

ARTICLE BEEF BAN FROM THE LEGAL PROSPECTIVE

1. In last few months, a nation debate has spurred regarding the right to eat beef (the meat obtained from cow progeny animals). Everybody is talking of the right of human being to eat, however very few people are concerned with the right of living creatures of [sustenance rather than] right to live. The Hon'ble Gujarat High Court, in the case of Mahisagar Mataji Samaj Seva Trust Vs. State of Gujarat reported in 2012 (2) Gujarat Law Reporter 1300, has observed as under regarding the rights of the animals.

"We are considering this matter from a little wider horizon. Cattle like human-beings possess life in them. Even an animal has a right to say that its liberty cannot be deprived except in accordance with law. We have noticed that there are many enactments which has recognized rights of the animals. Be it a cattle or any other animal. Prevention of Cruelty to Animals Act, 1960 is one such piece of legislation. Section 3 reads as under:

"3. Duties of persons having charge of any animals: It shall be the duty of every person having the care or charge of any animal to take all responsible measures to

ensure the well-being of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering."

The act impose obligation upon all persons/authority for caring the animals providing all necessary facilities for its care and life.....

In the above referred provision the words "charge of any animal" are significant. It is the duty of the custodian of animals to take care of animals including saving of its life.

Article 51-A of the Constitution of India also provides that it shall be the duty of every citizen to have compassion for living creatures. The Constitution has imposed fundamental duties to all citizens to have compassion towards living creatures. The words used here are "living creatures". Section 2(a) of the Prevention of Cruelty to Animals Act, 1960 reads thus, 'animal' means an living creature other than a human being. Hence, all the citizens are required: to have compassion towards all living creatures including animals, birds, reptiles and even small insects also.

The Hon'ble Supreme Court has expressed a new dimension to the words "to have compassion for living

creatures” of Article 51-(g). In the case of State of Gujarat, Shri Ahimsa Army Manav Kalyan Jeev Daya Charitable Trust, appellant with Akhil Bharat Krishi Goseva Sangh, appellant v. Mirzapur Moti Kureshi Kasab Jamat, case nos. 4937-4940 of 1998, a Constitution Bench of 7 Judges held in paragraph 58 as under:

“In *AIIMS Students’ Union v. AIIMS*, (2002) 1 SCC 428, a three-Judge Bench of this Court made it clear that fundamental duties, though not enforceable by writ of the court, yet provide valuable guidance and aid to interpretation and resolution of constitutional and legal issues. In case of doubt, peoples’ wish as expressed through Article 51-A can serve as a guide not only for resolving the issue but also for constructing or moulding the relief to be given by the courts. The fundamental duties must be given their full meaning as expected by the enactment of the Forty- second Amendment. The Court further held that the State is, in a sense, ‘all the citizens placed together’ and, therefore, though Article 51A does not expressly cast any fundamental duty on the State, the fact remains that the duty of every citizen of India is, collectively speaking, the duty of the State.”

Now as per the ruling, fundamental duty under Article 51A(g) to have compassion towards living creatures is extended to State Government and Government authority. State is equally responsible for due care and protection of animals.

The universal declaration of animal rights are as under:

- International League for Animal Rights has finally approved the declaration at London on 21st 123rd September 1977.
- Declaration proclaimed on 15th October 1978
- United Nations and UNESCO has ratified the declaration

Preamble

“Considering that all living being possess natural rights and that any animal with a nervous system has specific rights.”

Article 1: All animals are born equal and they have the same rights to existence.

Article 2: (a) Every animal has the right to be respected;
(b) Man, like the animal species, cannot assume the right to exterminate other animals or to exploit them, thereby violating this right. He should use his conscience for the

service of the animals; (c) Every animal has the right to consideration, good treatment and the protection of man.

Article 5: (a) Every animal that usually lives in a domestic environment must live and grow to a rhythm natural to his species; (b) Any change to this rhythm and conditions dictated by man for mercantile purpose, is a contradiction of this law.

TV, unless they are for the demonstration of animal rights.

Article 14: (a) Protection and safeguarding associations must be represented at government level; (b) Animal rights must be defended by law as are human rights.

In the words of His Lordship Hon'ble Mr. Justice V.R. Krishna Iyer (Former Judge, Supreme Court of India) in an article named "The Rights of our Animal Brethren":

"The human species must consider itself an element of the terrestrial habitat and must respect co-existence and symbiosis. Any failure to respect these is an attack on nature, prejudicial to the whole ensemble of Inanimate and animate beings."

"The universality of divinity is a fundamental faith of Indian humanity rooted in the Rig Veda and manifest in

the spiritual core of all religions.”“The ancients have stated that God sleeps in the mineral, awakens in the vegetable, walks in the animals and thinks In man’. “The unity that runs thro” Creation is thus a basic truth. Nature has thus an integral relation with animalia and homo sapiens is an inseverable part of the evolutionary spirit the highest peak of ecological ascent. These great values are reflected in our constitution, a rare good fortune and a binding recognition. The State and the citizen are duty bound to promote and preserve ecology and environment as mandated by Articles 48A and 51A.”

Similarly, recently while considering the issue of jallikattu (bullock race) the Hon’ble Supreme Court made very important observation in case of AWBI V/S A. Nagaraja & Others Reported in (2014) 7 SCC 547 “Every species has a right to life and security, subject to the law of the land, which includes depriving its life, out of human necessity. Article 21 of the Constitution, while safeguarding the rights of humans, protects life and the word “life” has been given an expanded definition and any disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, fall within the meaning of Article 21 of the

Constitution. So far as animals are concerned, in our view, "life" means something more than mere survival or existence or instrumental value for human beings, but to lead a life with some intrinsic worth, honour and dignity. Animals' well-being and welfare have been statutorily recognized under Sections 3 and 11 of the Act and the rights framed under the Act. Right to live in a healthy and clean atmosphere and right to get protection from human beings against inflicting unnecessary pain or suffering is a right guaranteed to the animals under Sections 3 and 11 of the PCA Act read with Article 51 -A(g) of the Constitution. Right to get food, shelter is also a guaranteed right under Sections 3 and 11 of the PCA Act and the Rules framed there under, especially when they are domesticated. The right to dignity and fair treatment is, therefore, not confined to human beings alone, but to animals as well.

Even in celebrated judgment regarding the right of birds, Special Criminal Application No. 1635 of 2010 in case of Abdul Kadar Vs. State of Gujarat High Court made observation, "When everybody is talking about fundamental rights of the citizen, such as, right to live freely, right to food, right to move freely etc. a day

has come to think about the rights of the birds and animals, because of such act even the birds have vanished and their numbers are in decrease. Nobody has a right to inflict pain or suffering to others inclusive of the animals and birds”.

2. The Hon'ble Uttar Pradesh High Court, in case of Mohd. Habib Vs State of U.P. in Writ Petition No.38469 of 1994 held that “To slaughter an animal is not fundamental right”.
3. For obtaining meat, killing of the animal is must. We, human beings don't like if we are slapped or injured and while talking of rights of co-existence, we simply want to kill the animals only to obtain one addition food item which is never indispensable for us, human beings. It is absolutely wrong to cite the old practice in oldest of sacrificing the animals in the present 21st century. Just as custom of Sati is declared to be illegal, though in vogue for centuries, the killing of animals has to be declared as illegal and impermissible. Before advancing the argument of right to eat, our rationalist people must study animal psychology. The animals have also the feeling and the human beings have no right to injure the feeling of animals.

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