



Draft Lakshadweep Animal Preservation Regulation, 2021: Will it stand the test?

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ABSTRACT

This legislative comment aims to examine the utility and feasibility of the proposed Lakshadweep Animal Preservation Regulation. The commentary shall bring forth the state of affairs in Lakshadweep Island and whether there is a need to preserve bovines on the island. The law must conform to the prevailing social situations. Thus, the impact of the proposed regulation shall be examined on the lines of the compliance mechanism laid down by the regulation. Conclusively, the question shall be addressed that whether or not the proposed regulation will stand the test of time.

1. INTRODUCTION

“Hate crimes as a product of intolerance, ideological dominance, and prejudice ought not to be tolerated; lest it results in a reign of terror. Extrajudicial elements and non-state actors cannot be allowed to take the place of law or the law enforcing agency”

-Supreme Court of India¹

The purpose of the law is to regulate the affairs of civilized society. For the fulfilment of this purpose, the law must match the aspirations of the developing society. This means, that law and society go hand-in-hand and the law should be consistent and must honour the requirements of the society. The draft Lakshadweep Animal Preservation Regulation, (hereinafter referred to as Regulation) was promulgated by the President of India in 2021 to preserve “animals suitable for milch, breeding or agricultural purposes”²

The Regulation shall apply to the whole union territory³ and shall apply to the animals specified in the schedule.⁴ However, the provisions of preservation can be extended by the administrator to

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¹ Deepak Misra, *Tehseen S. Poonawalla v. Union of India*, Writ petition (Civil), 20 (2018).

² The Lakshadweep Animal Preservation Regulation, 2021, 11 1, available at: <https://cdn.s3waas.gov.in/s358238e9ae2dd305d79c2ebc8c1883422/uploads/2021/02/2021022547.pdf>.

³ *Id.* at 1(2).

⁴ *Id.* at 11.



other animals as well which deserve protection as in the opinion of the administrator.⁵ On the perusal of the first schedule, it can be observed that the bovines such as “bulls, bullocks, cows, calves, male and female buffaloes and buffalo calves” are entitled to preservation.⁶ For the effective discharge of the functions laid down, the administrator shall appoint a competent authority⁷ and this authority shall give certificates without which animals entitled to preservation cannot be slaughtered.⁸ The regulation prohibits the slaughter of animals in places not specified for that purpose.⁹ Further, animals that are to be slaughtered cannot be transported without the permission of the Union Territory’s administrator¹⁰

Not only does the regulation prohibit the buying and selling of beef and beef products¹¹ but also gives the power to the competent authority to empower “any person” to enter into a premise and ensure compliance with the regulation.¹² In case there is a breach of provisions of the regulation, a penalty can be imposed and the quantum of penalty shall range from the imprisonment of one year to imprisonment for life with or without the imposition of fine, which may range from ten thousand to five lac rupees.¹³ Further, all offences under the regulation are cognizable and non-bailable and all attempts and abetments of offences shall be punished with the quantum of punishment provided for the offence.¹⁴

The Regulation lays down that the persons exercising functions under the regulation are public servants.¹⁵ The regulation also lays down that no suit shall be instituted against any person, who does an act in good faith;¹⁶ The regulation also extends an exemption to scientific experiments and allows slaughter of animals if they suffer from some disease that poses a danger for other animals.¹⁷

⁵ *Id.* at 2(2).

⁶ *Id.* at 11.

⁷ *Id.* at 4.

⁸ *Id.* at 5.

⁹ *Id.* at 6.

¹⁰ *Id.* at 7.

¹¹ *Id.* at 8.

¹² *Id.* at 9.

¹³ *Id.* at 10.

¹⁴ *Id.* at 11.

¹⁵ *Id.* at 13.

¹⁶ *Id.* at 14.

¹⁷ *Id.* at 15.



2. STATE OF AFFAIRS IN LAKSHADWEEP AND THE REGULATION

Lakshadweep is India's smallest Union Territory and it is "an archipelago consisting of thirty-six islands with an area of thirty-two sq. km. It is a uni-district Union Territory and comprises twelve atolls, three reefs, five submerged banks, and ten inhabited islands. The natural landscapes, the sandy beaches, an abundance of flora and fauna, and the absence of a rushed lifestyle enhance the mystique of Lakshadweep"¹⁸ There are over six hundred species of marine fish, more than eighty species of seaweeds, more than fifty species of crabs.¹⁹ It is rich in natural vegetation which is most endangered and there is an urgent need to preserve and protect it.²⁰ But bitterly, the Regulation does not aim at preserving these endangered florae and fauna.

Whenever a new law is made, the need for such law is highlighted and it is made clear as to what the law seeks to curb or regulate. But in this case, we see that many terms have been defined but 'preservation' has not. Moreover, no reference has been made to any other statute. With this the meaning of the term becomes ambiguous. Though it is not necessary to define each and every term yet the legal instrument must give a context in which the terminology must be understood. Interesting to note here is that at one instance the regulation does mention that object of the regulation is to be taken into consideration and that is when animals are to be transported from one place to another within the Union Territory²¹ but the regulation does not lay down any objective of the regulation. Thus, the regulation is marred with ambiguity and the execution of the regulation will be a problem when it is implemented in the future.

To ensure compliance, the competent authority or a person authorized by the competent authority can enter and inspect any premises. Now if the competent authority ensures compliance on its own there fewer problems will arise but problems will emerge since wide discretion has been given to the competent authority to appoint any person and grant powers under the regulation to ensure compliance. The regulation does not prescribe any standards for the appointment or measures to

¹⁸ Government of India, "U.T. Administration of Lakshadweep", *available at*: <https://lakshadweep.gov.in/>.

¹⁹ Planning Commission, Government of India, "Lakshadweep Development Report" 184-94, *available at*: https://niti.gov.in/planningcommission.gov.in/docs/plans/stateplan/sdr/sdr_lakshadweep.pdf.(2007).

²⁰ Sudhakar Reddy et al., "Landscape level assessment of critically endangered vegetation of Lakshadweep islands using geo-spatial techniques" 122 *Journal of Earth System Science* 272 (2013).

²¹ *Supra* note 2 at 7.



regulate compliance. The regulation also provides for blanket protection to the persons discharging functions under the regulation and lays down that no legal proceedings can be instituted or filed against a person discharging functions under the regulation. The regulation even goes a step ahead and designated the persons discharging powers under the regulation as public servants. Just like other cow protection laws and anti-cruelty laws, the offence under this regulation is cognizable and non-bailable.

This kind of compliance mechanism ensures a caste divide and the oppression of the minority by the majority. The regulation shall ensure a rise in the cow protectors to act as the eyes and ears of law to enter, search and dispense lynch justice. The 'good faith' clause will work as a catalyst for violence perpetrated by the cow vigilantes and also increase hate crimes in the country leading to further deepening of the religious and caste divide.

India is the third-largest exporter of beef in the world²² but frequent inconsistent bans on cattle slaughter have reduced the availability of cattle for slaughter and this has also affected the leather and allied industries. The rural population of Lakshadweep which amounts to 29.09% of the total is dependent upon agriculture, fishing, and animal husbandry for its livelihood.²³ Data also shows that since landholding is declining rapidly, farmers depend on the sale of milk and dairy products for sustenance.²⁴ The regulation, when it prevents the slaughter of bovines unless approved by the competent authority completely fails to appreciate this fact. The regulation also ignores the fact that feeding and the upkeep of the bovines would be a costly affair and also does not provide any suitable measure to deal with the excessive bovines.

Because of the high cost of feeding and maintaining the cows, they are generally disowned and they end up on the streets. The cows are found near the dump yards where they end up eating plastic and pose a health risk for themselves. Studies have also shown evidence whereby stray

²² United States Department of Agriculture, "Livestock and Poultry: World Markets and Trade" 18 5, *available at*: https://apps.fas.usda.gov/psdonline/circulars/livestock_poultry.pdf (2021).

²³ Department of Planning and Statistics, "Basic Statistics 2014" 235 1–2, *available at*: <https://cdn.s3waas.gov.in/s358238e9ae2dd305d79c2ebc8c1883422/uploads/2018/04/2018040222-1.pdf>.(2015).

²⁴ *Id.* at 18.



cattle are responsible for road accidents.²⁵ Thus, they also pose a risk for road users. To address this problem, the Animal Welfare Board of India gives financial support to Animal Welfare Organizations to set up shelter homes for animals so that the stray cattle do not pose a problem for the public. Naturally, this system would be adopted in Lakshadweep also shortly. But recent incidents have raised questions regarding the upkeep of the cattle at such animal shelters.²⁶ What we see here is a classic case of creating problems rather than solving problems.

3. WILL IT STAND THE TEST?

A good law is a law that conforms to the aspirations of society. Law should not discriminate between factions of the society nor should it create situations that increase the hostility. The regulation in discussion does precisely the things which should not be done. Beef production and Beef consumption have been juxtaposed with the Muslim and Dalit identities and Lakshadweep being a state wherein Muslims are in majority²⁷ they occupy a central position in the incident. The juxtaposition of religious identities becomes clearer when the regulation specifically states that a cow, bull, or bullock shall not be slaughtered on religious days. In this context, the Hanif Quarashi case must be remembered where the Supreme Court stated that it is “optional for a Muslim to sacrifice a goat for one person or a cow or a camel for seven persons. It does not appear to be obligatory that a person must sacrifice a cow”²⁸ Thus, the regulation raises questions that have been adequately addressed by the Apex court.

The regulation prohibits the transport of animals for slaughter but the question that why exactly this transportation of animals is being prohibited?

²⁵ Satyam Arya et al., "Circadian variations in foraging and resting/standing activity patterns of stray street cattle of urban Sambalpur, Odisha, India", 51 *Biological Rhythm Research* 50 (2020).

²⁶ Inhumane treatment of cows across Rajasthan: FIAPSO study, *The Indian Express*, August 11, 2016, available at: <https://indianexpress.com/article/india/india-news-india/inhumane-treatment-of-cows-across-rajasthan-fiapo-study-2966759/>.

²⁷ Government of India, "Lakshadweep Population 2011" <https://www.census2011.co.in/census/state/lakshadweep.html> (2011).

²⁸ *Mohd. Hanif Quareshi & Others v. The State Of Bihar*, 1958 AIR 731, 24 (1958).



4. CONCLUSION

Lakshadweep being a land of diversity in flora and fauna experiences severe environmental degradation with each passing day and so many diverse species in need of preservation and protection yet *Bos Taurus*, whose numbers run into millions in India,²⁹ is chosen to be preserved. The regulation is a faulty legal instrument as firstly, no scope and objective of the regulation has been provided. Secondly, the basic term 'preservation' which has been used numerous times has not been defined anywhere in the regulation. Thirdly, compliance mechanism showers a lot of discretion on the competent authority and 'authorized person' this will ensure an increase in cow vigilantism which other parts of the country have experienced when similar laws were implemented. Fourthly, the regulation fails to provide an alternative and/or remedy to the aggrieved person who will mostly be farmers with less land holding who will ultimately have to bear the increased expenses to upkeep the unproductive cattle which will ultimately be disowned. After being disowned the animals would destroy crops in search of food.³⁰ If the regulation becomes law then just like The Muslim Women (Protection of Rights of Marriage) Act, 2019, Citizenship (Amendment) Act, 2019, Jammu & Kashmir Reorganization Act, 2019, etc., it would be challenged in the court which would be a diversion of the resources of the country. Thus, on one hand, India aspires to become a \$5 trillion economy by the end of 2025³¹ but on the other hand, the policies make this strong economy a distant dream.

²⁹ Ministry of Fisheries, Animal Husbandry & Dairying, "20th Livestock Census"¹³ available at: <https://epashuhaat.gov.in/documents/ProvisionalKeyResultsof20thLivestockCensus.pdf> (2020).

³⁰ Ministry of Agriculture & Farmers Welfare, "Crops Destroyed by Stray Animals" available at: <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1540932>(2018).

³¹ Govt sticks to \$5 trillion economy target; emphasis on infra aimed at achieving goal: DEA Secretary, The Economic Times, February 4, 2021, available at: <https://economictimes.indiatimes.com/news/economy/policy/govt-sticks-to-usd-5-trillion-economy-target-emphasis-on-infra-aimed-at-achieving-goal-dea-secretary/articleshow/80686511.cms>.