



# Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820  
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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## Gandhian Philosophies & The rigorous Cow Protection laws

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*Received 22 May 2022; Accepted 11 June 2022; Published 16 June 2022*

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*We are killing a living to save a living; an apt way to show compassion? Cow vigilantism is a sensitive & severe issue prevalent in India. It needs to be solved by the best possible method by logic, morals, ethics, and thoughts of the great. Gandhi was a man who was an ardent supporter of non-violence, and when one looks back into the history of the Indian freedom struggle, this weapon was most successful. No religion teaches to kill a human to save one but teaches love & peace. To solve the prevalent issue of cow protection, we must resort to ahimsa. Gandhi expressed that one cannot be forced to accept the cow protection at the point of the sword but can be accepted by the freewill. This research draws the concepts from the books by M K Gandhi, articles, quantitative data, and doctrinal research. The researcher rigorously analyzes the existing data with logical reasoning & concludes by educating the people by framing new laws to protect the victims by comparing the past with the present.*

**Keywords:** *cow vigilantism, gandhian philosophy, cow protection, non-violence.*

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### INTRODUCTION

Research is a systematic study of the available facts and sources, reaching new conclusions and contributing to current knowledge. Legal Research is necessary to solve the legal issues and find an apt answer. Scientific study is the method by which one can find better results. This research conveys the “Gandhian philosophies about the rigorous cow protection laws”. When

a mob lynching takes place, it violates the human rights of the victims. The researcher presents the Gandhian views and how people can protect the cow without stringent laws and without inciting violence. *Cow protection* is a movement by which people protect the cows because the cow is considered sacred by Hindus, Buddhists, Jains, etc. It is protected because of the religious values and the various significant benefits derived from the cow, which are helpful to the human being. Furthermore, it is done through inciting violence & Indians come from the land where the father of the nation taught the best ways to achieve anything is by *Non-violence & Satyagraha*. The researcher put forth the view of Gandhi during the Khilafat movement and tries to apply the same here. The scope of this study is done from the perspective of the Indian scenario.

## RESEARCH QUESTIONS

In due course of the research, the following questions will be addressed.

1. Why & how are the cows protected?
2. What are the laws relating to cow protection?
3. Why consider the Gandhian approach to protecting the cows?

## LITERATURE REVIEW

The literature review enunciates that there are no direct sources for the existing research topic. The researcher has performed all the background checks of the authorities relating to the topic. The books, cases, and articles cited do not directly explain the topic, but the researcher had to analyze all things cited & form a conclusion on them.

The books written by Mahatma Gandhi were the crucial source to the researcher in this paper, which helped to get the opinions & suggestions penned down by the father of the nation. Referred books were *To the Hindus & Musalmans, Young India 1924-1926, My religion, Encyclopedia of Gandhi's thoughts Mind of MK Gandhi*.

The researcher referred to various laws passed by the states in India to protect the cows which helped to know how animals are protected & what is the punishment prescribed therein. It

was necessary for the researcher to study the laws relating to cow protection to form an opinion on them. For this, the researcher analyzed the *Appendix: India National and State Cow Protection Laws*<sup>1</sup>.

To know about the mob lynching, the researcher took various articles from the Internet which are authenticated & performed a fact check on them to analyze the statistical data on deaths on reports, and various causes of mob lynching. An article that presented the data was a report by India that spent *every Third Indian Cop Thinks Mob Violence Over Cow Slaughter Is 'Natural': New Survey*.<sup>2</sup>

The researcher to analyze the present situation referred to a report of Human Rights Watch *Vigilante cow protection attack minorities*<sup>3</sup> as this report gives the facts of cow vigilantism in India, it presents the story of victims of the mob lynching & hence this research is in addition to the existing knowledge regarding the cow vigilantism & cow protection. This research paper mostly tries to analyze the problem with cow protection & increased violence in the name of cows & ultimately tries to solve this with the help of Gandhian principles.

## COW PROTECTION LAWS

The cow is protected because it is considered sacred by the Hindus because of various reasons. The cow has also been associated with deities like Lord Shiva, Lord Indra & Lord Krishna & many others<sup>4</sup>. According to Hindu scholars, they believe the cow has 33 crore deities, but some believe that the cow has 33 types of gods. The cow also provides many benefits to humankind,

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<sup>1</sup> 'Appendix: India National and State Cow Protection Laws' (*Human Rights Watch*, December 2018) <[https://www.hrw.org/sites/default/files/report\\_pdf/india0219\\_appendix\\_1.pdf](https://www.hrw.org/sites/default/files/report_pdf/india0219_appendix_1.pdf)> accessed 03 January 2022

<sup>2</sup> 'Every Third Indian Cop Thinks Mob Violence Over Cow Slaughter Is 'Natural': New Survey' (*India Spend*, 28 August 2019) <<https://www.indiaspend.com/every-third-indian-cop-thinks-mob-violence-over-cow-slaughter-is-natural-new-survey/>> accessed 03 January 2022

<sup>3</sup> 'India: Vigilante 'Cow Protection' Groups Attack Minorities' (*Human Rights Watch*) <<https://www.hrw.org/news/2019/02/19/india-vigilante-cow-protection-groups-attack-minorities>> accessed 04 January 2022

<sup>4</sup> 'Sanctity of the Cow' (*Britannica*, 5 February 2018) <<https://www.britannica.com/topic/sanctity-of-the-cow>> accessed 04 January 2022

like providing milk, cow dung, urine, other various milk products, etc<sup>5</sup>. These are some of the reasons why the cow is considered sacred, there may be more beliefs, but in this chapter, the researcher discusses the cow protection laws. During the time of Independence, Constituent Assembly was established in the year 1946 December to frame a Constitution for the new nation. During this time, the top leaders of India like Gandhi, and Rajendra Prasad started receiving telegrams about cattle protection & they were asked to persuade Jawaharlal Nehru & Sardar Vallabhbhai Patel to enact such law that puts a total ban on cattle slaughter. Therefore with the public pressure, Congress thought about it. There were debates made & ultimately led to the amendment of the Directive Principles of State Policy, Article 48 was added, which prohibited the slaughter of cows, calves, milch & draught cattle. This became the first mention of the prohibition of cow slaughter on legal documents in India. British did not enact such laws because they decided to remain neutral over this religious matter. DPSPs cannot be enforced in a court of law. DPSP can be made functional only by enacting the laws in the legislature<sup>6</sup>. In the case of *State of Gujarat v Mirzapur Moti Kureshi Kassab Jamat*<sup>7</sup>, the court upheld the total ban on cow slaughter under article 48 of the Indian Constitution. The matter of cattle slaughter is a matter of state & states can make laws for such. Now there are laws made by the state for the protection of cattle. 21 states & 8 Union territories in India have cattle protection laws enacted<sup>8</sup>.

How are the cows protected through laws?

A cow is very well protected by various laws enacted by the states.

- Any animal cannot be killed in a cruel manner, it is the duty of the persons who are for the safety of animals & hence to take reasonable measures<sup>9</sup>.

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<sup>5</sup> Sachin Saini, Rajasthan HC judge wants cow as national animal, life term for slaughter' (*Hindustan Times*, 19 June 2017) <<https://www.hindustantimes.com/india-news/rajasthan-high-court-wants-cow-as-national-animal-suggests-life-term-for-slaughter/story-RtsiNP2QYrSFaz1Ltv2FML.html>> accessed 05 January 2022

<sup>6</sup> Komal Deol, 'Cow protection was a sensitive subject in India even when the Constitution was being framed' (*Scroll*, 7 July 2021) <<https://scroll.in/article/998735/cow-protection-was-a-sensitive-subject-in-india-even-when-the-constitution-was-being-framed>> accessed 05 January 2022

<sup>7</sup> *State of Gujarat v Mirzapur Moti Kureshi Kassab Jamat* (2005) 8 SCC 534

<sup>8</sup> India: Vigilante 'Cow Protection' Groups Attack Minorities (n 3)

<sup>9</sup> Prevention of Cruelty to Animals Act, 1960,

- Cannot slaughter cow, bull, or bullock without obtaining a certificate from the veterinary officer<sup>10</sup>.
- Police officers or veterinary officers can stop, search & seize a vehicle if found transporting or dealing with the slaughter of cows<sup>11</sup>
- No sacrifice is allowed for any animal or bird for religious purposes<sup>12</sup>.
- Cannot possess bovine meat<sup>13</sup>.
- Imported bovine meat can only be sold with registration<sup>14</sup>.
- Beef cannot be imported from neighbouring states<sup>15</sup>.
- A total ban on beef. Cow's progeny can only be transported in the daylight from 7:00 A.M to 5:00 P.M<sup>16</sup>.
- Can be slaughtered only for medical or research purposes<sup>17</sup>.
- The total ban on transportation for slaughtering within or through the state. Also cannot sell, purchase, or dispose of cow, calf, or buffalo<sup>18</sup>.
- Attempt to slaughter is punishable<sup>19</sup>.
- If any person in the state is found slaughtering the cow is immediately prosecuted<sup>20</sup>.
- Cannot cause bodily pain, or disease to the bovine animal<sup>21</sup>.
- Animals or birds cannot be sacrificed in temples<sup>22</sup>.
- For the purpose of slaughtering cannot poison or make useless the cow<sup>23</sup>.
- Compulsory registration of cow progeny in the urban areas<sup>24</sup>.

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<sup>10</sup> Andaman & Nicobar Islands Prohibition of Cow Slaughter Regulation, 1967

<sup>11</sup> Delhi Agricultural Cattle Preservation Act, 1994

<sup>12</sup> Andhra Pradesh Animals and Birds Sacrifices Prohibition Act, 1950

<sup>13</sup> Chhattisgarh Agricultural Cattle Preservation Act, 2004

<sup>14</sup> Goa Animal Preservation (Amendment) Act, 2010

<sup>15</sup> Goa Animal Preservation Act, 1995

<sup>16</sup> Gujarat Animal Preservation(amended) Rule, 2017

<sup>17</sup> Jharkhand Bovine Animal Prohibition of Slaughter Act, 2005

<sup>18</sup> Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964

<sup>19</sup> Maharashtra Animal Preservation Act, 1976

<sup>20</sup> Alison Saldanha, 'Over 99% of India's population lives in areas governed by cow protection laws, finds study' (*Scroll*, 14 April 2017) <<https://scroll.in/latest/834598/over-99-indias-population-lives-in-areas-governed-by-cow-protection-laws-indiaspend-study>> accessed 05 January 2022

<sup>21</sup> Rajasthan Bovine Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995

<sup>22</sup> Rajasthan Animals and Birds Sacrifice (Prohibition) Act, 1975

<sup>23</sup> Tamil Nadu Animal Preservation Act, 1958

## MOB LYNCHING

Mob lynching is an attack by a group of people on an individual by taking the law into their hands to achieve their purpose. The reason behind the mob lynching may be to punish someone because the mob thinks the person is doing wrong. It may primarily affect humans or properties of public & private bodies. There may be various causes motivated to do an act of mob lynching. The police must maintain the law & order in the society, but when the police administration fails to do so, it becomes a chance for the vigilant mobs. In every country, not only in India, there are punishments for the mob lynching, but the slow pace of the judiciary serving the justice & lack of fear of laws of the land, loopholes in the criminal justice system do not act as deterrence to the crimes & thus lynching takes place. In cow protection, cow vigilantism has increased & this is due to the religious beliefs among different religions. Biases are also a reason behind mob lynching, and bias may be due to different religions, classes, sex, community, etc. Therefore all the causes mentioned above lead to intolerance among the groups, ultimately leading to mob lynching. The year 2016 has been termed the worst year for mob lynching violence in India. However, there has been an uptrend of 75% in violence compared to the year 2016 that increases in 20 cases<sup>25</sup>. There are also instances where the victims were beaten to death, hanged, harassed by chaining & stripping raped & murders. There are political agendas behind the rise in attacks like fixing in the mind of people that the animal cannot be saved by-laws & the only way to prevent it is by taking the law into the hands. According to a report, the victims are people from a minority; among 75% of the people attacked in cow vigilantism, most people are Muslims comprising 57%, 9% Dalits, and 9% Hindus. Among the 75% of people attacked in the hate violence people murdered are 74% from the Muslim religion & 20% from the Dalit community. According to a survey, police personnel, when asked about cow-related violence police personnel replied that it is natural for being attacked in the matter of cow vigilantism & this is a punishment<sup>26</sup>. The attacks made deprived the right under article 21, the right to protection of life & personal liberty of the

<sup>24</sup> Uttarakhand Protection of Cow Progeny Act, 2007

<sup>25</sup> Sandipan Baksi & Aravindhan Nagarajan, 'Mob lynchings in India: A look at data and the story behind the numbers' (*News Laundry*, 4 July 2017) <<https://www.newslaundry.com/2017/07/04/mob-lynchings-in-india-a-look-at-data-and-the-story-behind-the-numbers>> accessed 05 January 2022

<sup>26</sup> Every Third Indian Cop Thinks Mob Violence Over Cow Slaughter Is 'Natural': New Survey (n 2)

Indian Constitution. It also violates the right to equality, which is a negative right not to be discriminated against and a positive right to be treated as equal among everyone<sup>27</sup>. There is also a gross violation of the Universal Declaration of Human Rights.

## **GANDHIAN PHILOSOPHY ON COW PROTECTION**

As discussed before the laws made to protect the cows, can be protected but not entirely by the laws. In this place, it becomes very crucial to study the Gandhian thoughts to protect the cow. Nowhere in the world is the protection of cows considered a religious matter but only in India. Gandhi says cows are thought as they are overburdened as they give less milk than the cost incurred to keep it but it's a wrong notion. Gandhi says that cows cannot be protected by fighting the Mussalmans because they too are helpless. He says the problem of cow slaughtering should be carefully & critically analyzed then a solution will be there. If there is a person who thinks that the cow is burdened on him then no one in the world can protect the cow from being slaughtered. Now in the present time with the wrong idea planted in the minds of the people, they think cows can be protected by harming someone or killing someone but this is a mad idea. If really the problem has to be solved people who try to kill the cow should be taught cattle economics then eventually when one understands the profit out of it the problem of cow slaughtering can be stopped according to Gandhian thought. Gandhi says devotion to the cow without the knowledge about her is like killing her prematurely.

During the time of Khilafat, Gandhi said the reverse process of if a Mussalman kills a cow then the Hindus will kill the Mussalmans, has resulted in a lot of bloodsheds. He further gives an opinion that if this incident of reverse killing would not have happened, then probably there may less cow slaughters if the movement had been started in the right proper manner. He suggests that during the time of British rule in India, cows were slaughtered for beef-eating; kings were not willing to stop this because they wanted to have it for their British guests. If cow slaughter were stopped in India, Britishers might import it, & it has to be controlled not by violence but by the prohibition & improving the quality of milk supply. If this method is followed, then ultimately, the people who want to kill the cow for their reasons would not do

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<sup>27</sup> Mahendra Pal Singh, *Constitution of India* (13<sup>th</sup> edition, Eastern Book Company 2017)

so. Here becomes essential to quote a statement by Gandhi that is “ I would not kill a human being for protecting a cow, as I will not kill a cow for saving a human life, be it ever so precious .”Nothing will lower the image or morale of the nation than the act of violence. In the present time, there is a lot of hostility between different religions in India & this is again because of foolishness. During the time of Khilafat, Hindus were killing Mussalmans to save the cow & Gandhi, by observing this act of the people, said those who claim to be Hindus & resort to violence are enemies of the cow & Hinduism. According to the suggestion given by Gandhi, if there is the prohibition of the bovine meat & improving the quality of cow’s products, then it will become an essential source of nutrition, profit, etc. & resorting to this method rather than performing an act of foolishness will help more to save a cow form the hand of butchers. Nonviolence is not only meant for the Rishi’s & Sadhu but also for every ordinary person out there. Non-violence is the law for the human species, but violence is the law for brute, said Gandhi. Ahimsa is a very famous principle of Gandhi. A man cannot be entirely free from committing violence towards others; it is the nature of humans. But man can control, & show compassion which will help him to avoid violence & become kind-hearted<sup>28</sup>.

Gandhi said when a cow sees through her eyes she says to humans that the cows are not made to be eaten, to kill but they are made to be friends with humans. He gives reasons why he worships the cow & they are Gandhi compares the cow to the mother of a human being. The mother of a child feeds her baby & then she expects the child to serve her but the cow does not want us to serve she wants only grass & grain. Cow rarely falls ill, when she dies every part of her body becomes useful & hence the uses of the cow are more that does not end with her death. By comparing the mother of a human with a cow Gandhi does not tries to show that the mother of a human is not important but her compares to show why the cow is important for him to worship<sup>29</sup>. Just as Gandhi gives reasons why the cow is important in today’s situation this can be helpful to convince people who try slaughtering the cow. Most apt reasons should be given so that they can recede from doing the act of slaughtering.

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<sup>28</sup> Mohandas Karamchand Gandhi, *My Religion* (Navajivan Publishing House 1955)

<sup>29</sup> R.K. Prabhu & U.R. Rao, *The Mind of Mahatma Gandhi* (Jitendra T Desai Navajivan Mudranalaya 1960)



## CONCLUSION

After critically analyzing all the bibliographic material the researcher has come to the conclusion that nothing can be achieved by inciting violence & making another group of people obeys the commands or beliefs at the brink of the sword. In this research paper, the researcher according to research questions has found an answer for those. Firstly the cows are protected because of their religious value & usefulness of cow. Secondly, the laws are made to protect the cows & have various punishments for them. Thirdly considering the Gandhian approach is necessary because through his thoughts & suggestions he was able to control the violence & achieved some success in protecting the cows by forming the organization which existed on the principle of non-violence. Gandhi is a man who did not believe in achieving his goals through violence, he was secular, educated & knew the nation very well. His thoughts even though were written down a century back but are most relevant & useful for today's world as well. Hence considering the Gandhian philosophies is crucial. After doing the research the researcher has also come to the conclusion that the rights of humans & animals are on par according to the laws & the Gandhian approach. The laws should be made according to the notion of Gandhi that he would not kill one living to save the other & today's law should adopt this approach. Mob lynching is nothing but murder & the law relating to this is under IPC & CrPC. These laws should be enforced properly by the executive but in reality, they are not. So the executive should take proper actions in enforcing the law.