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Constitutionality of Meat Ban.

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ABSTRACT :

Indians the one eat meat are referred to as “non-vegetarians,” which indicates the widespread opinion that consuming plant-eating meals is the standard and consuming meat is an irregularity. Statistics indicate that the plurality of Indians consumes meat is an entity entirely different. In the Indian framework, the debate over meat consumption is mainly compelled by the church rather than well-being issues.

Delhi's attempt to stop the sale of meat during a Hindu religious festival is not the first in India, which is 79% Hindu, according to the 2011 Census, the latest data available. Over the past 10 years, similar attempts have been made in varying forms in five states: Uttar Pradesh, Gujarat, Uttarakhand, Maharashtra, and Madhya Pradesh.¹

The officials at Ghaziabad Nagar Nigam said that such orders, which were applicable to 5 zones in the district are lockstep directions, issued every year during Navratri. The said orders were observed the next day, stating that there is no official regulation from the government yet. However, these executive orders eventually led to a quarrel between the meat traders, as they were ultimately forced to close shops under the fear of actions from the authorities.²

Is eating meat discouraged in India?

According to a 2021 research survey, major Indian religions, such as Hindus, do practice periodic restrictions such as in festivals. However, only about 44% of Hindus consider themselves pure vegetarians. Talking about other religions in India, about 8% of Muslims and 10% of Christian consider themselves pure vegetarians.³

Concluding, 8 out of 10 people are meat consumers in India, including those from the majority religions.

Yesteryear of Meat Ban in India :

¹ <https://article-14.com/post/why-delhi-s-ban-on-selling-meat-during-hindu-festival-is-illegal-violates-india-s-constitution-624f58d311c54>

² <https://theleaflet.in/the-politicisation-of-eating-meat-is-it-constitutionally-sound/>

³ *Ibid*

The drift of the meat ban began in Karnataka when numerous Hindu groups such as Bajrang Dal and Vishwa Hindu Parishad were running a door-to-door drive asking people to not use or consume meat during and days following Ugadi(New Year's). The Ugadi celebration was followed by Hosa Tadaaku, in which those Hindus who consume non-vegetarian food, offer cooked meat to gods.⁴

The most common myth about Indian cuisine, of course, is that India is a largely vegetarian country. The truth is a large group of Indians which includes Dalits, Muslims, and Christians, consume beef. About 70 communities in the South Indian region prefer meat over more expensive vegetarian food.

Vikram Doctor, an editor at the Economic Times who writes substantially about the country's food, says, "it's deeply unfortunate because India's traditions are more complex, it has a very old meat-eating culture and a very deep vegetarian tradition, which is also important". Mr. Doctor firmly believes that vegetarianism is being weaponized in India.

Until now the debate was over meat-eating, largely restricted to beef. The reason being Hindus consider the cow sacred and its slaughter was hurting their religious sentiments, as a result, beef slaughter was banned in most Indian states.

History indicates that red meat was being consumed in India since the times of the India valley civilization. Cow sacrifice was common within the Vedic age during 1500 BC - the meat was offered to gods before being consumed by people as feasts.

Historians securely believe that it wasn't invading armies that brought meat-eating culture to India, rather living food habits evolved in response to new trades, empires and agriculture. Over the period beef and then meat completely disappeared from the diets of upper-casts, especially Brahmins. The explanations for this vary but religion wasn't the sole drive.

Dr. Bhattacharya in her research says that colonialism, which modified land use, trade, agricultural patterns, and famines played a big role in making the present-day Indian diet a predominance of rice, wheat, and dals. To her interest, Dr. Bhattacharya further explains certain exceptions to these fooding cultures. Kashmiri Pandits are known for their Rogan Josh, a rich gravy of lamb and red chilies. In Bengal and along the southern Konkan coast, a range of fish is eaten in Brahmin homes.

⁴ <https://theleaflet.in/the-politicisation-of-eating-meat-is-it-constitutionally-sound/>

Dr. Bhattacharya says, "we are vegetarians who also eat meat".

In conclusion, the majority food culture of India can be described as semi-vegetarian, where a diverse food table includes meat without always being the hero of the meal.

What is the feud over the meat ban?

As noted by Indian Express, a letter written by the mayor of South Delhi Municipal Corporation Mukesh Suryan has requested the closure of meat shops within the jurisdiction during Navratri. Mayor Suryan reportedly said that "During Navratri days people visit temples to pay their respect to the goddess and to seek blessings. People during these nine days avoid even the use of onion and garlic, and the sight of meat being sold openly near the temple will make them uncomfortable, and when they have to bear the foul smell of meat on their way to offer daily prayers".⁵

Such bans, especially when based on religious diversities, come down to one question, does India really need these restrictions to maintain the sanctity of religion?

India proudly owns the treasure of spiritual wisdom. Her rich inheritance was handed down in the form of religious texts and idols. It is the duty of every Indian to safeguard the sanctity of its culture and learning.

At the same time it is important to bear in mind that the Indian Constitution has given the freedom to Practice, Promote and Propagate the faith anyone likes and there is no restriction on that. Each individual is different and so what works for one person may not work for another.

India is a secular State and food habits cannot be stopped, at the same time Hindu faiths and sentiments must be respected in a Hindu-majority State.

How does the ban violate the constitution?

First and foremost it is important to understand that the Constitution grants fundamental rights to every Indian citizen, one such fundamental right is the freedom to carry out trade granted under Article 19(1)(g).⁶ The only admissible limitation of this fundamental right is through imposing reasonable restrictions stated under Article 19(2)-(6) and these reasonable restrictions must be through a statutory 'law' as held in *Bijoe Emmanuel & Ors v. the State of*

⁵ See Supra note 2,4

⁶ See Supra note 2,4

Kerala. In the present matter, the orders by the mayor are executive orders and do not suffice to restrict the freedom of trade. The continuation of law is a necessary requirement.⁷

Then again, if the bans were backed by statutory law, it has to pass the test of the golden triangle that is Article 14, 19, and 21.⁸

Article 14 which guarantees equality is a guarantee against any arbitrariness. To suffice the test of equality, the law has to pass the specifications of reasonableness. As held in *Sharaya Bano v. UOI* that any law which is disproportionate or excessive, would be considered arbitrary.⁹

The orders of the Delhi mayor fail the test of equality since the Constitution does not permit a blanket ban on meat. The only restriction, that too without any statutory law, is the one on cow slaughter under Entry 15 of List II of the Seventh Schedule of the Constitution.¹⁰ A blanket ban on meat when there were no restrictions on the sale of alcohol or onion or garlic during this period.

Ironically, it was still able to purchase frozen meat at large retailers or to order meat online. Most individuals came to the conclusion that the only goal was to harm the economic well-being of those who worked in the meat industry, particularly Muslims. Hindus, many of whom work in the meat industry themselves, appeared to have little to do with it. Another covert goal seems to be to divide the majority community's support for the BJP in the upcoming elections for the Delhi Municipal Corporation (MCD). Opposition leader Omar Abdullah of the Nationalist Congress Party tweeted: " During Ramzan, we don't eat between sunrise and sunset. I suppose it is ok if we ban every non-Muslim from eating in public, especially in Muslim-dominated areas. If majoritarianism is right for South Delhi, it should be just right for J&K".¹¹

There must be a valid state interest for the state to restrict Article 19(1)(g), as doing so will protect the law from evident arbitrariness. In the lack of a statute to that effect, these prohibitions are enforced on the grounds of upholding religious morals. Morality is a

⁷ See *Supra* note 2,4

⁸ <https://theleaflet.in/the-politicisation-of-eating-meat-is-it-constitutionally-sound/>

⁹ *Ibid*

¹⁰ <https://theleaflet.in/the-politicisation-of-eating-meat-is-it-constitutionally-sound/>

¹¹ See *Supra* note 2,4,10

legitimate justification for limiting the freedom to engage in any commerce, but it cannot be used to justify majoritarian beliefs. According to the ruling in *NCT Delhi v. UOI*, constitutional morality acts as a check on popular morality. Owners of the meat markets that have closed or been forced to close down depend on them for their livelihood and come from many communities. Consequently, even if a little portion of the population is impacted, which in this case as stated in *K.S. Puttaswamy v. UOI* and *Navtej Singh Johar v. UOI*, the constitutional courts must uphold their rights even if just a small population is impacted, which is the situation in this instance.¹²

Additionally, it contradicts Article 21's guarantee of the right to personal freedom of choice. The right to food and the right to personal freedom are fundamental components of Article 21, as recently reaffirmed in *In Re: Problems and Mistreatment of Migrant Laborers and Soni Gerry v. Gerry Douglas*, respectively. It follows that it makes sense that having the ability to select the food of your choosing would likewise be an issue of personal liberty and individual autonomy.

Last but not least, Article 51(A)(e) of the Fundamental Duties fosters peace and a sense of fraternity among all Indians, overcoming differences in language, religion, and regional or sectional identity.

The JNU Controversy :

Students from two groups fought over the food menu at JNU's Kaveri Hostel days after the sale of meat was prohibited in Delhi and several areas of UP due to Navratri. Another controversy erupted in JNU, according to reports, some students at the Kaveri dormitory on campus arranged a Navratri Pooja event and pleaded with the mess manager not to serve non-vegetarian food during Navratri. However, in accordance with custom, the meat supplier arrived at the mess to bring meat on Sunday but was turned away by the right-wingers, setting off a confrontation between the two student factions. Although the issue was momentarily resolved following some intense verbal exchanges, it re-emerged when students from both sides started interfering. A series of allegations and denials quickly escalated into a physical altercation. According to the hostel mess manual, one group of students insisted that serving non-vegetarian food should be no problem. However, the ABVP supporters in the other group were adamant that meat be banned during the Navaratri season. Students in this

¹² See *Supra* note 2,4,10

country claim in a news release from the All India Students Association (AISA) that "ABVP goons like Ravi Kumar, Prafull, Vijay and Raj physically attacked students and activists" at the Kaveri mess during the argument, seriously hurting students.

Regarding the tradition itself, there is growing evidence that India has historically and currently has a higher percentage of non-vegetarians than vegetarians. As was said earlier, there are a few days when some non-vegetarians refrain from eating meat. The twice-yearly nine-day Navratri holiday is one such time when the faithful abstains, but there is no concrete evidence that meat sales and consumption fall off significantly during this time. Sales are ultimately impacted by illegitimate restrictions on the selling of meat and mandated vegetarianism.

Politics of Diet :

Data indicate that India is not a vegetarian country. The most recent Census shows that 70% of Indians are not vegetarians. The notion that India is a vegetarian nation was also debunked by a thorough assessment carried out by Udaipur-based political economist Suraj Jacob and American-based anthropologist Balmurli Natrajan. They discovered that overall vegetarianism was far less prevalent and total meat consumption was substantially higher than what was often believed and stereotyped. They examined data from the National Sample Survey Office (NSSO), the National Family Health Survey (NFHS), and the India Human Development Survey (IHDS), and discovered that the percentage of the population who are vegetarians is less than 30% and more likely around 20% of the population.

Due to cultural and political forces, there is an underreporting of meat consumption, particularly beef consumption, and an overreporting of a vegetarian diet. Contrary to allegations made by some, it was discovered that Hindus consume a lot of meat. They used older papers, like those written by A.K. Chakravarti, who claimed that roughly 65% of Hindus in India can be assumed to be non-vegetarians, to support their findings. Only Jains and Sikhs were determined to be predominantly vegetarian communities, while Christians and Muslims are predominantly meat eaters.

In the subcontinent, food is a major matter. According to a recent poll on caste among South Asian Americans, vegetarianism in South Asian communities is significantly different from what most Americans who identify as vegetarian or vegan interpret as an independent

decision inspired by personal, environmental, or animal welfare considerations. It has a close connection to religious and caste-based rules. It could be a contentious political and religious matter. Hindus of the upper caste are frequently vegetarians, in contrast to the vast majority of Dalit, Adivasi, and Shudra populations, who are not. Even though meat was consumed and appreciated by Vedic Hindus, in modern Hindu society, the flesh is connected to pollution. According to the Equality Labs report, upper castes celebrate their vegetarianism because they think it is purer.

Being a vegetarian was heavily influenced by religion. More than 90% of all respondents who identified as Muslim, Christian, or Sikh said they did not eat vegetarian food. "South Asian immigrant networks must avoid perpetuating caste privilege through dietary, spiritual, familial, and social locators. We strongly advocate extreme care on all of these fronts, especially in light of the current violence in South Asia against Dalits, Adivasis, and religious minorities, the researchers stated.

Over 6 million people in India claim to practice various religions and faiths in addition to the major religions. Every religion and belief system has its own tradition and way of life. An attempt to give these instructions any sort of legislative flavor would violate the Constitution's secular element since it would open the floodgates to a variety of claims from other religious communities, which would undermine the fundamental foundation of Article 25. To freely profess, practice, and spread one's religion is permitted by Article 25 of the Constitution.

Without justification, these restrictions merely foster public discomfort and social unrest. While many groups may place restrictions on eating particular types of meat or at certain times, there is no logical reason to limit all meat intake for others when more than 70% of Indians do the same. Therefore, any governmental overreach that dictates everything from what to wear to what to eat is unjustified and unconstitutional.

What do the Courts say?

2008, a two-judge panel of the Court found that "a considerable number of individuals are non-vegetarian and they cannot be compelled to become vegetarian for a long period of time" when assessing whether stopping a slaughterhouse for nine days during a Jain festival in

Ahmedabad was constitutionally permissible. Eating is a matter of personal choice and is protected under Article 21 of our Constitution as a person's right to privacy. The 9-day ban was maintained by the court, nevertheless. It's interesting to note that Justice Markandeya Katju, the author of the ruling, expressed uncertainty regarding the accuracy of that decision after his retirement.

In a PIL filed in 2018 asking for a restriction on the export of meat, the Supreme Court said orally, "Do you want everyone in this country to be a vegetarian? We are unable to issue a directive mandating vegetarianism for everyone."

In a similar vein, the Supreme Court in 2020 made the following remark after hearing an argument to outlaw Halal meat: "Tomorrow you will claim nobody should eat meat". We are unable to categorize people as vegetarians or non-vegetarians."

Since there are always going to be people who eat meat, there can never be 99 percent of the population who do not consume onions and garlic. It is risky for the government to become involved with people's eating habits. The rule forbidding the slaughter of animals was a first, but now the fire is slowly spreading to other non-vegetarian products. This must be alarming in a nation with a protein shortage where anemia and malnutrition affect 50% of the children. You don't even need to travel that far to find it. Nearly 60% of Delhi's population, according to a 2017 survey by the research organization IMRB, have protein deficiencies.

The demand for a meat ban is obviously an attempt to achieve a political advantage by inflaming religious feelings. The only benefit of a ban on meat markets is to appease a certain group's views, which would equate to requiring all segments of society to adhere to that group's values and customs. Such a ban violates Articles 19 and 21's fundamental rights and is in violation of the post-Puttaswamy proportionality and reasonableness test developed by the Supreme Court. It is also imposed solely on the basis of religious sentiments.

While some refrain from eating meat during these nine days of Navrati, they also do not want to see others denied food simply because they are following tradition. That is how respect for a group, celebration, or religion grows. A similar meat ban proposal in the Ghaziabad neighborhood was withdrawn by the mayor, who is setting a positive example for others to follow.