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SANCTITY VS. SENTIENCE: EXAMINING ANIMAL SACRIFICES THROUGH THE LENS OF INDIAN ANIMAL WELFARE LEGISLATION.

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Abstract: -

This paper explores the contentious intersection between religious animal sacrifice practices and animal welfare legislation in India. While deeply embedded in cultural and religious traditions, animal sacrifices raise profound ethical and legal concerns in light of India's progressive animal protection laws. The study investigates how Indian jurisprudence reconciles the constitutional right to religious freedom with the constitutional duty to prevent animal cruelty. Through case law analysis, statutory interpretation, and comparative perspectives, the paper seeks to offer balanced recommendations that honor both religious sentiments and animal sentience.

Keywords: Animal sacrifices, Religion, Jurisprudence, Law, Customs, Animal Welfare.

1. Introduction

India, a nation celebrated for its cultural and religious diversity, often witnesses conflicts between tradition and modern legal standards. One such contentious practice is the ritualistic sacrifice of animals, especially during religious festivals and local customs. While animal sacrifice holds sacred value in several communities, it challenges the ethical and legal principles enshrined in Indian law, particularly regarding animal welfare. This paper critically examines the legal status of animal sacrifices within the Indian framework, assessing whether

the sanctity of religious practice can coexist with the moral imperative to reduce animal suffering.

2. Historical and Cultural Context of Animal Sacrifices

Animal sacrifice has historical roots in various Indian religious traditions including Hinduism, Islam, and tribal customs. While Vedic rituals sometimes involved animal offerings, later interpretations emphasized symbolic sacrifices. In Islam, animal sacrifice (Qurbani) is integral to Eid al-Adha. Tribal communities across northeastern and central India also engage in sacrificial rites. These practices, although protected under religious freedom, must now be examined through the evolving lens of animal rights and state regulations.

2.1 Hinduism:-

Vedas

The **Vedas**, especially the *Rigveda* and *Yajurveda*, contain references to animal sacrifices (known as **Yajna**), particularly:

- **Ashvamedha (horse sacrifice)** and **Gomedha (cow sacrifice)** were royal rituals performed by kings to assert power and religious merit.
- The **Shatapatha Brahmana** and **Taittiriya Samhita** describe detailed procedures for animal sacrifices.
- Later Vedic texts and **Upanishads** (e.g., *Brihadaranyaka Upanishad*) begin to shift toward symbolic interpretations of sacrifice and emphasize *Ahimsa* (non-violence). Example: The *Chandogya Upanishad* critiques literal animal sacrifice and suggests internal/spiritual offerings are superior.

Smriti Texts (e.g., Manusmriti)

- The *Manusmriti* (Manu 5.27-5.44) acknowledges the practice of animal sacrifice but also strongly promotes **Ahimsa**, stating:
“Meat can never be obtained without injury to living beings, and injuring sentient beings is detrimental to the attainment of heavenly bliss; let him therefore shun the use of meat.”
- It permits sacrifices in **Vedic yajnas**, but outside of that, killing animals is condemned.

Mahabharata

- The *Mahabharata*, especially in the *Anushasana Parva*, promotes **Ahimsa as the highest Dharma**:

“*Ahimsa paramo dharmah*” (Non-violence is the highest duty).

- It criticizes animal sacrifice and suggests that **offering grains or symbolic substitutes** is a superior form of worship.

Puranas

- Early **Puranic** texts sometimes reflect and even support sacrificial practices, but many later Puranas (like the *Bhagavata Purana*) advocate **Bhakti (devotion)** over ritualistic sacrifices.
- Example: *Bhagavata Purana* (11.5.14) promotes devotional service and *Ahimsa*.

Buddhist and Jain Scriptures

- Both **Buddhism** and **Jainism**, which emerged as reformist movements against Brahmanical rituals, **categorically oppose animal sacrifices**.
- **Mahavira** (Jainism) and **Buddha** (Buddhism) emphasized strict **Ahimsa**, denouncing Vedic animal sacrifices as cruel and unnecessary.

2.2 Islam:-

In Islam, animal sacrifice is a well-established religious practice rooted in theology and tradition, particularly associated with the festival of **Eid al-Adha**. Here's a detailed overview of the Islamic perspective on animal sacrifice:

Scriptural Basis

The Qur'an

- The primary scriptural foundation for animal sacrifice in Islam is the story of **Prophet Ibrahim (Abraham)** who was willing to sacrifice his son in obedience to God's command. God replaced his son with a ram, establishing the practice of sacrifice (**Qurbani**).

Relevant verses:

- **Surah As-Saffat (37:102–107):**
“And when he reached with him [the age of] exertion, he said, ‘O my son, indeed I have seen in a dream that I [must] sacrifice you...’... We ransomed him with a great sacrifice.”
- **Surah Al-Hajj (22:34, 36-37):**
“And the camels and cattle We have appointed for you as among the symbols of Allah... Their meat will not reach Allah, nor will their blood, but what reaches Him is piety from you.”

This highlights that **the intention (taqwa)** behind the act is more important than the act itself.

Hadith (Sayings of the Prophet Muhammad)

- The Prophet Muhammad (peace be upon him) regularly performed animal sacrifice during **Eid al-Adha** and encouraged Muslims to do the same if they could afford it.
- He also emphasized humane treatment:
“Verily Allah has enjoined excellence in everything... when you slaughter, do so in the best manner...” (*Sahih Muslim 1955*)

Conditions and Ethics of Sacrifice in Islam

- The animal must be healthy and meet minimum age requirements.
- The act must be done with compassion and by a sane, adult Muslim.
- The name of Allah (God) must be invoked before the sacrifice.
- Distribution: Meat is typically divided into three parts—one for the family, one for relatives/friends, and one for the poor.

2.3 Important ethical rules:

- No animal should be sacrificed in front of another animal.
- The blade must be sharp, and the process swift to minimize pain.
- Islam strictly prohibits unnecessary cruelty.

Purpose and Philosophy

- **Spiritual submission:** Sacrifice reflects the believer’s willingness to submit to God’s will.
- **Charity:** It ensures food for the needy.
- **Commemoration:** Honors Prophet Ibrahim’s faith and obedience.

Islamic Jurisprudence

- **Obligatory (Wajib)** in some schools (e.g., Hanafi) if one can afford it.
- **Sunnah Mu’akkadah (Highly recommended)** in others (e.g., Maliki, Shafi’i, Hanbali).
- Sacrifices are **not allowed** outside prescribed occasions like Eid al-Adha, unless fulfilling a vow or during pilgrimage (Hajj).

Modern Interpretations and Debates

- While the practice continues widely, some contemporary scholars and animal welfare advocates within the Islamic world call for stricter adherence to humane methods and ethical slaughter.
- There is also growing discourse on **symbolic or monetary sacrifices**, especially in urban contexts.

Religious Practices and State Responses

Some states like Andhra Pradesh and Karnataka have introduced laws or executive measures to regulate or restrict animal sacrifice. Community responses vary, with some religious leaders supporting humane alternatives. NGOs and animal welfare organizations have played a critical role in filing PILs and raising awareness.

Ethical and Philosophical Dimensions

The ethical debate centers around the sentience of animals—their capacity to suffer—and the moral responsibility of humans to prevent unnecessary pain. Utilitarian, rights-based, and ecological perspectives argue against sacrifices, while cultural relativists defend them as integral to identity and tradition.

3. Constitutional Framework: A Clash of Rights

The Indian Constitution provides a dual mandate:

- **Article 25** guarantees the freedom of religion, subject to public order, morality, and health.
- **Article 48A** (Directive Principle) and **Article 51A(g)** (Fundamental Duty) emphasize environmental protection and compassion towards living creatures.

This legal architecture creates a tension between the right to practice religion and the responsibility to prevent cruelty. The judiciary plays a pivotal role in harmonizing these conflicting mandates.

4. Legal Framework for Animal Protection in India

a. The Prevention of Cruelty to Animals Act, 1960 (PCA Act) The PCA Act criminalizes cruelty against animals but provides exemptions for religious practices under certain interpretations. Sections 11 and 28 are central to the debate:

- **Section 11** outlines various forms of cruelty.
- **Section 28** states that nothing shall render it an offence to kill any animal in a manner required by the religion of any community.

b. The Wildlife Protection Act, 1972 If wild or protected species are used in sacrifices, this act becomes applicable, providing stringent penalties.

c. Indian Penal Code (Sections 428-429) These sections penalize killing or maiming animals, especially if done maliciously or without valid reason.

As of April 2025, the **recently amended criminal laws in India** — namely the **Bharatiya Nyaya Sanhita, 2023 (BNS)**, which replaces the Indian Penal Code (IPC), **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)** (replacing CrPC), and **Bharatiya Sakshya Adhiniyam, 2023 (BSA)** (replacing the Indian Evidence Act) — **do not contain specific new provisions exclusively addressing animal sacrifice**. However, **certain sections that relate to cruelty or harm to animals** have been **retained or modified** from the older laws and could be invoked in cases of illegal or cruel animal sacrifices.

- *Relevant Provisions in the Bharatiya Nyaya Sanhita, 2023 (BNS)*

This new code replaces the IPC but carries forward many provisions with slight modifications or rewordings.

Section 325 (BNS) – *Mischief by Killing or Maiming Animals*

Analogous to Sections 428 and 429 of IPC.

- Punishes those who:
 - Kill, poison, maim, or render useless **any animal**, particularly **cattle or other domesticated animals**.
 - Penalties vary based on the value of the animal.

Applicable to animal sacrifices if:

- The sacrifice involves **protected or domestic animals**.
- It is carried out **in public** or with **unnecessary cruelty**.

Section 298 (BNS) – *Injuring or Defiling Places of Worship with Intent to Insult Religion*

- Could be cited if animal sacrifices are carried out in a way that **provokes communal disharmony**, though this typically protects religious acts **rather than regulating them**.

Continuity of Animal Welfare Laws

Importantly:

- The **Prevention of Cruelty to Animals Act, 1960 (PCA)** continues to remain **in force** alongside the amended criminal laws.
- So does the **Wildlife Protection Act, 1972**.

These special laws override general criminal law, meaning:

- Even if animal sacrifices are not criminalized under BNS directly, they may be **prohibited or regulated under PCA or wildlife laws**, particularly if:
 - The animal is protected or endangered.
 - The method of sacrifice is cruel or violates transport/slaughterhouse norms.

Religious Exemptions Still Exist

- **Section 28 of the PCA Act**, which exempts religious sacrifices from being deemed cruelty, has not yet been repealed or amended.
- This remains a **controversial provision**, especially when juxtaposed with the more humane approach advocated by courts in recent years.

5. Judicial Interpretations and Case Law

Animal Welfare Board of India v. A. Nagaraja (2014) The Supreme Court banned Jallikattu and laid down the doctrine of "species best interest" while expanding the scope of animal rights under Article 21 (right to life).

State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat (2005) The Court upheld a ban on cow slaughter, recognizing the state's interest in preserving animal life as a matter of public interest and morality.

Gauri Maulekhi v. Union of India (2014) Addressed illegal transport and slaughter of animals during Eid. The Court emphasized compliance with transport and slaughterhouse rules.

High Court Cases

- The Himachal Pradesh High Court banned animal sacrifices in temples (2014), citing public morality.
- The Tripura High Court ruled against unnecessary cruelty in animal sacrifices (2021).

6. Comparative International Perspective

Several countries regulate or ban ritual slaughter:

- **United Kingdom** allows it under strict conditions.
- **Nepal** witnessed reduced scale of sacrifices after animal rights campaigns at the Gadhimai festival.
- **USA** protects ritual slaughter under the First Amendment but subjects it to humane slaughter laws.

7. Recommendations

- **Legal Reform:** Clarify Section 28 of the PCA Act to limit exemptions.
- **Judicial Oversight:** Promote case-by-case evaluation balancing religious freedom with cruelty prevention.
- **Awareness Campaigns:** Educate communities about humane alternatives.

- **Standardized Regulations:** Enforce uniform rules for animal transport, slaughter, and public health.

8. Conclusion

India's legal and ethical framework is evolving to accommodate both animal welfare and religious freedom. The path forward lies in compassionate jurisprudence that respects tradition without compromising on the dignity and rights of animals. A nuanced, culturally sensitive yet legally firm approach is essential to uphold both sanctity and sentience in a diverse democracy like India.

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- Gauri Maulekhi v. Union of India (2014)
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- Reports from Animal Welfare Board of India and NGOs