

been involved in these activities. In the interview, carried in *Athit*, Chanut stated that as ex-Ambassador, many refugees who had been his former friends in Phnom Penh came to seek humanitarian aid from him. He added that he had been pressured by several high figures in the Thai military to assist the refugees, clearly indicating that the refugees were receiving political assistance from high Thai quarters. Nevertheless in a subsequent interview in the *Matichon* magazine (March 12, 1979), Chanut stated that in order to get rice and fish (from Tonglesap) the Vietnamese "are forcing the Khmer peasants to work much, much harder than under the former Pol Pot government".

According to the February 1978 *Athit* article quoted above, Kittivutho is running military training programmes for the Khmer refugees from Wat Jittapawan Temple in Chonburi Province, east of Bangkok.

5 *Athit* demonstrated in its early

1978 issues that the refugee reports of atrocities reached their height under the Thanin government. It noted that both atrocity reports and border incidents dramatically declined after Kriangsak took power in October 1977 as the new government was intent on improving relations with Indochina. The magazine concluded that, as the reports and their tone varied in quality and quantity according to the attitudes of the governments in power in Bangkok, they reflected only the current attitudes of the Bangkok administration, and not the objective situation pertaining in Kampuchea under Pol Pot. Shortly after these statements, *Athit* reported that it had been instructed by General Prem, Deputy Assistant Commander-in-Chief of the Thai army, to cease from publishing any further information on the Khmer refugees in Thailand. Vietnamese government sources have been the most common source of atrocity stories. It is interesting to note that the Soviet Union initially attacked the atrocity reports

and human rights allegations about Kampuchea. As Soviet relations with Viet Nam deepened, the tenor of Soviet reports was toned down, until, after the signing of the Soviet Viet Nam Treaty last December, the Soviet Union accomplished a propaganda about-face and added its voice to those condemning Pol Pot for atrocities and violations of human rights.

The details which follow on the growth of starvation in Phnom Penh, the breakdown of medical services and the evacuation of the cities are largely taken from the first two chapters of "Cambodia: Starvation and Revolution" by George C Hildebrand and Gareth Porter (Monthly Review Press, 1976). Limitations of space have not permitted the translation in full of these two excellently documented chapters. To save space, also, a number of the original references have had to be omitted. Readers wishing to check source references will easily find them in the long section of footnotes at the end of the original book.

Demand for Total Ban on Cow Slaughter in Kerala and West Bengal

Some Observations

K N Raj

Vinoba Bhave's demand for banning cow slaughter in Kerala and West Bengal and his fast for gaining its acceptance raise three sets of issues; (a) the constitutional and legal basis of the demand, (b) its economic rationale, and (c) the political implications and possible consequences. This note examines these issues.

VINOBA BHAVE'S demand for total banning of cow slaughter in Kerala and West Bengal, and his fast-unto-death for gaining its acceptance, raise three sets of issues which we need to understand very clearly. They are (a) the constitutional and legal basis of the demand, (b) its economic rationale, and (c) the political implications and the possible consequences.

The constitutional basis of the demand is Article 48 of the Indian Constitution, and the legal sanction claimed is from a Supreme Court judgment on cow slaughter delivered in April 1958. Let us therefore consider first what each of these says and what follows from it.

Article 48 of the Constitution is quite explicit on the question. "The State", it says, "shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for

preserving and improving the breeds, and prohibiting the slaughter of cows and calves and other milch and draught cattle". This is in fact one of the Directive Principles of State Policy, which have been laid down as "fundamental in the governance of the country".

The Directive Principles are however not enforceable by any court, and are only a broad guide to policy. They are to be applied in making laws, and it is these laws alone that can be appealed to or challenged in courts of law. Moreover, if the laws so framed are challenged, the courts are free to interpret the relevant Directive Principle and decide whether or not the laws are in conformity with it and the other provisions of the Constitution.

In fact this is what makes the Supreme Court judgment of 1958 so important in this context. The Government of Uttar Pradesh had enacted

legislation in 1955 imposing a total ban on cow slaughter, but only on the slaughter of "the cow and its progeny"; while a law passed by the Bihar Legislature a year later imposed a total ban on the slaughter of all categories of bovine cattle including buffaloes. On the face of it one would think that the Bihar legislation carried out the intention of the Directive Principle more fully, as Article 48 covered not only cows and calves but other milch and draught cattle as well. And yet the Supreme Court thought otherwise, and struck down the portions of the Bihar law which prohibited the slaughter of she-buffaloes, breeding bulls and working bullocks (both cattle and buffalo); it upheld in full the constitutional validity of only the Uttar Pradesh legislation. We need to understand the grounds on which the Supreme Court arrived at these decisions, particularly because they pro-

vide a logical framework and some important criteria for judging whether demands such as those that are being made by Vinoba Bhave in the name of the Supreme Court are well founded or not.

In the first place, the judgment of the Supreme Court takes the position that, though there are three directives incorporated in Article 48, "the two last directives for preserving and improving the breeds and for the prohibition of slaughter of certain specified animals represent, as is indicated by the words 'in particular', two special aspects of the preceding general directive for organising agriculture and animal husbandry on modern and scientific lines". This implies that whatever steps are taken in pursuance of the directive for prohibiting such slaughter should be at least consistent with the development of agriculture and animal husbandry on a modern and scientific basis.

The second important premise in the reasoning of the Supreme Court in this case is that the Directive Principles of State Policy have to conform to and run as subsidiary to the fundamental rights of the citizens under the Constitution; and that any legislation which imposes restrictions on these rights can be constitutionally valid only if it can be adjudged as "reasonable" restrictions "in the interests of the general public". This is for the judiciary to decide, not on the basis of any abstract standard of reasonableness but taking into account all the circumstances of a given case. "... it is inevitable", observes the Court in this context reiterating one of its earlier judgments "that the social philosophy and the scale of values of the judges participating in the decision should play an important part, and the limit to their interference with legislative judgment in such cases can only be dictated by their sense of responsibility and self-restraint and the sobering reflection that the Constitution is meant not only for people of their way of thinking but for all, and that the majority of the elected representatives of the people have, in authorising the imposition of the restriction, considered them to be reasonable".

It is on these two important premises that the Court went on to consider the legislation on cattle slaughter which had been challenged. The Court's examination of the relevant facts in this light led to its ruling that the protection recommended by

Article 48 was confined only to "cows and calves and to those animals which are presently or potentially capable of yielding milk or of doing work as draught cattle but does not, from the very nature of the purpose for which it is obviously recommended, extend to cattle which at one time were milch or draught cattle but which have ceased to be such".

It is in fact significant that in this context the Supreme Court took a categorical stand against total banning of cattle slaughter, both on the ground that it would lead to waste of national resources and for the reason that it would deprive many people of their staple food and means of livelihood. Since this has not been brought out clearly enough in the recent discussions on cow slaughter, an extract from the Supreme Court's judgment may serve a useful purpose:

If the nation is to maintain itself in health and nourishment and get adequate food, our cattle must be improved. In order to achieve this objective our cattle population fit for breeding and work must be properly fed and whatever cattle food is now at our disposal and whatever more we can produce must be made available to the useful cattle which are *in presenti* or will *in futuro* be capable of yielding milk or doing work. The maintenance of useless cattle involves a wasteful drain on the nation's cattle feed. To maintain them is to deprive the useful of the much needed nourishment. The presence of so many useless animals tends to deteriorate the breed. Total ban on the slaughter of cattle, useful or otherwise, is calculated to bring about a serious dislocation, though not a complete stoppage, of the business of a considerable section of the people who are by occupation butchers, hide merchants and so on. Such a ban will also deprive a large section of the people of what may be their staple food. At any rate, they will have to forego the little protein food which may be within their means to take once or twice in a week. Preservation of useless cattle by establishment of Gosadans is not... a practical proposition. Preservation of these useless animals by sending them to concentration camps to fend for themselves is to leave them to a process of slow death and does them no good. On the contrary, it hurts the best interests of the nation in that the useless cattle deprive the useful ones of a good part of the cattle feed, deteriorate the breed and eventually affect the production of milk and breeding bulls and working bullocks, besides involving an enormous expense which could be better utilised for more urgent national needs.

Since the legislation enacted in Bihar

prohibited the slaughter of all bovine cattle, the Court went on to strike down part of its provisions is invalid.

The only question that remains is why the Supreme Court considered a total ban on the slaughter of cows of all ages, imposed in Uttar Pradesh, as a reasonable restriction when, according to its own interpretation, the protection offered by Article 48 was to cover only those which are presently or potentially capable of yielding milk. We need to understand this very clearly, because it is on the basis of this decision that Vinoba Bhave is now demanding a total ban on cow slaughter in West Bengal and Kerala.

A careful reading of the judgment of the Supreme Court makes it obvious that the special exemption it gave to the cow in this regard was not because it was thought to be a good milch animal but for exactly the opposite reason. "If milk yielding capacity were the only consideration", observed the Court, "the comparatively smaller number of female buffaloes which produce 54 per cent of the total milk supply of our country would obviously have deserved a far greater preference over the cows in our estimation". The more important consideration in its view was that bullocks were required for agricultural purposes, and cows were needed for producing bullocks. But the yield of milk from cows being much lower than of she-buffaloes there was a tendency to get rid of them by sending them to the slaughter house. "The danger of such premature slaughter is greater for the cow, for being an animal with a scanty yield of milk it does not pay the owner to maintain her through the long dry period and hence there is an inducement for adopting even cruel practices to get her passed by the inspectors [of slaughter houses]". Consequently, "regulation of slaughter of animals above a specified age may not be quite adequate protection for the cow", though it may be quite sufficient for breeding bulls and working bullocks and the she-buffaloes which are highly valued by their owners. It is these considerations, concludes the Court, which have "induced us to make an exception even in favour of the old and decrepit cows".

It is also evident that all that the Supreme Court did in these cases was to extend to the Uttar Pradesh legislation, when it was challenged, the benefit of such concessions as could be given to it by interpreting its rationale as sympathetically as possible.

This was therefore to be understood in the light of an earlier observation of the Court in its judgment that "there is always a presumption in favour of the constitutionality of an enactment" and that the courts "must presume that the Legislature understands and correctly appreciates the needs of its own people".

There is therefore no warrant at all for the position taken by Acharya Vinoba Bhave that, since the total ban on cow slaughter imposed in Uttar Pradesh was declared valid by the Supreme Court, it is now in some way obligatory for other states such as Kerala to introduce identical legislation. It is clear from the reasoning underlying the judgment of the Supreme Court that it is upto the Kerala legislature to enact such laws as it considers essential to meet the needs of the people in Kerala; and that, if it were to decide in favour of regulating the slaughter of only particular categories of animals falling in specified age-groups, it would be more in line with the constitutional requirements than the Uttar Pradesh legislation for which the Supreme Court had to go out of its way and make an exception.

If this is an incorrect interpretation — though there is no obvious reason to think so — it is upto Vinoba Bhave and his followers to take the matter to the Supreme Court in an appropriate way and test the correctness of their own position. That they do not take this obvious course, but have decided instead to use coercion of all kinds, for which there is neither legal nor moral justification, is a sad reflection on their understanding of their own obligations in a democratic society governed by the rule of law and in which all are supposed to have equal rights.

Let me now turn to the purely economic aspects of a total ban on cow slaughter. Since the judgment of the Supreme Court has itself touched on the most important aspects that have to be borne in mind, it is not necessary to cover that ground again. I shall therefore confine my observations to a few considerations which are particularly relevant in the context of Kerala.

In the first place, the pressure of population on land is very much greater in Kerala than in the rest of India. For this reason the total bovine population maintained in Kerala has always been much lower, as a proportion of the total human population than in other parts of India; as the

human population grows, the need for restricting cattle population (on the grounds mentioned in the Supreme Court judgment) is also much greater.

Secondly, unlike in the rest of India, there has been no pronounced tendency in Kerala to favour the she-buffalo at the expense of the cow (which, as we have noticed, was an important consideration in the Supreme Court's judgment relating to cow slaughter). In fact, what is most striking is the sharp contrast in this respect between Kerala and Uttar Pradesh where the cow is supposed to be held in the highest veneration.

Though male and female cattle are born nearly equal in number (as one would expect), the number of female cattle above the age of 3 years is below half the number of male cattle in the same age-group in Uttar Pradesh. This is the case even in districts such as Allahabad, Varanasi and Gorakhpur where Muslims account for only about one-tenth of the population. The explanation for this has been given very clearly in the Supreme Court judgment of 1958:

... despite all the veneration professed for the cow, when it comes to the question of feeding, the she-buffalo always receives favoured treatment and the cow has to be satisfied with whatever remains after feeding the she-buffaloes, bullocks, and calves in order of priority... the professional gowalas, who are

mostly, if not wholly, Hindus, find it uneconomical to maintain the cow after she goes dry and consequently sell her to the butcher for slaughter at Rs 30 to Rs 50 per head, irrespective of her age and potential productivity...

In Kerala, on the other hand, it is the male animal (with which Vinoba Bhave is not concerned) that has been primarily singled out for such treatment, mainly for the reason that the garden lands of this state do not require ploughing and field cultivation is not so extensive as in the Indo-Gangetic Valley. Nor is there any strong preference for milk of she-buffaloes, presumably because the fat content is considered too high in the almost uniformly hot and humid climate of the state. Consequently, the cow receives preferential treatment, and there are in Kerala more than three times as many adult female cattle (above the age of three) as adult male cattle.

The absurdity of asking Kerala to follow the example of Uttar Pradesh becomes still more obvious when we consider the trends in the number of cows and she-buffaloes maintained for breeding and milk production in the two states. In Uttar Pradesh, despite the total ban on cow slaughter, not only has there been no change in the sex-ratio in favour of cows over the last two decades but the total number of cows maintained for breeding and milk production has remained almost

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unchanged at about 6.75 million; at the same time, the number of she-buffaloes maintained for these purposes has been steadily rising and is now larger than the number of cows. In Kerala, on the other hand, the increase in the number of she-buffaloes maintained for breeding and milk production has been negligible (from 0.14 to 0.16 million), while the number of cows maintained for these purposes has risen significantly from 1.1 million in 1961 to nearly 1.4 million in 1977, an increase of over 20 per cent. In fact, nearly 90 per cent of the milk output of Kerala is from cows.

Further, the breeding efficiency of the cows in Kerala (defined as the ratio of the number of calves born annually to the total number of the adult female cattle) has not only been higher but has also been rising. In 1961, it was 0.48 in Kerala compared to 0.40 in Uttar Pradesh; by 1977 it was 0.60 in Kerala, while the data available for Uttar Pradesh upto 1972 indicate that there was hardly any improvement there.

Moreover, as has been brought out in a study by K Narayanan Nair ("Milk Production in Kerala: Trends and Prospects", *Economic Political Weekly*, Review of Agriculture, March 1979) here has been a significant increase both in the total output of milk in Kerala and in the average milk yield of cows. This has been made possible to a considerable extent by selective culling of cows and the more efficient use of cattle feed among the rest. The increased availability of milk in the state has in turn helped to offset in part the reduced per capita availability of fish for internal consumption, and thus meet the minimum necessary protein requirements of the people. Beef also makes an important contribution to these requirements.

These and many more such highly relevant facts are available to those who are interested in them. In 1958, when the Supreme Court gave its ruling on cow slaughter, hardly anyone had made an intensive study of the economics of cattle, so much that the Court had to rely largely on its resources. The only expert advice it received from outside was from a gentleman by the name of Pandit Thakurdas Bhargava who acted as *amicus curiae* (i.e. friend of the court) at the instance of one of the all-India movements for the protection of the cow. The dilemma in which the Court found itself, and the special considerations on which

Pandit Bhargava was accepted in this role, will be evident from the following extract from the Court's judgment:

Under O.XLI, R. 2. Supreme Court Rules, intervention is permitted only to the Attorney General of India or the Attorney General for the States. There is no other express provision for permitting a third party to intervene in the proceedings before this Court. In practice, however, this Court, in exercise of its inherent powers, allows a third party to intervene when such third party is a party to some proceedings in this Court or in the High Courts where the same or similar questions are in issue, for the decision of this Court will conclude the case of that party. In the present case, however, the petitioners for intervention are not parties to any proceedings and we did not think it right to permit them formally to intervene in these proceedings; but in view of the importance of the questions involved in these proceedings we have heard Pandit Thakurdas Bhargava, who was instructed by one of these petitioners for intervention, as *amicus curiae*.

The Supreme Court need not be in such a predicament if the matter comes up again before it. Several scholars, like V M Dandekar and S N Mishra among others, have gone into these issues in some detail and the results are available in the form of a number of research papers. These papers can help in understanding the economic issues involved in somewhat greater depth than was possible two decades ago. No one can of course claim that all the issues are fully clarified by the work that has been done so far or that the findings cannot be disputed. All one can say is that, for anyone seriously interested in these issues, there is now enough empirical evidence on which discussion is possible on a systematic basis.

Unfortunately it is such rational discussion that is ruled out by the method adopted by Vinoba Bhave and his followers for gaining acceptance of their point of view. It has been reported that, when the Chief Ministers of Kerala and West Bengal requested him earlier this week to postpone his fast by a year, during which period they could have the matter considered further by discussion among the people, Vinoba Bhave was prepared to give them only three days for doing so. All this reflects a kind of moral, intellectual and political authoritarianism which those of us who believe in democratic processes cannot possibly accept. For this reason it is no longer an academic issue, and we need to consider, as ordinary citizens of India, the

political implications of the stand taken by Vinoba Bhave and its possible consequences.

If Vinoba Bhave does not himself see this dimension of his wholly misplaced zeal it is understandable, since he was also in favour of the Emergency and give it his full moral support in the name of "Anusashan". But those of us who have experienced what such high-minded slogans can lead to cannot afford to be indifferent to the far-reaching implications of what he is doing now. His fast and the satyagraha movement that is being launched along with it, we are told, will bring in large numbers of volunteers from outside the state to press for a total ban on cow slaughter. Not only does all this constitute a serious threat to our fundamental rights as citizens of India and of this state but it creates the possibility of serious communal and other tensions being created both inadvertently and deliberately. After all though Vinoba Bhave appeals to the Directive Principles of the Constitution and to the Supreme Court judgment, his plea, when he addresses common people, is more direct: "The cow is our mother, killing the cow is killing our mither." Such ill-disguised appeals to religious sentiments can obviously have very serious consequences. There are also many forces in our country which would welcome such developments.

If they are not to have their way it is important that we make clear to the people of Kerala, and of the rest of India, what the issues involved in cow protection really are and what the facts are. It is on mass ignorance that movements such as the one launched by Vinoba Bhave usually thrive. To dispel ignorance is therefore the main task before all of us who believe in a more enlightened approach to social and political problems.

Indian Explosives

INDIAN EXPLOSIVES is celebrating its 25th year this year. Coincidentally, in February last, it received a licence to expand fertiliser production by 50 per cent at Panki in UP. This Rs 80 crores investment will lead to an annual output of urea which will help produce an additional 3 million tonnes of food-grains every year. With the completion of this expansion by 1981, IEL's Panki unit will become India's largest urea plant. In the year ended September 1978, the fertiliser division recorded production of 4,02,000 tonnes which represented 90 per cent capacity utilisation.