

The Dark Chronology Of India's Cow-Slaughter Laws

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Uttar Pradesh uses the National Security Act against cow-slaughter suspects. In Gujarat, killing a cow attracts life imprisonment. In recent times, a constitutional reference to agriculture and animal husbandry—from which these laws flow—manifests itself mostly in violence against Muslims. Exclusive extract from a new book



Mariam Khatoon's husband Alimuddin Ansari was attacked by a mob in broad daylight. His family found out about the murder through a WhatsApp video of the lynching/PHOTOGRAPHS BY NATASHA BADHWAR

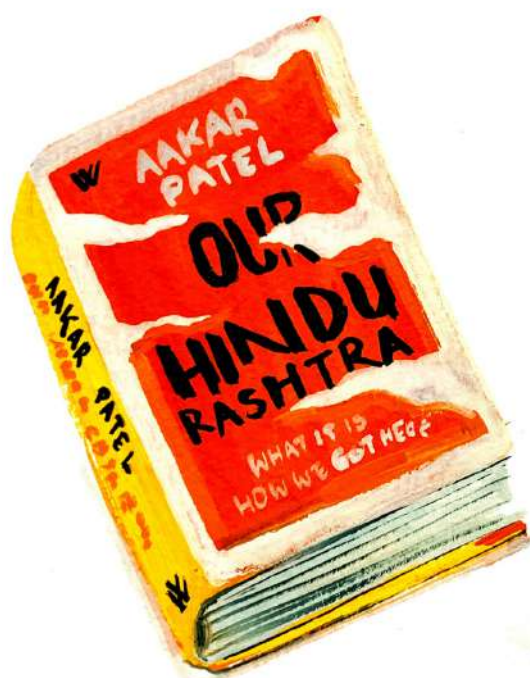
The chronology of the various pieces of state legislation shows that cow protection laws have become harsher in India over time. And the meaning of the laws have taken them farther and farther away from the reason cited in [Article 48](#).

The southern states (excepting Pondicherry) all have laws that allow slaughter of animals. Overall the southern states can be identified as being the ones that allow slaughter, allow transport of cows and bullocks, inflict less punishment for illegal slaughter.

show, that are particularly agitated over the issue.

It will be noticed that Madhya Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Uttarakhand, Odisha, Rajasthan, Uttar Pradesh and Haryana are also on the list of those who have or are about to pass anti-conversion laws.

It is no exaggeration to say that today nobody fully understands India's cow slaughter laws. There is confusion arising from a full ban in some states to no ban in some and partial bans in others. There are bans on beef eating in some states, but not in other states. There are bans on the slaughter of some species of bovine but not others, on some cattle of a particular age, but not others, on some cattle of a particular gender but not the rest. There are bans on beef possession in some states and no clarity on this in other states, and bans on transport in some places, regulations on time and temperature and carrying conditions elsewhere. There is little logic or coherence to any of it.



Our Hindu Rashtra, By Aakar Patel, Westland, Rs799/TINY BOOK ILLUSTRATION BY TARA ANAND

The Congress, as in the case of Punjab and elsewhere, initiated the process of total bans on cow slaughter in the north but it was under the [Bharatiya Janata Party] BJP that the laws have become unhinged. The desire to punish has become deranged and the laws exist primarily to victimise and brutalise Muslims, the majority of those in the butchery trade. Uttar Pradesh liberally uses the anti- terror National Security Act on Muslims for cow slaughter ([‘In Uttar Pradesh, more than half of NSA arrests this year were for cow slaughter’](#), *Indian Express*, 11 September 2020) because the preventive detention law allows it to jail people without trial or formal charge. Gujarat's life imprisonment for cow slaughter passes no test of reasonableness.

Even for murder and rape the burden of proof is on the State. Innocent until proven guilty is a fundamental principle of justice. India has reversed it here. The penalty in states like Gujarat, where the offence attracts life imprisonment and a minimum of ten years with a fine of Rs 5 lakh, shows that the intent of the law is not economic. No white collar crime in India attracts life imprisonment.

And the state is keen to use these laws. The *Indian Express* reported ([‘Gujarat man gets 10 year jail term for cow slaughter’](#), 7 July 2019) that a man accused on 29 January by his neighbour of stealing his calf and slaughtering it to serve at his daughter's wedding was tried and convicted not for theft but for cow slaughter. The prosecution had no evidence to show that this had happened and the Forensic Science Laboratory at Rajkot couldn't even prove that the meat served at the wedding meal was in fact beef.

However ‘in such a scenario’, Sessions Court judge Hemantkumar Dave noted, ‘It is incumbent upon the accused to prove that the meat found in the biryani was not obtained by slaughtering the said calf.’ This was the reversal of burden of proof in the law under which the man was jailed for ten years. On 19 September, the sentence was suspended by an embarrassed Gujarat High Court with the judge using ‘judicial discretion’ and the man was ordered to be freed. The government said it would appeal.

There is no relationship between milk production and cow slaughter. The world's largest producer of cow milk, the United States with 97 million tons a year, also slaughters the most cows, over 32 million each year.

According to the [National Dairy Development Board](#), India produces 176 million tons of milk but of that about 100 million tons is buffalo milk compared to 76 million tons of cow milk a year. This is because buffalo milk contains twice the fat of cow milk and is therefore more valuable.

But Article 48 does not seem to apply to the buffalo and India slaughters four times as many buffaloes as it does bullocks and cows, according to the Modi government's report on animal husbandry statistics of 2019.

There is no protection for the beast even in Gujarat, which has more buffaloes than cows because they are more productive. The laws written by the BJP in Madhya Pradesh, Rajasthan, Haryana, Jharkhand, Uttarakhand and Delhi exclude buffaloes though the intent of the constitutional directive and presumably, the laws, is the preservation of cattle for promotion of animal husbandry and production of milk. And most of India's buffaloes are in the Hindi heartland. Writer Kancha Ilaiah has said that this is because of the inherent bigotry of Hindutva. It doesn't like the buffalo, though it is more useful than the cow, because it is black. It also shows that the economic argument is a lie.

Bulls and bullocks are commonly regarded as being useless for anything other than work as draught animals, meaning those bearing loads. That is why the laws initially exempted them from protection. Today, these animals are a burden on the agriculturalist. They have to be housed and fed but offer the farmer no income or useful productive capacity.

In 1951, India had a total of 8,500 tractors. In 2019 alone India produced 878,000 tractors. There are millions of tractors across the country today and no economic need to have criminal laws to protect animals who do draught work. Between 1971-72 and 2009-10, the estimated share of draught animals in total power deployed in Indian farms fell from 53 per cent to below nine per cent, according to writer Harish Damodaran, and its share has fallen significantly further in the decade since.

Article 48 wants the State to 'organise agriculture and animal husbandry on modern and scientific lines' and to 'take steps for preserving and improving the breeds.' Even if we assume that the intent was not Hindu sentiment but scientific, that was a time when there was no breeding possible without bulls. Today, breeding is selective and scientific.

Writing in the *Indian Express* ('[In thrall to the holy cow](#)', 6 April 2018) Damodaran pointed out that artificial insemination began in India in 1946. In 2016-17 more than 7 crore artificial inseminations were performed, more than a quarter of all cows and buffaloes. The national plan for dairy development proposes to raise that to 65 per cent by 2021-22.

The use of manure as fertiliser was also one of the reasons cited in the debates. In 1959, India began production of urea. India today produces 25 million tons of fertiliser. Also, Damodaran writes, 'Thanks to the Pradhan Mantri Ujjwala Yojana, there were 21 crore active domestic LPG connections as on 1 January 2018, corresponding to an estimated coverage of 79 per cent. That has made dung cakes practically redundant as a source of cooking fuel even in rural India.'

One of the arguments pushed in the Constituent Assembly for the ban on cow slaughter was that milk was vital for the health of the nation. Thakur Das Bhargava said that the reason for India's high infant mortality rate was a lack of milk. 'How can you improve your health and food position, if you do not produce full quota of cereals and milk?' he asked. India produces more than its full quota of milk. In 2018-19, India's dairy exports rose 126 per cent to 1.2 lakh tons, according to the Ministry of Animal Husbandry, Dairying and Fisheries.

The concern for the wellbeing of cows is the reason for the laws, but the fact is that cows are among the most ill-treated of all animals. Bullocks are castrated to make them docile. There are over 14 million of them (1.4 crore) dragging carts across India, a report in *Dawn To Earth* in June 2014 said.

Milk, butter and ghee are part of religious ritual in India but the production of milk is one of the cruellest things man does to animals. Harari writes that the milk producing cow is almost constantly pregnant and fertilised within two and three months of giving birth in order to maximise milk production. Calves are kept near their mothers, but prevented from suckling too much milk. 'The simplest way to do that is to allow the kid or calf to start suckling, but drive it away once the milk starts flowing. This method usually encounters resistance from both kid and mother,' Harari writes.

The *Hindu Businessline* (['FIAPO report on dairy industry leaves a bad taste in the mouth'](#), 27 October 2017) carried a story on the Federation of Indian Animal Protection Organisations describing conditions in India on this. It found that 'cattle are separated from calves (male calves died within the first week in 25 per cent of dairies surveyed) and receive little to no veterinary care'.

Dead calves were stuffed with hay, a system known in India as khalbaccha: 'Because of strong maternal bonds, the mother often stops lactating if the calf has died. Hence a khalbaccha is routinely used to mimic the presence of a calf and continue milking,' the report said.

The cows 'spend their lives in cramped, poorly ventilated and dark enclosures in more than one quarter of the dairies, where injuries from slipping in their own excreta are a common occurrence; 64 per cent of the dairies had ill, injured and distressed cattle,' the report said.

There is no attention paid to the concerns of the cow being abused in this fashion among cow lovers in India. Their passion for Article 48 shows itself mostly in violence against Muslims.



A 2018 report by the Centre for Justice and Peace (CJP) said that a specific part of the state laws was being weaponised by Hindutva groups. Many included text like this one from the law in Karnataka: 'Appointment of competent authority: The Government may, by notification, appoint a person or a body of persons to perform the functions of a competent authority under this Act for such local area as may be specified in such notification.'

The CJP report said the laws 'empower private parties, to help enforce the State's draconian cattle laws. Similar is the case for Maharashtra and Gujarat. And Haryana Gau Seva Ayog, established to oversee implementation of cow protection laws in the state, has members that run cow vigilante groups, with several accusations of vigilante attacks.'

Across India, gau raksha samitis have been formed which act as quasi-official bodies. *Hindustan Times* reported (['In Jharkhand, a "Hindu helpline" to check beef sale, cow slaughter'](#), 2 November 2015) of the setting up of one such group by Hindutva groups. 'We will have to go out on the ground and stop the illegal slaughter since the police are not serious about the issue' one of them

Thakur Das Bhargava, who had spoken of no coercion and of making a compromise on the cow having Fundamental Rights, joined the litigation and now told the court that the Directive Principles regarding the cow were superior to the fundamental rights of Indians. The court had to decide whether the fundamental rights could be curtailed by the qualifying 'reasonable restriction' on it which said that the State could make any curtailing law that was in the interests of the general public.

The court concluded that India was short of milch cattle, breeding bulls and working bullocks, which needed protection. And so a total ban on the slaughter of cows of all ages and calves of cows and calves of buffaloes was declared valid. A total ban on the slaughter of productive she-buffaloes or breeding bulls or working bullocks was also valid. But 'the total ban on slaughter of she-buffaloes, bulls and bullocks 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'.

Note the distinction that the Supreme Court made between cows that stopped being productive and buffaloes. The judgment specifically admits that it had taken Hindu sentiment into consideration when arriving at the reasonableness of the restrictions.

Chief Justice Sudhi Ranjan Das said: 'There can be no gainsaying the fact that the Hindus in general hold the cow in great reverence and the idea of the slaughter of cows for food is repugnant to their notions and this sentiment has in the past even led to communal riots. It is also a fact that after the recent partition of the country this agitation against the slaughter of cows has been further intensified. While we agree that the constitutional question before us cannot be decided on grounds of mere sentiment, however passionate it may be, we, nevertheless, think that it has to be taken into consideration, though only as one of many elements, in arriving at a judicial verdict as to the reasonableness of the restrictions.'

Till 2005, the Indian courts had held that a total ban on the slaughter of bulls and bullocks for their entire lives was an unreasonable restriction on the fundamental rights of butchers. In 2005, the Supreme Court said Gujarat's total ban on all cows and all their progeny including bullocks of all ages was reasonable. The judges found that bullock dung and urine was useful, environmentally friendly and a ban on slaughter was an act of compassion. In this fashion, the Supreme Court lent its voice to the tenuous claim made in the Constituent Assembly that the ban was for reasons other than Hindu sentiment.

What has happened in India in the time of Modi is predictable and a natural consequence of the decades-old Hindu sentiment on cow slaughter pretending to be a secular principle. Modi pushed for harder cow slaughter laws in 2014 after taking power and BJP governments in Maharashtra and Haryana responded. The fervour generated began a spate of lynchings which targeted Muslims some of whose murders were even recorded on phones by onlookers.

The Muslims in the Constituent Assembly had asked the Hindus to go ahead with a full ban honestly, and had said that they would accept it, but this offer was waved away with the assurance that there would be no coercion. It would have been better had the Hindu conservatives been honest and straightforward about their reasons for the pushing for the ban. Their subterfuge has harmed India and its citizens and damaged its reputation as a nation founded on modern, secular principles.

(Aakar Patel is the author of Our Hindu Rashtra published by Westland.)

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