> Rijul Agrawal, "The fragile balance: Challenges to secularism in India. *International Journal of Political Science and Governance*" 6 *International Journal of Political Science and Governance* 251 (2024) available <<https://doi.org/10.33545/26646021.2024.v6.i2d.394>>.

<sup>40</sup> *Supra* note 9.

<sup>41</sup> *Supra* Note 2.

<sup>42</sup> Archit Jangid, "Secularism in India: A Part of the Basic Structure Constitution of India" 3 *Jus Corpus Law Journal* (2023).

<sup>43</sup> *Supra* note 9.

by the Court in Mirzapur highlighted the economic wealth of cattle in general, despite being past their productive years, which offers a substantial constitutional number of protections against farms. Nevertheless, the observation that the concept of a total ban is in the most advantageous economic interest has frequently faced criticisms and even legal interpretation, particularly in the economic cost of keeping unproductive animals<sup>44</sup>.

The astute interaction between the constitutional mandates, economical fact, and the varying socio-cultural environment of India are the key issues in this continuing debate, especially with regards to the primary religious practice test which numerous legal disputes regularly attempt to produce<sup>45</sup>. The doctrine of essential practices, regularly applied when there is an issue of religious freedom, addresses the issue of whether the certain religious practice is central to a certain religious faith, thus affecting the extent of protection afforded under Article 25<sup>46</sup>. Such a legal test examines the question of whether the ban on cow slaughter directly violates a tradition or doctrine that the state believes to be part and parcel of the doctrine of a religious community, and thus challenges the extent to which the state should interfere with the religious doctrine. As an example, even the Allahabad High Court has ensured to pressure the Central Government to think about declaring cow a national animal and cow protection as a fundamental right of Hindus and show just how the religious sentiment is interwoven with legal speech<sup>47</sup>. Although not legally enforceable, the court's recommendation is typical of the continuing movement of placing even more weight on cow protection as a Directive Principle to a fundamental rights<sup>48</sup>.

Moreover, this emphasizes the way legislative and judicial institutions are sometimes forced to revolve around the constitutional requirements of secular governance and the predominant socio-religious values of a large segment of the population<sup>49</sup>. The cow protection problem is also aggravated by the phenomenon of cow vigilantism where self-proclaimed cow protectors become violent and this creates serious human rights issues and challenges the rule of law. These self-administered justice acts frequently lead to infringement of basic rights, such as the right to life and personal freedom, of cow slaughterers or transporters, and structures constitutional protection<sup>50</sup>. This unlawful application of the enforcers of non-state authorities

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<sup>44</sup> *Supra* note 9.

<sup>45</sup> Rushil Batra, “*The Essential Religious Practice Test: A Sorry Tale of Judicial Misreading*” 11 *Indian Journal of Constitutional Law* 71 (2024).

<sup>46</sup> *Supra* note 9.

<sup>47</sup> *Supra* Note 2.

<sup>48</sup> *Supra* Note 2.

<sup>49</sup> *Supra* Note 2.

<sup>50</sup> *Supra* note 10.

makes enforcing constitutional ideals quite difficult because it undermines the distinction between legitimate authority of the state and unconstitutional vigilante justice<sup>51</sup>. This pattern highlights how weak constitutional secularism in India proves to be in the face of ingrained religious beliefs and politicized interpretations of cultural tradition<sup>52</sup>. This effect leads to the need to thoroughly reconsider the changed human rights structure in India and the strength of its rule of law protection to ensure the safety of the vulnerable groups<sup>53</sup>.

The long held societal interest in cows, which has been driven by religious and cultural discourses, even gives the existence of many Gaushalas spread all over India the backing it deserves among the population<sup>54</sup>. Nevertheless, even with all these actions, the effectiveness of legal regulation itself as a single tool to deliver the holistic care and protection of bovines has its fair share of scepticism<sup>55</sup>. This skepticism is a reflection of the continuing issues with keeping non-productive cattle that are frequently neglected and abandoned, the ethical concerns one might have when viewing some Hindu animal ethics views<sup>56</sup>. These considerations of ethics can be applied to the larger discussion of the balance between religious feeling, economic feasibility and the practical difficulty of animal welfare in a highly populated country.

## V. Religious Rights, Essential Practices, and Indian Secularism

The Indian secularism is however not the same as the approach used by the West, as it allows the state to intervene in religion issues to encourage social justice and equality instead of absolute segregation<sup>57</sup>. Such a delicate mode permits intervention to religious practices that are considered enemies of a good order or morality in society, but it also creates a dissonance when government action is seen to favor one religion over others, especially the cow protection laws<sup>58</sup>. The dynamic is usually subject to controversy on whether slaughtering cows can be classified as an obligatory religious practice evidenced within any community, and thus the constitutional boundaries of religious liberty under Article 25<sup>59</sup>.

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<sup>51</sup> *Supra* note 5.

<sup>52</sup> *Supra* Note 2;

<sup>53</sup> *Supra* note 9.

<sup>54</sup> *Supra* note 8

<sup>55</sup> *Supra* note 8

<sup>56</sup> *Supra* note 8

<sup>57</sup> *Supra* note 39.

<sup>58</sup> Vijay Pereira, Daicy Vaz, Ashish Malik, Faiza Ali, “*Cui Bono? Cow Slaughter ban and its impact on business and society in India*”. Organization (2024) available <<https://doi.org/10.1177/13505084241247451>>.

<sup>59</sup> *Supra* note 5.

The courts have always struggled with the need to establish what constitutes the key religious practices usually falling back on historical and theological study and determination to whether or not a certain rite or even a certain dietary proscription is central to the religion. Such judicial review serves to curb the abuse of the freedom of religion claims as a way of avoiding the enforcement of laws or enforcing practices that are not at the heart of the main ideas of a religion<sup>60</sup>. This method, though, frequently becomes the target of criticism as the way that might compromise the freedom of religious organizations to establish their own standards and ideas<sup>61</sup>. This renders the meaning of Article 25 quite controversial, particularly following the conflicts between the religious moods and the state-obligatory secular values or the issue of animal rights. In fact, the legal debate that has been happening regularly takes a look at whether cow slaughter was a component of any religion, especially given that there are no clear religious texts that require such practices to be obligatory to practice the religion<sup>62</sup>. This legal question is commonly debated because some rituals regard the cow as sacred and its protection is tied to the religious obligation, and others, especially the Abrahamic traditions, can perceive some rituals connected to animals as a part of their culture or food traditions<sup>63</sup>.

## VI. Socio-Economic Implications of Cow Protection Laws

Although such laws are often proposed in a religious or cultural context, they have a penetrating impact on other economic industries, specifically those relying on animals, including the leather and meat industry<sup>64</sup>. Limits on cattle trade and slaughter harm marginalized groups who detestably rely on these markets, casting serious questions of economic fairness and human rights<sup>65</sup>. Specifically, the limitation of the cattle market and the practice of it tends to impose financial disenfranchisement on the community which has a long-standing tradition of such kinds of occupation, which in turn leads to the exacerbation of the socio-economic inequalities. Moreover, enactment of these laws can also lead to increase in the cost of rearings cattle particularly to the aged or unhealthy cattle therefore the burden to the farmers and also in most cases cattle can be discarded.

This interference effect illuminates how precarious is the connection between religious taboos, economic facts and animal welfare realities and brings the effectiveness and ethical rights of such policies into doubt. This economical impact has spilled in the dairy sector where

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<sup>60</sup> *Supra* Note 2.

<sup>61</sup> *Supra* note 5.

<sup>62</sup> *Supra* note 34.

<sup>63</sup> *Supra* note 8.

<sup>64</sup> *Supra* note 9.

<sup>65</sup> *Supra* Note 13.

restrictions on sale of unproductive cows can add a financial strain to farmers depending on cows clearance to make a living. This would largely result in a cattle overtake that results to strain in utilization of land resources hence, this has resulted in environmental degradation. Even more importantly, they can contribute to the habit of cattle trading and slaughter unintentionally because the monetary necessity is likely to prevail over the law, and the black market where illegal activities of people cannot be checked, and proper standards in the upbringing of animals are not observed is created<sup>66</sup>. In their turn, these informal actions undermine the rules of the health of people and worsen the issue of the spreading disease control, making certain additional threats to the human and animal lives.

These chain reactions serve as indicators of the multi-dimensionality of the act protecting religious or cultural values and demonstrate that even the policies that claim to safeguard them may have some significant and, at any rate, negative socio-economic and population health effects and demand the references to their overall efficiency and moral foundation. It implies that an in-depth study of the cow protection law should involve a rigorous, multi-layered study that transcends the religious decree on cow protection with its concrete human-economic, and more important ramifications on the people and the environmental sustainability.

## VII. Comparative Perspectives on Animal Protection and Religious Freedom

As an example, the review of the laws in the countries that have high-quality animal protection laws, e.g., Germany or Switzerland, and those with high-quality religious freedoms protection, e.g., Israel, can provide important insights into how can be reconciled between these two commonly clashing priorities. This analysis tends to reveal a range between extreme prohibition of certain religious methods of slaughtering to moderations that aim to reduce animal pain without violating the religious dietary taboos.

This comparative prism also emphasizes the difficulties in recognising the nature of religious necessity in animal practices, in particular, as ethical considerations of animal sentience are gaining more and more legal and social importance. In fact, in India, animal protection, especially cows, have deep religiosity and cultural beliefs, and certain animals are traditionally worshipped as incarnations of gods and are viewed with great respect<sup>67</sup>. This

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<sup>66</sup> *Supra* note 8.

<sup>67</sup> Nimita Aksa Pradeep & Noureen Siddique, “Covid-19 and the Plight of Animals in India: Safety And Prevention Approaches” 7 International Journal of Law and Social Sciences 1 (2021) available <<https://doi.org/10.60143/ijls.v7.i1.2021.23>>.

deference usually affects the legal and social standards, which create special problems with the incorporation of contemporary animal welfare evaluations as a part of the regulation<sup>68</sup>. Nevertheless, such a conventional adoration usually stands in opposition to the realities of industrial farming and the rise of the dairy sector, where the welfare of each animal can be at odds with the economic needs<sup>69</sup>. Thus, the critical analysis of these laws should also take into consideration the changing idea of animal consciousness and what ethical conclusions can be made when the policy follows religious feelings instead of the proven pain of animals in modern settings<sup>70</sup>.

This contradiction makes the slight legal and ethical discussion necessary, which attempts to resolve the old cultural values and the current scientific explanation of animal thoughts and pain<sup>71</sup>. It means balancing among the freedom of religion, animal welfare, and preserving order in the country, particularly in a multicultural state like India where other communities perceive the ethical treatment of animals and the significance of religious practices differently<sup>72</sup>. Judicial interpretations also add to the complexity, as, in most cases, attempting to find a compromise between these conflicting interests, e.g., in a number of cases related to animal sacrifice, and the essential religious practices test<sup>73</sup>. The theory of the essential practices of religion applies to the legal cases of animal sacrifice, in particular, particularly, when the courts aim to tell whether the given practice is central to the religion itself, or merely a part of a traditional tradition<sup>74</sup>. This judicial examination is oriented at establishing that religious freedom demands are not exercised to legalize otherwise contentious collection of customs that would not likewise sit effectively in the larger universal policy discourse like safeguarding animals<sup>75</sup>. It demands a very strong examination of historical and theological approaches to find what the actual essence of such practices in various religious traditions is<sup>76</sup>.

<sup>68</sup> Shilpi Kerketta, Abhishek Kumar Singh, Chandan Kumar, Shailendra Kumar Rajak and Banani Mandal, “Integrating On-Farm Animal Welfare Assessments into Regulatory Frameworks: Challenges and Solutions for Improved Animal Care”, in Jaco Bakker and Melissa A. de la Garza, et.al. (eds.), *From Zoo to Farm - The Quest for Animal Welfare*, available <<https://doi.org/10.5772/intechopen.115032>>.

<sup>69</sup> *Supra* note 8.

<sup>70</sup> *Supra* note 9.

<sup>71</sup> *Supra* note 34.

<sup>72</sup> Joe Wills, “*The Legal Regulation of Non-stun Slaughter: Balancing Religious Freedom, Non-discrimination and Animal Welfare*” 41 *Liverpool Law Review* 145 (2020) available <<https://doi.org/10.1007/s10991-020-09247-y>>.

<sup>73</sup> *Supra* note 45.

<sup>74</sup> *Supra* note 34.

<sup>75</sup> *Supra* note 34.

<sup>76</sup> *Supra* note 34.

Moreover, animal welfare transformation is another necessary issue of the legal framework since it is increasingly accepted that animals are valuable in their own right, irrespective of their practicality to humans, and it is rather a challenge to anthropocentric ideas of religious freedom. These problems cause a reassessment of the legal paradigm that can justify the religious sensibility, as well as the evolving ethical beliefs regarding the sentience of animals<sup>77</sup>. The need to adopt a multi-disciplinary approach which includes legal, ethical, and scientific aspects to create a more balanced and sustainable structure of human and animal rights is proven by such diverse interaction<sup>78</sup>. The occupying complexity of this balance is further complicated when animal sacrifice, in some cases, being rooted in specific religious practices, is in conflict with animal protection laws, resulting in legal disputes about the limits of animal safety and a religious right to practice, which often result in some controversies<sup>79</sup>.

The case of the jurisprudence of the “essential religious practices” test as interpreted by Indian courts since the *Shirur Math* case of 1954 has frequently been used to identify the legality of such practices<sup>80</sup>. The test allows distinguishing between the essential religious beliefs that should be provided federal protection and those that are simply traditional and, therefore, are subject to state control<sup>81</sup>. The objective of this judicial interpretation is to avoid the abuse of religious freedom arguments to support practices that might otherwise be seen as inhumane or not congruent with other more comprehensive policies, such as animal protection<sup>82</sup>. According to critics, however, judges, by taking a theological role in determining the core practices, can have uneven interpretations of the religious texts or even group practices, which can restrict constitutional protection of religious freedom<sup>83</sup>. This aspect has caused the Indian judiciary to struggle with its success in defining exactly what is meant by religion and religious denomination in the context of the Constitution, which only makes the legal interpretation of practices such as cow protection difficult<sup>84</sup>. This is compounded by the economic cost of cow protection, in which trade-offs between the livelihoods of the agricultural

<sup>77</sup> Paul Chaney, Ian Rees Jones & Ralph, “*Sentience and salience – exploring the party politicization of animal welfare in multi-level electoral systems: Analysis of manifesto discourse in UK meso elections 1998–2017*” 32 *Regional & Federal Studies* 115 (2020) available <<https://doi.org/10.1080/13597566.2020.1853105>>.

<sup>78</sup> Walter Veit, “*Confidence Levels or Degrees of Sentience?*” 15 *Asian Bioethics Review* 93 (2022) available <<https://doi.org/10.1007/s41649-022-00230-5>>.

<sup>79</sup> *Supra* note 34.

<sup>80</sup> Subhashree Parhi & Shashwata Biradar, “*The Role of Religious Value in Law Making*” 5 *Indian Journal of Law and Legal Research* 1 (2023).

<sup>81</sup> *Ibid*; *Supra* note 9

<sup>82</sup> *Supra* Note 34.

<sup>83</sup> Nabeela Siddiqui, “*On crossroads with Constitutional Morality: The (Un)tamed ERP test*” *SSRN Electronic Journal* (2020) available <<https://doi.org/10.2139/ssrn.3674829>>.

<sup>84</sup> *Supra* note 9.

sector and ethics appear to be a considerable policy challenge<sup>85</sup>. In addition, the constitutional requirement of secularism in India which, although it offers the importance of equal treatment of all religions, was sometimes applied in a sense that seems to support the religious sentiments in the majority<sup>86</sup>.

### VIII. Conclusion

The constitutional model of cow protection in India is, therefore, a muddled patchwork, and a conflict of different cultural, religious, and economic interests within a secular democratic state. The current judicial interpretations and legislative interventions with reference to cow protection explains how constitutional law in India is dynamic in its moves to constantly adjust to changes in society but in the quest of maintaining the core ingredients of justice and equality. The changing debate of cow protection is thus going on to push the limits of religious freedom, economic freedom, and the governmental need to stand by cultural emotions and stay faithful to secular values. This unending tension between the maintenance of ideas of religious sensibilities and the preservation of individual rights is an indication of a greater problem of retaining the exclusive brand of secularism of India. Moreover, even though legally, slaughter of bovines is forbidden, and even though cattle suffer widely before slaughtering, there is a great divergence between the nominal importance of the law and the actual reality, and they are often hidden by the figurative sacredness of cattle. This disparity underscores that the more subtle legal and policy-oriented gaze which considers animal welfare in its entirety, not merely the taboo on slaughter but thus the notion should also be applied to the ethical considerations during the phase of every animal. This would necessitate a sharp re-think of existing legal provisions and legal enforcement with respect to its effectiveness in providing both animal welfare and social fairness. Furthermore, another aspect that needs consideration to shape equitable and legally binding policies is the socio-economic consequences on the population which relies on cattle trade, which is normally skewed towards the minorities. Besides, the cow protection lawsuits also cause problems in enforcement because of cow vigilantism that is normally politically based, not necessitated by the logic of deeply rooted legal issues, but such based on violence and violations of human rights to marginalized groups of people. This demands the critical examination of the aspect of how such extra-legal actions are against the rule of law as well as the constitutional provisions of all citizens. With this complicated combination of law, religion, and socio-economic concerns,

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<sup>85</sup> *Supra* Note 2.

<sup>86</sup> *Supra* Note 2; *Supra* note 80.

it is clear why a more comprehensive and holistic approach to cow protection, beyond banning it, is necessary, but one that considers the well-being of animals and the rights of all citizens. These acts outside of the law are detrimental to the effectiveness of the existing laws and are founded primarily on the religious fervor about the sacredness of cows<sup>87</sup>. This is further complicated by the fact that secularism in the Indian context can be defined in a variety of ways, and the state has to walk a fine line between total disentanglement and independent respect of all religions. It is an endless debate to the Indian legal and political framework that must strike a balance between the religious freedom and secular ideals in the process of discussing animal welfare and safeguarding human rights. The criterion of cow protection which is tightly interrelated with the Hindu beliefs also encompasses the broader bhakti facet of Hindu religious thinking, which presupposes a sense of spiritual impulse that cannot be reduced to the legal traditional interpretation of the concept of dharma.

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<sup>87</sup> *Supra* note 10.