

The Holy Cow: Unravelling the Mystery of its Holiness

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Abstract

This article aims at debunking the sanctity of the cow that has gained ground as a political vehicle in contemporary times, and exposing the selective reading of texts employed otherwise to further particular religious leanings. Through the course of this article, a wide array of evidence from religious scriptures, legal texts, archaeological materials, epics, commentaries, edicts, foreign travellers' accounts, debates, statutes and judicial decisions have been resorted to, in order to enable a comprehensive understanding of the trajectory of the cow from sacrificial slaughter to prohibitory injunctions on beef consumption. This article, to begin with, traces the treatment of the cow to the earliest Vedic texts through an academic survey to demystify popular misconceptions regarding religious injunctions against cow slaughter and the inherent sacredness of the cow. It then explores an amalgamation of theories put forth to explicate the transition from cow killing to the present inviolability of the cow. Finally, this article examines the legal and juridical discourse on sanctifying the cow, by tracing Constituent Assembly debates and a series of judgements on cow slaughter under the colonial administration and post-Independence, to conclude that judicial intervention has failed to engage with the religious debate satisfactorily and has made a mockery of constitutional secularism in promoting and normalizing a single dominant-caste Hindu narrative.

Keywords

Hinduism, slaughter, saffronization, sacred object, secularism

I. Introduction: Exposing the Un-holiness of the Cow

The term 'holy' or 'sacred' indicates the connection of a space or object with God, and posits a need to preserve it by virtue of this divine connection. This section

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aims at scrutinizing texts to establish that the divinity of the cow appealed to in contemporary times is inconsistent with religious scriptures, legal texts and material evidence, and the inconsistency within texts has been exploited to weave a narrative favourable to the ideological alignments of the author.

Brahmanical sources beginning from the *Rigveda* indicate that the Indo-Aryans migrated to India around the middle of the second millennium BCE (Jha, 2009) and brought with them pastoralism, nomadism and animal sacrifice. The killing of cattle for ritualistic purposes served the palate of Vedic divinities, including Indra's indulgence in bulls (*Rigveda*, X.28.3c), buffaloes (*Rigveda*, X.27.2c; VI.17.11b; V.29.7ab; VIII.12.8ab) and ox (*Rigveda*, X.86.14ab); Agni's dietary preference of the barren cow (*Rigveda*, VIII.43.11), oxen (Falk, 1982) and bulls amongst others; a similar diet followed by Soma, all further evidenced by the explicit mention of 21 *yajnas* in the *Gopatha Brahmana* (Thite, 1975). The *Rigveda* avers a public horse sacrifice (*ashvamedha*), the finalé of which was marked by the sacrifice of 21 sterile cows (Renou, 1971, p. 109). Furthermore, cow sacrifice in ritualistic arrangements played a crucial role in *rajasuya*, *vajapeya* and *agnistoma* according to the *Satapatha Brahmana* (Mitra, 1969, p. 361; 600–500 BCE). Subsequent post-Vedic/pre-Mauryan Brahmanical texts such as the *Grhyasutras* and *Dharmasutras* contain sufficient evidence of eating of flesh including beef by way of domestic rites and rituals (*Paraskara Grhyasutra*, I.8.10) (such as *shulagava*, or the 'sacrifice of the ox on the spit', *simantonmayana*, a ceremony performed in the midst of pregnancy and *upanayana*, the investiture ceremony preceding the commencement of studenthood) (Apte, 1939; *Ashvalayana Grhyasutra*, I.14.3; *Paraskara Grhyasutra*, II.5.17-20); ceremonial welcoming of guests (thereby qualifying the term '*go-ghna*'—one for whom a cow is killed—for guests, according to Panini) (Donigher, 2013a, p. 522) and funerary rites. The latter emphasizes on the intimate relation between cow slaughter and the cult of the dead, which entailed the use of cow skin and fat to cover the dead body (*Rigveda*, X.16.7ab), and *shraddhas* such as *astaka* that expressly required cow killing (*Baudhayana Grhyasutra*, II.11.51; *Hiranyakesi Grhyasutra*, II.15.1; *Vaikhanasa Grhyasutra*, IV. 3). The Vedic sage, Yajnavalkya is believed to have explicitly asserted, 'I, for one eat beef, provided it is tender' (*Satapatha Brahmana* 3.1, 2.21). While Keith attempts to derive authority for the cow's sanctity from Vedic texts, Norman Brown refutes his claims, some of which are relevant to exposing the prevailing misconceptions of the notion of sanctity; Keith's reference to evil consequences ensuing consumption of a Brahmin's cow (*Atharvaveda*, 12.4) must be construed as penance for consuming a Brahmin's possession not reflective of an inherent inviolability of the cow as such (Bloomfield, 1897). Another prescription cautioning meat eaters with retribution in the next world (*Kausitaki Brahmana*, 11.3, cited in Brown, 1964) must be read in alignment with its contextual warning for omitting the use of the Bihati and Usnth meters in morning sacrificial litany, and not as an injunction against cattle slaughter (Keith, 1920). Furthermore, archaeological evidence of cow/ox bones bearing definite cut marks with signs of charring (Lal, 1954–1955) found in association with stone tools, corroborates the fact of non-ritual killing and cooking of cattle from the Harappan civilization (Sankalia, 1967), Chalcolithic age (Sankalia,

1974) and throughout Painted Grey Ware sites dated first millennium BCE at Meerut (Tripathi, 1976, p. 24) (eleventh to third century BCE), Kurukshetra (Joshi, 1993), Mathura (Sharma, 1997) (400–200 BCE) and Ropar (Nath, 1968) (600–200 BCE) amongst others.

D. N. Jha's narrative explicates the role of ritual substitution against the backdrop of substitution of Vedic Aryan pastoralism with settled agriculture and the increasing agricultural utility rendered by cattle (Jha, 2009). The injection of religious sanction to effectuate economic productivity coincides with the advent of Upanishadic thought that brought with it a wave of questions in direct opposition to established practice, and built the foundational blocks of the doctrine of ahimsa (Sharma, 1983). While the Bhagavad Gita does not develop the principles of ahimsa (Brown, 1964), Buddhism and Jainism, on the other hand, spearheaded the attack on Brahmanism manifested in their aversion to beef and other animal flesh.

Early Buddhism, despite its antagonism to animal sacrifice, rationalized the idea of non-injury to animals in the path to nirvana on grounds of moral inferiority of animals attributable to their promiscuity (Schmithausen, 1997). Interestingly, interactions between Brahmins and Buddha have been recorded in the *Samyutta Nikaya* (3.9.23) and *Sutta Nipata* that display the latter's prescriptions regarding prohibitions on cattle butchery, which is said to have transformed the attitude of Brahmins as well. However, mention of skilled cow-butchers (*Majjhima Nikaya*, 19.1.4), slaughter-houses for oxen (*Vinaya Pitaka [Mahavagga]*, V.1.13), positing of unseen, unheard, unsuspected meat as the three pure kinds of flesh in Buddhist tradition, and permissible consumption of bear, fish, swine and alligator during illness (*Vinaya Pitaka*), are in direct conflict with the staunch prohibition. Jataka stories further analyse the prevalence of beef eating by Bodhisat (*Gahapati Jataka*) deer flesh by warriors and venison by a king (*Bhallatiya Jataka*). The inconsistencies can be reconciled by the pragmatic approach of Buddhism (*Sutta Nipata*) encapsulated in the doctrine of Middle Path, wherein vegetarianism was not commanded as mandatory (Gombrich, 1988, p. 94). Ashoka's edict (Sircar, 1965) enumerating animals exempt from animal sacrifice and silence on the cow is reflective of the absence of a sanctimonious position acquired by the cow in third century BCE (Jha, 2009). While *Kautilya's Arthashastra* (second century BCE to third century CE), on one hand, makes killing of the calf, bull or milch cow a minor offence (Shamasastri, trans., 1961), on the other, it recommends the use of cow bones and dung as manure and speaks of some cattle, *sunamahisah*, fit only for the supply of flesh (*Arthashastra*, II.29.5). Foreign travellers' accounts too suggest contradictory Buddhist cuisines; Chinese Buddhist Fa-hsien's travelogue on his visit to India (399–412 CE) indicated abstention from meat consumption by Buddha (Waley, 1932, pp. 347–348), the Chinese text, Fan-wang Ching included flesh eating as a light defilement, while Hsüan Tsang admitted to Mahayanist consumption of geese, deer and calves (Waters, 1973).

The culinary immorality of the Buddhists received the wrath of Jainas, with reference to a Buddhist addiction to wine and flesh (Handiqui, 1949, pp. 371–372), absence of distinction between lawful and unlawful food, and a subsequent advocacy of the five great vows administered under Jainism (*Acarangasutra*,

II.1.1.1-6), the first of which necessitated restraint on consuming anything containing the germs of life. While canonical literature *prima facie* provides ample evidence of an extreme, intensive and rigorous ahimsa (Dundas, 1985), the *Acarangasutra* enjoins a monk to not refuse inadvertently accepted meat or fish with bones as alms (*Acarangasutra*, II.1.10.5). Adjustments to local non-vegetarian diets (Deo, 1956, p. 417), flesh eating in times of extreme distress (Prakash, 1961), and utility of meat in medical treatment (Sen, 1975) all suggest that early Jaina monks were not staunch vegetarians. The incident of Mahavira's refusal to eat pigeons prepared for his sake, and acceptance of a cock killed by an animal (*Vasistha Dharmasutra*, XIV 27; *Yajnavalkyasmṛti*, 192) indicates that consumption of animals killed by someone else for some other purpose was permissible (Alsdorf, 2010, p. 12). Simultaneously, there is sufficient literature entailing the strong taboo against meat consumption as well, evidenced by Amitagati's (eleventh century CE) preference of poison over meat (*Subhasitasandoha*, 21.16) and Jinadatta's (seventh century CE) defiance of medical treatment involving meat (*Avasyakacurni*, II, p. 202; *Sutrakrtangasutra*, II.6.37.42). Consumption of animal flesh outside the monastic circle is less contested as part of the *mlechha* diet according to the *Nishitha Sutram* (Jain, 1980, p. 28) with specific recognition of payment made to hunters for bringing meat of cows, dogs and buffaloes (Sen, 1975). Statements disapproving meat consumption, by Somadeva, for instance ('the milk of a cow can be taken but not its flesh, just as the leaves of a poisonous plant may be taken while its roots may cause death') (*Yasastilaka*, VII.24) serve as an acknowledgment of the regular consumption of meat in the first place thereby necessitating such injunctions.

Legal texts such as the *Manusmṛiti* (200 BCE–200 CE) are testimony to the contradictions that emerge in literature authored by multiple individuals over centuries, thereby reflective of the changes in perceptions, religious principles and gradual rigidity thereof. Manu contemplates eating meat, on sacrificial occasions (*Manu*, V.31) and in welcoming guests (*Manu*, V.32), irrespective of the manner of procurement. Its express conviction in treating killing of animals on ritual occasions as non-killing (*Manu*, V.39) and 'injury as enjoined by the Veda' as non-injury (*Manu*, V.44), coupled with the reassurance of attaining the highest state of existence in doing so (*Manu*, V.42) liberates the somewhat constrained dietary habits. In particular, one verse suggests that 'The eater who daily even devours those destined to be his food, commits no sin; for the Creator himself created both the eaters and those who are to be eaten' (*Manu*, V.28–30), which is, however, contradicted by Manu in eulogizing the virtue of ahimsa (Tahtinen, 1976). Another law book, *Yajnavalkya* (100–300 CE) mentions the eating of beef by Brahmins while simultaneously prescribing prohibition of cow slaughter, similar to the Manu experience (*Yajnavalkyasmṛti*, I.177-8). While the *Yajnavalkya* endorses the practice of cattle slaughter for sacrificial purposes (*Yajnavalkyasmṛti*, I.179) and cautions against consumption of unconsecrated meat (*Yajnavalkyasmṛti*, I.167, 171), *Bṛihaspati* (300–500 CE) too stands by abstention from flesh not lawfully ordained (Aiyangar, 1950, p. 326), while simultaneously conceding to local customs that provided scope for Madhyadesha artisans to consume cows. Further Puranic texts attest to beef consumption by Brahmins at funerals (Banerjea, 1918),

and general absence of bovine veneration with explicit cognizance of killing of buffaloes at Navaratra (Einoo, 1999).

Resort to mythology is pertinent to display how local cultural expressions manifested in the epics of Mahabharata and Ramayana, reflective of the daily practice witnessed by its authors respectively. The Mahabharata, especially the Vanaparvan mentions, a daily slaughter of two thousand cows in king Rantideva's kitchen (*Vanaparvan*, III.208.8-9), a wide array of flesh offered at Yudhisthira's *ashvamedha* (Prakash, 1961), the origin of modern-day river Chambal (Carmavati) from the blood of slaughtered cows (Sorensen, 1963, pp. 593–594), all bearing testimony to the consumption of bovine flesh. Specifically marked out incidents in the Ramayana explicate the same; Sita's promise to offer a thousand cows to river Yamuna on Rama's accomplishment of his vow (*Ramayana*, Kumbakonam, ed., 2.55.19cd-20ab) and Bharadvaja's hospitality in greeting Rama by slaughtering a 'fatted calf', uphold the non-vegetarian dietary tradition. Medical treatises such as the *Charaka Samhita* (Tripathi, 1996) (first–second century CE), *Sushruta Samhita* (Zimmermann, 1987, pp. 103–11 and 98) (third–fourth century CE) and *Vagbhata* (seventh century CE) can also be relied upon to delink the ancient religious sanction from the sanctity accorded to the cow in present times. While asserting ox meat to be the unhealthiest kind at one place (*Charaka Samhita*, II.31), *Charaka* recommends beef gravy as a part of the remedy for intermittent fevers elsewhere, yet again reiterating the lack of inherent sanctity of the cow.

The transition became evident by the middle of the first millennium wherein growth of feudal societies, agrarian expansion, trade shrinkage and the accompanied socio-cultural transformation (Jha, 2009) called for an age termed as the *kali-yuga* (Sharma, 2000), which almost immediately contained several passages forbidding cow slaughter and attaching negative connotations of sin to anyone who indulged therein. *Vyasasmṛti* established a correlation between beef eating and untouchability (*Vyasasmṛti*, I.12), and various law books outlined specific penances for cow killers (*Parasasmṛti*, XI.1), now referred to as lepers (*Satatapa*, II.13), for eating beef, 'the worst form of cursed food' (Vidyananda, 1299). However, interestingly, prescriptive texts enumerated cow killing as a mere minor offence (*upapataka*) (Kane, 1973), perhaps indicative of the fact that the recompenses were prescribed only to discourage eating of beef, which was otherwise commonplace. Construction of cow shelters in temples (*South Indian Inscriptions*, IV, no. 27B, 203.) and gifts of cows to *goshalas* by rulers as witnessed in epigraphic records, account for a gradual transition in the social position of the cow. Foreign travellers such as Alberuni (1017–30 CE) expressly include cow as inedible for Brahmins and enlist animals such as sheep, goats, buffaloes as not noxious (Sachau, 1996). More recent documentation of sacrificial killing of cows was available at Todgarh in Merwara until 1874 (Touche, 1879), and amongst tribal communities such as the Dires of Hyderabad (Furer-Haimendorf, 1943, p. 239).

The notions of pollution and purity were developed (Jha, 2009) subsequently wherein the mixture of five products retrieved from the cow, *panchgavya*, had assumed a purificatory role, as expressed in the *Dharmasutra* of Baudhayana (*Baudhayana Dharmasutra*, n.d.), *Vasistha Dharmasutra*, *Yajnavalkya*, medical treatises of *Charaka* (*Charaka Samhita*, n.d.), and Vishnu's additional derivative,

gorocana, a yellow pigment prepared from cow bile and urine (Visnu, n.d.). Simultaneously, the conflicting beliefs can be evidenced by the elucidation in *Manu*, which required food smelled by a cow to be purified (*Manu*, V. 125), further elaborated by *Yajnavalkya*'s mention of a cow's mouth in the same sentence as human excrement as impure (*Yajnavalkyasmṛti*, I. 194). This perception has been substantially elaborated by commentators and lawgivers who assert the purity of all limbs of the cow except her mouth (*Sankhasmṛti*, XVI. 14), thereby counterbalancing the presently supposed non-negotiable belief of the purificatory role attributed thereto in post-Vedic times.

A biological argument that explores agro-based research on cattle breeding and nutritional significance of the cow attests to a great emphasis on consumption of animal protein in the Indian subcontinent (Devi, 2014). Recent statistical surveys to study lactose tolerance in India suggest that one out of four Indians have no tolerance for milk (Sharda, 2015). The inadvertent notion that all Indians drink milk, against the backdrop of breeding a diverse cattle population, was debunked by Irene Gallago Romero, who claimed that only 18 per cent Indians are genetically able to produce lactase (Romero et al., 2011). However, within this framework too, there exists a geographical east/west disparity wherein unlike western regions of India, the northeast particularly suffers from dire lactose intolerance and instead compensates for the lack of protein in its diet with the consumption of meat, eggs and fish (Lewis, 2016). Such grave lactose mal-absorption may indicate that the primary purpose of cattle breeding was meat eating and not consumption of milk and its by-products.

While the above section aimed at debunking the elusive holiness of the cow by a historical academic survey of inconsistent ancient texts, appeals to whose authority would otherwise pacify the questioning rationale amongst the curious minded; the next section attempts to compile various reasons theorized to account for the transition in society from unreflective cow slaughter to an engrained ideology of the holiness of the cow. Then the article finally endeavours to examine the scope of constitutional secularism in India in light of the Constituent Assembly debates pertaining to the inclusion of Article 48 and the subsequent juridical discourse on cow slaughter, and argues that not only does the trend of justification elide the significant religious aspect of the controversy, but also serves as a tool to re-write a monolithic Hindu narrative.

II. Why Did the Cow Become Sacred?

After debunking several misconceptions underlying the theological basis for the pedestal of sanctity accorded to the bovine today, it becomes imperative to not only acknowledge the contemporary prevalence of cow protection, but also trace the drastic change in dietary habits, religious prescriptions and economic necessities.

By 300 BCE, 50–100 million people inhabited Indian terrain and rendered the Ganges valley to collapse into a semi-desert. Commonplace natural disasters, such as droughts, floods and soil erosion, were an outcome of population pressure,

and Marvin Harris theorizes that the elimination of meat eating was a response to preserve cows as bearers of oxen, the 'mainstay of the Indian agricultural system', in order to enable recuperation of the agrarian economy (Harris, 2015). Religious injunctions prohibiting the slaughter of cow, according to Harris, served as a reinforcement of disaster insurance, especially when the zebu could viably survive long periods with little nourishment. Subsequent codification was a method to acknowledge the economic utility of the cow and remove temptations by concretizing the notion of sanctity thereof. The Food and Agriculture Organization of the United Nations has reported that the ability of the Zebu cattle in tropical India to 'thrive under vigorous conditions' incentivized colonizers to indulge in escalated cattle breeding, which too indicates a strong economy-centric justification against cow slaughter (FAO, n.d.; Joshi & Phillips, 1953, pp. 1–11). The same has been affirmed by Norman Brown in his attempt to reconcile referring to the bull six times and cow 42 times as '*aghnya*' ('not to be slain') in the *Rigveda* and *Atharvaveda*, wherein he rationalizes the non-killing of the cow for its economic value as a producer of a calf, and of the bull or ox for their capacity as drought animals (Brown, 1964). Harris' obsession with ecological factors influencing the exalted status of the cow has been termed as 'calculus of calories' by Ariel Glucklich (1997, p. 189), and Elizabeth Thomas critiques such an economically grounded argument as an under-determination, for it reduces the issue of sanctity to utility (Thomas, 2013). Moreover, Shraddha Chigateri too considers an ecological understanding of the 'use value of cows' as masking the 'prioritizing of dominant-caste Hindu identity' in cow protection injunctions (Chigateri, 2011).

A spiritually located explanation is that of the Advaita philosophy advocating the pervasiveness of one supreme entity on account of which all life was sacred, human and animal. However, B. R. Ambedkar dismisses the same by highlighting the proclamation in the *Vedanta Sutra* (*Vedanta Sutra*, II.1.28), which while founding the doctrine of oneness does not prohibit animal killing for sacrificial purposes. Another explanation, which traces the transformation in the Brahmin dietary habits as rooted in the rise of the doctrine of the Transmigration of the Soul, was also countered by Ambedkar in questioning its selective influence on the Brahmins and not non-Brahmins, and explicit provision for preparation of meat dishes in anticipation of birth of a son (Ambedkar, 1948).

Ambedkar, on the other hand, believed the transition to be strategic in order to facilitate Brahmanism to 'establish its supremacy over Buddhism' in its struggle with the latter, against the backdrop of diminishing power and prestige on account of Buddhism's direct attack on animal sacrifice inculcated in Brahmanical traditions. Ambedkar, in fact, categorically accounts for, the vegetarianism of the Brahmins as a mechanism to seize the supremacy acquired by Buddhist Bikshus; conformity to Gabriel Tarde's laws of imitation by non-Brahmins to emulate the superior; and continued consumption of beef by the Broken Men, who were 'treated as unfit for association, i.e., as Untouchables' (Ambedkar, 1948), for whom imitation was not feasible and carrying the dead cow away from the Settled Tribes had transformed from a privilege to an obligation. Along a similar theme of redefining oneself when Brahmanism found itself in confrontation with another

religion lies Frank Korom's speculation that the 'rupture created by colonial rule' (Korom, 2000) channelled a need to invent the cow as an object of veneration and sacredness (Hobsbawm & Ranger, 1983). The partial ban on cow slaughter in the Mughal trajectory during the reign of Babur, Akbar, Jahangir and after rampant slaying under Aurangzeb, restoration of the prohibition by Bahadur Shah Zafar, was also probably a strategic move, as evidenced by Babur's *wassiyat namd-i-majchfi* to Humayun, that read '... refrain from the sacrifice of the cow, for that way lies the conquest of the hearts of the people of Hindustan; and the subjects of the realm will, through royal favor, be devoted to you' (Jaffar, 1936, pp. 23–24).

Romila Thapar (2004, p. 115) claims that refrainment from beef consumption was rooted in social status, and Wendy Donigher extends the 'social-hierarchy reasons for not eating the meat of the cow', termed as 'Sanskritization' by M. N. Srinivas (1956) as an outlet for lower castes to climb up the social ladder. Elizabeth Thomas resorts to Frits Staal's conception of rituals as 'self-contained and self-absorbed' (Staal, 1979), devoid of symbolic significance, thereby focusing on the rules governing correct performance. Relying on Talal Asad's genealogical account (Asad, 1993) of the transformation that rituals have undergone from medieval Christian disciplinary programs that connected the inner and outer behaviour to the current understanding of rituals as representative activity, Thomas contemplates cow protection practice meant for 'correct ethical disposition' moulding into a representation of non-negotiable beliefs instilling an 'ethic of care and responsibility' from the paternalist State to its subjects.

Norman Brown highlights the treatment of figurative expressions as the literal truth as a force underlying the perception of sanctity of the cow (Brown, 1942). In doing so, he relies on *Rigvedic* usage of similes and epithets of the cow to symbolize fecundity, maternity and nourishment (*Rigveda*, 10.95.6). Particular references include the characterization of the cosmic waters as cows to explain the existence of the universe (Brown, 1942) as the 'Waters, now released, come forth like lowing cows' (*Rigveda*, 1.32.2) and give birth to the Sun, called their calf; analogizing Agni as 'the bull, who has grown great in the lap of the Waters' (*Rigveda*, 10.8.1); personification of Aditi as a 'milch cow who issues full streams of blessings for pious folk who make the oblation' (*Rigveda*, 1.153.3); and the employment of the term earth as a feminine entity or cow (*Rigveda*, 4.41.5). The problematic swallowing of attributes by the cow, of entities to which the cow was metaphorically referred, enabled the cow to acquire their holiness without effectuation of a distinction between object utilized for representation and the object represented. The enhanced significance attached to the inviolability to the Brahmin's cow in the *Rigveda* (8.101.15-16) and *Atharvaveda* (*Atharvaveda*, 5.18; 5.19; 12.4; 12.5.), coupled with the gradual literal takeaways from otherwise figurative expressions contained in ancient texts, stimulated an environment of apotheosis of the cow.

In tracing the genealogy of the doctrine of ahimsa, Frank Korom reflects on the mention of 'harmlessness' (Hume, 1977, p. 217) in the *Chandogya Upanishad* (*Chandogya Upanishad*, 3.17.4) as amongst many traits that qualify as gifts to give to priests. Notwithstanding the ambivalence of Manu, *Yajnavalkya*, Buddhist and Jaina texts, ahimsa grew in prominence by fifth century BCE (Basham, 1959).

In contemporary times, however, it was Mahatma Gandhi's utilization of the cow as a 'poem of piety' (Gandhi, 1954, p. 3) and reference to cow worship as 'worship of innocence' during the independence movement that spearheaded the implantation of the cow as a sacred symbol. The transition from each *yuga* and subsequent degeneration of dharma enables the cow, whose spatial posture is conceptualized as implanted at the four corners of the universe, to lift one leg at a time till she finally collapses, which marks the end of one cycle (Zimmer, 1962, p. 13). Korom also explores the relations of time, space and law with the cow to concretize an entity which otherwise would be rendered an 'abstract cognitive category' (Korom, 2000).

After surveying the above-mentioned theories, it seems apt to attribute a clearer understanding of the interplay of variables moulding the apotheosis of the cow to an interdisciplinary approach, which recognizes escalating economic utility, social acculturation, strategic reinventions against the backdrop of religious confrontations, symbolism, subsequent linguistic misconceptions and theological prescriptions on ahimsa as equally plausible and complementary forces in shaping popular opinion.

III. Contemporary Examination of the Holy Cow

This section attempts to operate within an analytical framework that questions the necessity for policy making in the intimate field of dietary habits. While the first section of this article debunks the myth of religious sanction, this section effectively establishes the redundancy of such evidence (or lack thereof), against the backdrop of dominant power groups with the will, ability and resources to monopolize historiography and law making. It is not the substance of the contemporary economic arguments cited by politically influential organizations prodigiously preoccupied with a saffronization agenda (Adeney & Saez, 2007) that needs to be questioned, but the underlying motive behind them; in the event that dominant players monopolize interpreting functions and silence democratic discourse, they effectively perpetrate violence of the law through distortion of evidence at the cost of access to food, livelihood and trade markets (Banerjee, 2015; Katakam, 2015). When evidence logically inconsistent with scientific data and religious scriptures is rendered inadequate for grounding civilizational consensus on cow protection in the absence of religious sanction, the interplay of politics and law allows for evidentiary expropriation to further ideological ends through the tool of policy backed by legal sanction (Tharoor, 2015). The following exploration of legal, judicial and constitutional jurisprudence dangerously tilts towards an uncritical engagement with dominant definitions and interpretations of constitutional secularism, and this section, in highlighting such daunting juridical trends, establishes that the process of evidentiary appropriation and subsequent silencing has already begun.

Before exploring the elusive arguments made during the framing of the Constitution, it becomes imperative to briefly take note of the communal relationships during colonial rule, especially in the context of judicial decisions delivered in *Queen-Empress v. Imam Ali* (1888) and *Romesh Chander Sanyal v. Hiru*

Mondal (1890). Both proceedings were instituted to principally determine whether the cow was a 'sacred object' within the scope of Section 275 (current s.295) of the Indian Penal Code, 1860. The controversy becomes pertinent when one acknowledges the sacrificial killing of animals by Muslims during the canonical Islamic festival of 'Idu'l-Azha in commemoration of Abraham's exemplary offering of Ishmael's life to God; the sacrifice of bigger beasts such as cows and buffaloes was more valued, and given the abundance of affordable cows, the bovine became the obvious preference to such an extent that 'Idu'l-Azha soon came to be referred to as Bakr 'Id, *bakr* meaning 'cow' in Arabic (Sharif, 1972, pp. 214–217). The former mutual tolerance and respect shared by religious communities was replaced in the 1880s (Thursby, 1975) in part due to proselytizing tendencies of Protestantism, which compelled both Islam and Hinduism to homogenize internally and rigidify their doctrines in contradistinction to other prevailing religious systems (Singh & Thandi, 1999). *Queen-Empress v. Imam Ali* (1888) was grounded in a cause of action wherein two Muslim residents were found slaughtering a cow in a field adjacent to a public road by Hindu passers-by and subsequently arraigned and convicted by the local Magistrate. The NWP chief Court answered in the negative as to whether a cow constituted a sacred object, thereby legally providing scope for Muslims to slaughter cows. But what is significant is the reason underlying the decision, which hinged on strict literal interpretation of the black letter law that interpreted an animate cow as not within the definitional ambit of an inanimate 'object'. An interesting opinion was delivered by Justice Mahmud who read the requirement of Islamic animal sacrifice and the affordability of the cow, with a tinge of personal-vested interest in the outcome of the case. Save Justice Mahmud's bold communal assertions, this decision marks the beginning of a series of judgements that shy away from discussing religion, as if religious sentiments and not cow slaughter were the impugned taboo. While *Romesh Chunder Sannyal v. Hiru Mondal* (1890) was initiated with the goal of reviewing the earlier decision, the Calcutta High Court unequivocally endorsed the Allahabad High Court's previous judgement by opining that neither was bull killing an act of destruction, nor was a bull an 'object'. The established quasi-political Gaurakshini Sabha (cow protection movement) launched by Dayanand Saraswati in 1882 responded by adopting a militant approach in revolting against constituted authorities, leading to the gruesome Bombay communal riots of 1893 (Yang, 1980).

The Constituent Assembly debates, against the backdrop of tumultuous communal tension, evaded appeals to religion, and advocates of Article 48, which was finally included as a Directive Principle of State Policy and not a justiciable Fundamental Right, took resort to the rational *use value* claims of the cow (National Informatics Centre, 1950); Pandit Thakur Das Bhargava's emphasis on the centrality of the cow in agricultural production and food sufficiency bears testimony to the same. Seth Govind Das' argument, however, directly attacked the non-obligatory practice of cow slaughter contained in Islamic precepts. Nevertheless, the Muslim dissenting voices of the Assembly were not convinced with economic rationale and wanted the article to be couched not to further the scientific organization of animal husbandry, rather unambiguously formulated as rooted in religious sentiments. Syed Sa'adulla's apprehension of an 'ingrained

Hindu feeling against cow slaughter... [as] being satisfied by the backdoor' (Vol. VII, 1948) finds reiteration in Frank Anthony's resentment of the fanatics and extremists who aimed at inserting the article by 'resorting to methods which may give rise to the accusation of subterfuge' (Vol. XI, 1949) and Upendra Baxi's refusal to 'think of cow preservation or probation as *values* in any context' (Baxi, 1967). It was the insistence of B. R. Ambedkar and threat of resignation by Jawaharlal Nehru (Madan, 1993) that embedded Article 48 in a purportedly 'secular' mold, preserved till date, though its garb of secularism has been periodically ripped apart by the underlying yet unacknowledged reflection of Hindu sentiment (Singh, 2005).

Various state legislations were subsequently enacted to ban cow slaughter, three of which were challenged in *Mohd. Hanif Quareshi & Ors. v. State of Bihar* (AIR 1958 SC 731). Significant argumentation on the right to freedom of religion resulted in the development of the doctrine of 'essential practices' by the Supreme Court, which examined the necessity of practices on the anvil of theological texts to conclusively determine whether they were grounded in religious prescriptions; the Court while relying on Hamilton's translation of the Hedaya Book XLIII dismissed the possibility of any obligatory duty enjoined upon Muslims to necessarily sacrifice a cow during Bakr 'Id. Sen critiques the 'essential practices' doctrine as a mechanism for legitimating a rationalized form of religion and de-legitimizing popular usages of religion, thereby enabling further superficial homogenization and rejection of internal diversity (Sen, 2010). C. J. Das (for the Court) upheld the constitutionality of the ban by explaining the agricultural usefulness of the cow, bull and buffaloes, and in extension permitted the killing of buffaloes and bulls that were incapable of yielding milk or breeding. Chigateri observes that the incapability of the cow, as opposed to the buffalo, of becoming a burden on resources beyond its milk-yielding age and subsequent ban on killing cows of any age, in contrast to buffaloes that can be killed after a particular age, indubitably attests to the unacknowledged Hindu sentiment (Chigateri, 2011). Moreover, Upendra Baxi notes the differential method of ascertaining Hindu cow veneration and Islamic literature that permitted bovine killing (Baxi, 1967), whereas a close examination of ancient Brahmanical texts would debunk misconceptions of the enjoinder to protect the cow, as seen in Part I of the paper.

A subsequent decision in 2005, *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat & Ors* (2005 8 SCC 534) not only upheld the constitutionality of a blanket ban on the slaughter of cows and her progeny in Gujarat, but also overruled *Hanif Quareshi* to the extent that it rejected differentiation amongst cattle of varying age groups. An economic rationale was propounded by the Supreme Court to realize the progress India has undergone in achieving food security since 1958 and to counter apprehensions about useless cattle becoming a liability for the State by exploring their utility through additional benefits of dung and urine in contributing towards alternative sources of energy long after the cow ceased to yield milk. The Court displayed a 'complete lack of empathy with the diversity of sentiment on the question of cow slaughter' by appealing to human sentiment to protect the weak and meek, an evidently more compassionate attitude towards the life of the cow than the Muslim butchers' right to livelihood, which was sidelined

as suffering a mere 'inconvenience' in greater public interest. The controversial justification for banning beef by reducing the importance of 1.3 per cent of the population that consumed it and blatant referrals to the Indian ethic to show compassion to protect the national economy reliant on agriculture, is indicative of a growing tendency to adorn raw beliefs of dominant-caste Hindu with blatant generalizations that homogenize diversity within Hinduism under the garb of constitutional secularism (Singh, 2015).

Cossmann and Kapur have traced constitutional secularism in India to the Gandhian model of 'equal respect for all religions', founded on freedom of religion, equality and non-discrimination, in comparison to the Western liberal democratic model that espouses a non-interventionist relationship between religion and state (Cossmann & Kapur, 1999). The aforementioned judgements attest to how juridical discourse has glossed over diversity under the mask of constitutional secularism, when in reality, the Supreme Court has failed to acknowledge and pay 'equal respect to all religions' and diversity celebrated therein. At one level, judicial scrutiny has shied away from talking religion; perhaps either due to the daunting fears of the reprise of communal violence or insecurities amongst religions manifested in hollow religious fundamentalism, thereby portraying a selective and superficial image of injunctions against cow slaughter. At another, the inability of the Supreme Court to unveil diversity in sentiment and the rather injudicious oversimplification of religion; be it the 'essential practices' doctrine, fleeting reading of ancient Vedic texts, or legitimization of one Hindu narrative monopolized by Hindutva forces; has further rigidified Hinduism, once celebrated as a Zen diagram (an all-encompassing polythetic Venn diagram with no prerequisite central attribute) (Donigher, 2013b). The resultant inflexibility has served in successfully 'othering' not just followers of religions with conflicting belief systems, but also those whose previously acknowledged Hinduism is just not Hindu enough.

IV. Conclusion

This article has attempted to expose the inconsistencies in religious literature, otherwise cited as authoritative to legitimate the sanctity of the cow, similar selective reading of which has been engrained into present-day formal adjudication mechanisms, effectively rigidifying religious doctrines. While it can be argued that Brahmanical texts authored by a small segment of society cannot be representative of the opinions of the citizenry; in a context of a plethora of corroborative evidence, religious texts condemning or adapting to local practices are reflective of popular opinion, which suffices the aim of the article to delink relations between ancient prescriptions and contemporary religious sanctity accorded to the cow. In the absence of evidence to the contrary, the cow was not inherently and inviolably sacred, yet, has acquired notions of sanctity on account of an amalgamation of forces ranging from economic utility, social acculturation and linguistic misconception of symbolism to strategic Brahmanical positioning when faced with popular ideological confrontations from Buddhism and the subsequent

emergence of the 'ahimsa' doctrine. It is pertinent to consider a non-uniform approach to the transition in attitudes towards the cow disseminated across time and space, to reiterate the workings of history as a combination of various factors, not operating at the same time in the same place. Moreover, while numerous decisions have been delivered on the sacred cow controversy, only a few have been selectively critiqued in this article to unveil the judicial discourse in landmark judgements at the Apex Court in its contribution to constitutional secularism in India.

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