



By DALE LUIS MENEZES

Law and Liberties in Times of Executive Fiats

The Central Government has added a few more rules to the existing Prevention of Cruelty to Animals Act, 1960. The Rules attempts to regulate the sale of cattle (and only cattle, as opposed to *all* animals) in markets, stipulating that cattle cannot be sold for slaughter but only for agricultural purposes. Many argued, and rightly so, that the Central Government's attempts amounted to a backdoor restriction on the consumption of beef. And there are good reasons to believe that the motives of an openly Hindu nationalist government are indeed to stop the consumption of beef – one way or the other.

The Central Government rules were challenged in the Madurai Bench of the Madras High Court through a public interest litigation (PIL), filed by activists and lawyers S. Selvagomathy and B. Asik Ilagi Bava. Based on the PIL, the Madras High Court issued an interim stay for a period of four weeks. The period of the interim stay will expire by the time this article goes to press and we will have to await the Madras High Court's further judgment on this issue. Nonetheless, it would be profitable to examine the logic through which the Madras High Court arrived at its decision to issue an interim stay.

Any basic civics textbook that children use in schools will tell you that constitutional democracy consists of three pillars of governance: the executive, the legislature, and the judiciary. There is a separation of power between these three branches so as to not allow one branch – let us say, the executive – with absolute powers. Further, in India there is the Central, State, and Concurrent lists which are areas of governance that are marked for the state and central government to formulate laws. The petitioners in the Madras High Court submitted that in addition to impinging on personal freedoms as regards consumption of food and trade is concerned, the Central Government's rules amounted interference and usurpation of the powers of the state legislature. It should be noted that while 'cruelty to animals' is listed in the Concurrent list wherein the state and the centre can legislate, 'slaughter of animals' is listed in the State list.

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While this may be the gray area through which the Central Government wanted to push for the new rules that would make the sale and purchase of cattle tougher, as indeed it argued that these rules were necessary precisely to prevent cruelty of animals and the protection of the agrarian economy. The Madras High Court was clear that the rules introduced by the Central Government were unconstitutional. The High Court stated that in addition to interfering in the legislative powers of the state, the Executive had transgressed its own constitutional powers – the new rules appended to the Prevention of Cruelty to Animals Act, 1960 also went against the framework, purpose and intent of the original or parent Act. The High Court recognized that personal liberties and choices with regard to food habits and trade were impinged upon by the new rules. However, it must be noted that while the Madras High Court recognized personal choice and freedom, the interim stay was granted only on technical grounds of the Central Government transgressing its constitutional powers, and the subject of the law being part of the State list.

Familiarizing ourselves with the logic of the interim stay order brings one fact clearly to the fore: it is actually the federal state which needs to legislate on the slaughter of animals. In Goa various laws that, while not providing a blanket ban of slaughter of cattle or the consumption of beef, have over the years nonetheless brought in many provisions that restrict the choice of food and trade in certain ways. Laws such as The Goa, Daman and Diu Prevention of Cow Slaughter Act, 1978 enacted by the then MGP government prevented the slaughter of female cattle. The Goa Animal Preservation Act, 1995, enacted during the Congress regime and amended in 2003 and 2010 to give it more teeth, sought to regulate the slaughter of non-female cattle by making it mandatory to obtain certification that the bovine was fit for slaughter.

[Read More: Cow Politics and Slavery.](#)

What we can observe from the laws enacted by the governments in Goa is that, even while keeping with certain constitutional provisions and rights, the legislative assembly of Goa has slowly eroded the rights of Goans to trade in and consume the meat of bovines. Which is why when, following the hate speech of Sadhavi Saraswati recently made in Ramnathi, Ponda,

Vijai Sardesai assured Goans that their right to eat and trade in the foods they prefer would not be infringed upon, his statement appeared to be half-hearted and cosmetic at best. The Law and Liberties in Times of Executive Fiats reason is that well before such Sadhavis could make Ramnathi their preferred base to spew hatred on Goans of all religious persuasions, the Goa government was happily playing to the sentiments of Hindu (i.e. brahmanical) majoritarianism. However, despite the oppressive cow politics there is no talk of re-looking the existing laws, or changing/abolishing these laws. It is after all within the constitutional limits of the state legislature to legislate justly on the issue. Political parties and politicians come and go, but laws remain: case in point, the 1978 law that the MGP brought restricting cow slaughter.

Rather than wishy-washy statements, or assurances that the Goa Government will object to certain provisions in the Centre's rules by writing to the Central Government in this regard, the State of Goa should exercise its constitutional powers in the interest of Goans and not just one community. Bringing a substantial change through the state legislature is what Goans need to demand now.

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