
Exploring the Constitutional Dimensions of Jallikattu: An Analysis of the Supreme Court's Judgment in Animal Welfare Board vs. Union of India

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ABSTRACT

The sport of Jallikattu, deeply rooted in the cultural fabric of Tamil Nadu, has been a subject of heated debate and legal scrutiny for its treatment of animals and its constitutional validity. The recent landmark judgment by the Supreme Court of India in the case of Animal Welfare Board vs Union of India has provided clarity on the constitutional aspects surrounding Jallikattu. This research aims to delve into the historical, judicial, and constitutional dimensions of Jallikattu through the lens of the Indian Constitution, analysing the implications of the Supreme Court's ruling on the sport.

Keywords: Ancient sport, cultural significance, cruelty, animal welfare, animal rights, LIFE, PARENS PATRIAE.

Problem Statement

The controversy surrounding Jallikattu raises questions regarding its compatibility with constitutional principles, particularly concerning animal rights, cultural preservation, and legislative intervention. Despite the Supreme Court's verdict affirming the legality of Jallikattu under certain conditions, concerns persist regarding its ethicality and compliance with constitutional norms.

Research Objective

This research aims to comprehensively examine the constitutional aspects of Jallikattu in light of the recent Supreme Court judgment, addressing the following objectives:

1. To analyse the historical evolution of Jallikattu and its cultural significance.
2. To evaluate the judicial history of Jallikattu, focusing on key legal battles and landmark judgments.
3. To assess the constitutional implications of Jallikattu, particularly in relation to animal rights, cultural heritage, and legislative interventions.
4. To examine the Supreme Court's ruling in Animal Welfare Board vs Union of India and its impact on the legality and regulation of Jallikattu.

Methodology

This research will employ a doctrinal approach, drawing upon legal analysis and historical research.. Primary sources such as court judgments, legislative documents, and historical records will be analysed to understand the evolution of Jallikattu and its legal battles. Secondary sources including academic journals, books, and media reports will provide insights into the cultural, social, and ethical dimensions of Jallikattu. Comparative analysis with similar cultural practices and legal precedents will also be conducted to contextualize the findings.

LITERATURE REVIEW

The greatness of a nation and its moral progress can be judged by the way its animals are treated". – Mahatma Gandhi

Very well said by one of the great leaders of our country that the country's development can be judged by the way how human beings treat its animals (who can't express themselves like humans). In India, 28 states and its Union territories have laws relating to cow and calf slaughter. However, the states do not possess a uniform application in the country. In some states, they have exclusive cattle preservation laws, whereas in others, animal protection laws extend protection to other animals. In the world, the UDAW (Universal Declaration on Animal Welfare) is the only international instrument to acknowledge and respect animal sentience and to work towards ending cruelty and protecting the needs of animals.

In India, there is a lack of legislative backing for the protection of animal rights as it is usually conferred only from the judgments. Due to this, the important decision of whether animals can have rights or not lies in the hands of an individual judge's interpretation of what the law should be and their preference towards the matter. Any change in the matter of the legal status of animals has to come from the legislature and the judiciary's well intentioned enthusiasm only complicates this important issue.

The decisions made by the court are not rendered with compulsion duties towards animals due to which the human beings get an option to disobey the same. India's laws do not provide welfare protection in any form of religious killing and do not align with international legislative approaches to some areas of animal welfare concern, such as the culling of healthy stray dogs and animal husbandry practices.. The political will to enhance animal welfare doesn't seem to exist, as seen by the failure of animal welfare organizations to have State laws changed to be more strict.

Animal lives and livelihoods are at stake due to animal owners' ignorance of concerns related to animal health and welfare. Furthermore, obstacles to advancement arise from the poverty experienced by working animal owners. Progress is also hampered by sociocultural views, as seen in the cases of the commercial exploitation of elephants, Jallikattu bulls and the use of toxic traditional remedies to cure working animals.

INTRODUCTION

Jallikattu is a sport conducted as a part of Mattu Pongal. The Mattu Pongal is the 3rd day of the four-day-long festival Pongal. It is also known as ManjuVirattu or EruThazhuvuthal.¹ ‘Jallikattu’ is evolved from the words ‘Calli’ (coins) and ‘Kattu’ (tie), which denotes a bundle of coins is tied to the bull’s horns. It is a traditional bull-taming sport practiced in Tamil Nadu, India, has been a subject of legal and ethical controversy due to its implications on animal welfare and constitutional rights.

The Madras High Court Instituted a state-wide ban on Jallikattu in 2006, and the Supreme Court upheld that Jallikattu amounted to cruelty to bulls and banned all similar bull taming and bull racing sports in the country in 2014² following the petitions of Animal Welfare Organizations including Federation of India Animal Protection Agencies (FIAPO) and People for the Ethical Treatment of Animals (PETA). It resulted into, the world witnessed an unprecedented event (massive protest). People poured into the iconic Marina Beach in Chennai to demand that the State and Union Governments amend a law.

Later, Tamil Nadu government has passed an amendment to the Act, Prevention of Cruelty to Animals Act 1960 which was approved by the President. The amendment allowed Jallikattu as it is held as a cultural pride of the state.

Historical Background of Jallikattu Sports :

Jallikattu is an ancient sport. The seals of the Indus Valley Civilization depict this sport proves that this sport was in vogue 5000 years ago. Standard texts on Indus Civilization provide this information. Ancient Tamil poetry³, has many detailed references to this sport. It was called EruThazhuvuthal (hugging the bull). In an ancient Tamil text called Tirukkural, education is considered as wealth and the word used for wealth is Madu, meaning cattle. So, cattle have a sociocultural connotation, which denotes lives and livestock having co-existed and cultures having coined usages around them.

T. Padmaja³ says “A verse in Kalithogai says that an Ay girl would not marry a man who was afraid to face a bull fight. The bulls would be let loose, and whichever young cowherd could successfully bring the beast under control in an open contest, was deemed the proper life partner for the girl.”

“The Lord wears a pearl necklace, and robes dyed red. He carries a milk pail and a gracing staff. He deftly subdued seven fierce bulls for the joy of marrying Nappinnai.”⁴ Taming of bulls thus seems to be an ancient sport, as common in the Orient as in the West.

¹ A case study of grassroots activism and people’s politics, New Delhi

² Animal Welfare Board of India v. A. Nagaraja

³ Book – ‘Temples of Kṛṣṇa in South India: History, Art, and Traditions in Tamilnāḍu’ (Padmaja, 2002)

⁴ (Iyengar, 2002)(Translated)

The Azwar calls Sri Krishna Himself a bull- “Eru”, certifying to His virility, bravery and strength.

Listing some of the Lord’s acts of bravery, Sri Nammazhwar recalls His encounter with the seven bulls- While as Sri Rama, he demonstrated his virility by lifting the Shiva Dhanus for gaining Sri Sita’s hand, the later act of taming the bulls was done again for another girl, Sri Nappinnai.”

Writer, Mr. J. H. Nelson mentions “This is a game worthy of a bold and free people, and it is to be regretted that certain Collectors (District Magistrates) should have discouraged it under the idea that it was somewhat dangerous. The jallikattu is conducted in the following manner. On a certain day in the year, large crowds of people, chiefly males, assemble together in the morning in some extensive open space, the dry bed of a river perhaps, or of a tank (pond), and many of them may be seen leading ploughing bullocks, of which the sleek bodies and rather wicked eyes afford clear evidence of the extra diet they have received for some days in anticipation of the great event. The owners of these animals soon begin to brag of their strength and speed, and to challenge all and any to catch and hold them; and in a short time one of the best beasts is selected to open the day’s proceedings. A new cloth is made fast round his horns, to be the Prize of his captor, and he is then led out into the midst of the arena by his owner, and there left to himself surrounded by a throng of shouting and excited strangers.

Unaccustomed to this sort of treatment, and excited by the gestures of those who have undertaken to catch him, the bullock usually lowers his head at once, and charges wildly into The midst of the crowd, who nimbly run off on either side to make way for him. His speed being much greater than that of the men, he soon overtakes one of his enemies and makes at him to toss him savagely. Upon this the man drops on the sand like a stone, and the bullock, instead of goring him, leaps and is over his body, and rushes after another. The second man drops in his turn, passed like the first; and, after repeating this operation several times, the beast either succeeds in breaking the ring, and galloping off to his village, charging every person he meets on the way, or is at last caught and held by the most vigorous of his pursuers.

The crowd sways violently to and fro in various directions in frantic efforts to escape being knocked over; the air is filled with shouts, screams, and laughter; and the bullocks thunder over the plain as fiercely as if blood and slaughter were their sole occupation.

In this way perhaps two or three hundred animals are run in the course of a day, and, when all go home towards evening, a few cuts and bruises, borne with the utmost cheerfulness, are the only results of an amusement which requires great courage and agility on the part of the competitors for the prizes—that is for the cloths and other things tied to the bullocks’ horns— and not a little on the part of the mere bystanders. These are concrete evidences to prove that this has been part of the long Heritage of our country. One strong characteristic of life in India is the persistence of certain social institutions, the origins of which are lost in pre-history. Though the profile of these

practices change, they retain their essential features. Jallikattu is one such precious heritage that has been preserved over millennia.”⁵

The Social and Economic Aspects of Jallikattu:

Jallikattu has a long history dating back thousands of years and is believed to have originated as a part of the Pongal harvest festival. It holds a special place in the hearts of the people of Tamil Nadu, with its roots deeply intertwined with the agrarian way of life and rural traditions of the region:

- For many communities in Tamil Nadu, Jallikattu is more than just a sport; it is a sacred ritual symbolizing bravery, virility, and the close relationship between humans and animals. Bulls participating in Jallikattu are revered and considered symbols of strength and power.
- Jallikattu events bring communities together, fostering a sense of unity, identity, and pride among participants and spectators. They serve as occasions for social bonding, celebration, and collective memory, reinforcing cultural ties and traditions.
- Beyond its cultural significance, Jallikattu also has economic implications for rural communities. The rearing and training of bulls for Jallikattu events provide livelihoods for many farmers and artisans, contributing to the local economy.
- UNESCO recognizes certain cultural practices, including traditional sports and rituals, as intangible cultural heritage. Jallikattu, with its rich history, symbolism, and communal significance, embodies this concept of intangible cultural heritage, representing the cultural identity and heritage of Tamil Nadu.

CONSTITUTIONAL ANALYSIS OF JALLIKATTU

Analysing Jallikattu from a constitutional perspective involves examining various provisions related to animal rights, cultural heritage, and public order. Jallikattu has deep cultural significance in Tamil Nadu, and its proponents argue for its protection as an integral part of their cultural heritage. This raises debates about balancing cultural traditions with ethical concerns for animal welfare. The conduct of Jallikattu events often involves large crowds and can pose challenges to public order and safety. Balancing the right to participate in cultural events with the need to maintain public order is essential in constitutional analysis.

The Constitutional Framework of animal protection in India is encompassed in the following parts:

⁵ BOOK-Castes & Tribes of Southern India: Volume 5', (Thurston, 1909)

Directive Principles of State Policy (Part IV)

Article 48 lays down that:

The State shall endeavor to organize 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.

In *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*⁷ where the Supreme Court held that Article 48 envisions a total ban on the slaughter of cows and their progeny. It observed that cattle which has served the human species must be treated with compassion in its old age even though it is useless. The Court also ruled that “it was evident from the combined reading of Articles 48 and 51- A(g) of the Constitution of India that citizens must show compassion to the animal kingdom. The animals have their own fundamental rights. Article 48 specifically lays down that the state shall endeavour to prohibit the slaughter of cows and calves, other milch and draught cattle”.

Article 48A lays down the directive principle for protection and improvement of environment and safeguarding of forests and wildlife. It reads as: “The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.” This Article was added by the 42nd Amendment, 1976 and places an obligation on the State to protect the environment and wildlife. While not judicially enforceable, Article 48A may become enforceable under the ambit of the right to life under Article 21

Fundamental Duties (Part IV-A)

Article 51A(g) of the Indian Constitution:

As per this Article, “It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures.” It means that every citizen is obliged to protect the environment; therefore, safeguarding bulls involved in Jallikattu sports from any kind of cruelty is also an essential fundamental duty of every citizen. However, the practice of Jallikattu involves significant risks to the safety and well-being of the bulls involved, raising questions about its compatibility with the constitutional principles.

Allocation of powers between the Union and the States (the 7th Schedule)⁶

In the context of animal rights, the following matters have been allocated in the State and Concurrent List.

⁶ The Constitution of India, 1950.

- **Item 14** of the State List provides that the States have the power to “preserve, protect and improve stock and prevent animal diseases and enforce veterinary training and practice.”
- In the Concurrent List, both the Centre and the States have the power to legislate on:
- **Item 17:** “Prevention of cruelty to animals.”
- **Item 17B:** “Protection of wild animals and birds.”

Fundamental Rights (Part III)

“Protection of life and personal liberty- No person shall be deprived of his life or personal liberty except according to procedure established by law.”⁷

APPLICATION OF ARTICLE 21 TO NON HUMAN BEINGS

Indian judiciary has been widening the scope of the Constitution as well as Article 21 not for citizen or person only but for non human beings also. According to the Supreme Court the word “life” has been given an expanded definition and an disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, fall within the meaning of Article 21 of the Constitution of India. The High Court of Gujarat while interpreting the Cattle Trespass Act, 1871, realized that Cattle like human-beings possess life in them. According to the Court even an animal has a right to say that its liberty cannot be deprived except in accordance with law. There are many enactments which have recognized rights of the animals. The High Court of Delhi held that running the trade of birds was in violation of the rights of the birds. Nobody is caring as to whether they have been inflicting cruelty or not despite of settled law that birds have a fundamental right to fly and cannot be caged and will have to be set free in the sky. Actually, they are meant for the same. But they are exported illegally in foreign countries without availability of proper food, water, medical aid and other basic amenities required as per law. Birds have fundamental rights including the right to live with dignity and they cannot be subjected to cruelty by anyone. Therefore, all the birds have Fundamental rights to fly in the sky and all human beings have no right to keep them in small cages for the purposes of their business or otherwise. Again in *Muhammadbhai Jalalbhai Serasiya vs. State of Gujarat*¹⁰, the Gujarat High Court held that to keep birds in cages would tantamount to illegal confinement of the birds which is in violation of Right of the birds to live in free air and sky. Thereby the High Court directed to release such illegally confined birds in the open sky or air.

The Madras High Court In *S. Kannan vs. Commissioner of Police*, held that protection shall be granted to all kind of birds including poultry against cruelty in any manner, observing —the birds and animals are entitled to co-exist along with human beings. The court also issued orders prohibiting Cock fight and any other bird or animal fight for the sake of enjoyment of spectators.

⁷ Article 21 of The Constitution of India, 1950.

In *Narahari Jagadish Kumar vs. State of Andhra Pradesh*¹¹ case was related to prevent organizing cock fights with betting during Sankranti festival in Krishna, West Godavari and East Godavari

Districts of Andhra Pradesh. The High Court issued directions to State Government as well as District authorities to take stringent steps to stop such bloody and gruesome throughout the year.

In the line of A. Nagaraja case it was also held that the Right to dignity and fair treatment was not confined to human beings alone but to animals as well. Animals also had a right not to be tortured by human beings, and from being inflicted with unnecessary pain or suffering. Any disturbance from the basic environment which included all forms of life, including animal lives which were necessary for human life, falls within the ambit of Article 21.

Recently in *Lalit Miglani vs. State Of Uttarakhand*⁸ case, by invoking parens patriae jurisdiction, the Uttarakhand High Court declared the Glaciers including Gangotri & Yamunotri, rivers, streams, rivulets, lakes, air, meadows, dales, jungles, forests wetlands, grasslands, springs and waterfalls, legal entity or legal person or juristic person or juridical person or moral person or artificial person having the status of a legal person, with all corresponding rights, duties and liabilities of a living person, in order to preserve and conserve them. They were also accorded the rights akin to fundamental rights or legal rights. In a public interest petition the High Court of Uttarakhand by invoking the 'Doctrine of parents patriae' has issued nearly 30 mandatory directions for the welfare of the cows and other stray cattle especially for prohibition of illegal slaughtering of cows and selling of their meat, protection of stray cattle and their shelter and also prevention of illegal transportation of cattle. "Animal Law" is a relatively new development where the legal, social, and biological nature of non-human animals is important factor and societal perceptions towards them have changed over time. Fifty years ago, the term "animal rights" was virtually unknown. In the last three decades of the twentieth century, the term began to appear in court decisions and news stories. The increasing frequency with which it was used, however, did not correlate with any increase in the clarity of its meaning.

Analysing the phrase as it appears in law and the culture at large raises more questions than it answers, leaving doubt as to whether the term has any value as a tool for communicating meaning. So, animal laws have a passage from economic purposes to ecological objects to ethical reasons. At the same time, animals have established their rights also and the scope of law has been changed from conservation to protection and ultimately to welfare.

⁸ Writ petition (PIL) Number; 140 of 2014

DOCTRINE OF PARENS PATRIAE FOR ANIMALS

In the landmark *A. Nagaraja*⁹ case, the Supreme Court held that the Court has also a duty under the doctrine of parens patriae to take care of the rights of animals, since they are unable to take care of themselves as against human beings. In the same line, the High Court of Himachal Pradesh has invoked the doctrine of parens patriae along with other Constitutional provisions to protect the basic rights of animals. The High Court has prohibited sacrifice any animal or bird in any place of religious worship, adoration or precincts or any congregation or procession connected with religious worship, on any public street, way or place and also the State Government was directed to publish and circulate pamphlets henceforth to create awareness among the people, to exhibit boards, placards in and around places of worship banning the sacrifice of animals and birds. The courts are duty bound to protect the environmental ecology under the 'New Environment Justice Jurisprudence' and also under the principles of parens patriae. The concept of parens patriae recognizes the State as protector of its citizens as parent particularly when citizens are not in a position to protect themselves. The Preamble to the Constitution, read with directive principles, under Articles 38, 39 and 39-A enjoins the State to take all protective measures to which a social welfare State is committed. The Supreme Court allowed the applicants to file the case and emphasized the duty of the state as parens patriae. The Court observed that the petitioner's 'personality to sue on behalf of the succeeding generations can only be based on the concept of intergenerational responsibility'. The sovereign authority has kind of guardianship over various classes of persons, who, from their legal disability, stand in need of protection, such as infants, idiots and lunatics. The history of the parens patriae jurisdiction begins in the reign of King Edward I from 1272 to 1307 – with the institution of a system of ward ship whereby the Crown possessed the prerogative power to exercise various legal rights on behalf of those who were deemed unable to properly manage their own affairs, called 'wards'. Parens Patriae jurisdiction is the right of the sovereign and imposes a duty on sovereign, in public interest, to protect persons under disability who have no rightful protector.

JUDICIAL MANDATE ON CRUELTY TO ANIMAL

The Indian judiciary has consistently worked to protect animals from harm through its rulings and necessary interpretations.

In *Narahari Jagadish Kumar vs. State of Andhra Pradesh*¹⁰¹¹ case, three writ petitions filed to declare the inaction of the respondents to implement the provisions of the Prevention of Cruelty to Animal Act, 1960 and the A.P. Gaming Act, 1974 against anti- social elements organizing cock-fights with betting, selling illicit liquor, gambling, and subjecting animals and birds to cruelty

⁹ AIR 2014 SC 2753

¹⁰ AIR 2015 SC 1

¹¹ SCC

during Sankranti festival in Krishna, West Godavari and East Godavari Districts of Andhra Pradesh and not forming Societies for Prevention of Cruelty to Animals (SPCA) for each district. According to petitioners Cock fight was a cruel sport where cocks and roosters were forced to fight each other or sometimes to death and knives, blades and iron claws were attached to the rooster's legs to make the fight bloody and gruesome throughout the year. Such cock-fights inflicted on Cocks or roosters unnecessary pain and suffering in violation of Sections 3 and 11(1) m, (ii) and (n) of the Prevention of Cruelty to Animal Act, 1960. Those events used to have political patronage and District Collectors and District Superintendent of Police used to turn a blind eye to those events. It was also submitted that cockfight events were organized where two roosters were specially bred and were trained to fight and were given steroids to make them more aggressive. Cockfights glorified violence and such a bloody sport used to make spectators immune to the pain and suffering of animals such event encourage people not to discharge their fundamental duty under Article 51A (g) of the Constitution, to have compassion for living creatures. The High Court issued directions that (1) the Government of A.P. should constitute SPCAs in all Districts strictly in accordance with the 2001 Rules at the earliest and in any event not later than 31.01.2017 in line of orders of the Supreme Court in *Geeta Seshamani vs. Union of India*¹⁵ and *Gauri Maulekhi vs. Union of India*¹². The District Collectors of all the Districts, more particularly of West Godavari, East Godavari, Krishna and Guntur, shall constitute joint inspection teams, for each Mandal in their respective Districts, consisting of a police officer not below the rank of Sub-Inspector of Police, the Tahsildar and a representative of either the Animal Welfare Board of India or a member of a non- governmental organization espousing the cause of animals or persons involved in the prevention of cruelty to animals. The District Collector or the Commissioners of Police or Superintendent of Police of the District, on being informed about playgrounds and Cockpits, should take immediate action to ensure for not conducting cock- fights and may invoke Section 144 of Code of Criminal Procedure, if needed. The Joint inspection team should be entitled to enter any premises to seize cocks or roosters which were intended to be set up for cock- fights and should also be entitled to seize instruments used or intended to be used for the Cock fights and any money collected towards betting at such events. All the District Collectors or the Commissioners of Police and the Superintendent of Police, more particularly from those four Districts, should ensure effective implementation of the provisions of the Prevention of Cruelty to Animal Act, 1960 and the A.P. Gaming Act, 1974 and they should be personally responsible for lapses.

In *Wildlife Rescue and Rehabilitation Centre vs. Union of India*¹³ case, the Writ petition was related to the cruelties to the number of elephants owned by private individuals in the State of Kerala. Section 40 of the Wild Life (Protection) Act, 1972 requires that every person having the control, custody or possession of any captive animal shall declare to the Chief Wild Life Warden or the authorized officer the number and description of the animal, or article of the foregoing

¹² (2014) 2 SCC 417

¹³ (2016) 13 SCC 482

description under his control, custody or possession and the place where such animal or article is kept.. According to the Court, the Kerala Captive Elephants (Management and Maintenance) Rules, 2012 was framed by the State Government where under Rule 8(13) every owner shall maintain an Elephant Data Book as specified by the Chief Wildlife Warden for each captive elephant. The Court also decided that the District Committee constituted under the Rule of 2012 would take necessary measures to ensure that the festival committee constituted for smooth conduct of the festivals or the persons organizing such functions in which elephants are exposed are required to adhere to many a measure. The Court also directed that the temples or the Devaswom should get themselves registered with the district committee so that there would be effective and proper control.

The Supreme Court of India constantly performing for protection of natural resources since independence of the country. Again on the backdrop of international awareness during 1970s the court took massive initiative for conservation of ecology and wild animals in the nature. But latest trend of the Supreme Court developed to protect wild animals not for human beings but for nature itself. In this regard Centre for environmental Law, *WWF vs. Union of India*¹⁴ and more recent *T. N. Godavarman Thirumulpad vs. Union of India*¹⁵ cases are important which have a paradigm shift been from anthropocentric environmentalism to eco-centric environmentalism in India. Even more recently Animal Welfare Board of India vs. A. Nagaraja⁸⁸ case the Supreme Court has established a new dimension of animal jurisprudence in this country and subsequently the trend is being followed by the judiciary especially High Courts of the states to protect animals from slaughter, experiments, entertainments, trade and other inhumane activities.

Case Study: The Animal Welfare Board of India vs Union of India on 18 May, 2023

BACKGROUND

Between 2008 and 2014, 43 humans and 4 bulls were killed in the Jallikattu events. In 2017, there were 23 deaths in addition to about 2,500 human injuries and several instances of injury to the bulls. Year 2020 saw 5 deaths from participation in the event.

Animal welfare concerns are related to the handling of the bulls before they are released and also during competitor's attempts to subdue the bull. Practices before the bull is released include prodding the bull with sharp sticks or scythes, extreme bending of the tail which can fracture the vertebrae, and biting of the bull's tail. There are also reports of the bulls being forced to drink alcohol to disorient them, or chilli peppers being rubbed in their eyes to aggravate the bull.

¹⁴ (2013) 8 SCC 579

¹⁵ (1997) 2 SCC 267

During attempts to subdue the bull, they are stabbed by various implements such as knives or sticks, punched, jumped on and dragged to the ground. In variants in which the bull is not enclosed, they may run into traffic or other dangerous places, sometimes resulting in broken bones or death. Along with human injuries and fatalities, bulls themselves sometimes sustain injuries or die, which people may interpret as a bad omen for the village.

Supreme Court of India banned Jallikattu in 2014 following the petitions of Animal Welfare Organizations including Federation of India Animal Protection Agencies (FIAPO) and People for the Ethical Treatment of Animals (PETA). In the petition seeking compliance of *Animal Welfare Board of India v. A.Nagaraja*¹⁶, in the light of the cruelty to Bulls in the Jallikattu event, the bench of former Chief Justice of India Dipak Mishra and Justice RF Nariman, referred the matter to a 5judge Constitution bench as it noticed that the writ petitions involve substantial questions relating to the interpretation of the Constitution of India.

The petitions challenge the validity of the following Amendments Acts:

- The Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act, 2017.
- The Prevention of Cruelty to Animals (Karnataka Second Amendment) Act, 2017.
- The Prevention of Cruelty to Animals (Maharashtra Amendment) Act, 2017.

After the aforesaid three Amendment Acts received Presidential assent, the States of Tamil Nadu and Maharashtra formulated Rules for conducting the aforesaid bovine sports, such as:

- The Tamil Nadu Prevention of Cruelty to Animals (Conduct of Jallikattu) Rules, 2017
- The Maharashtra Prevention of Cruelty to Animals (Conduct of Bullock Cart Race) Rules, 2017

ANALYSIS

The Court noted that for organising of Bullock Cart Race, Rules stipulate the way such races could be conducted with specifications for length of the track, rest period and isolation of the track from public. The Tamil Nadu Rules specifically provides for examination of bulls, with specifications for the arena, bull collection yard as also setting up of spectators' gallery. These instruments in substance prohibit causing any physical disturbance to the bulls like beating and poking them with sharp objects, sticks, pouring 24 chilli powder in their eyes, twisting their tails and other pain inflicting acts.²¹

The Animal Welfare Board ('Board') submitted that even after the State Amendments, the activities sought to be legitimised, still remain destructive and contrary to the provisions of Sections 3, 11(1)(a) and (m) of the PCA Act. It contended that the Amendment Acts do not cure the defects or

¹⁶ (2014) 7 SCC 547

deficiencies brought about by the judgment of A. Nagaraja (supra). The ratio of the said judgment is sought to be bypassed through these Amendment Acts, which is impermissible in law. It has also been argued that the expression “person” as used in Article 21 of the Constitution of India includes animals, and their liberty is sought to be curtailed by legitimising the aforesaid bovine sports and the instrument of such legitimisation being the three Amendment Acts is unreasonable and arbitrary, thereby not meeting the standard of Article 14 of the Constitution of India. Further, these sports cannot be held to be part of cultural heritage of the State of Tamil Nadu which is so provided in the Preamble of the Amendment Act of that State.

On the argument that animals also have fundamental rights, the Court said that there is no precedent and the only tool available for testing this proposition is interpreting the three Amendment Acts on the anvil of reasonableness in Article 14 of the Constitution of India. The Court opined that Article 14 of the Constitution cannot be invoked by any animal as a person. However, the Court can test the provisions of animal welfare legislation, but at the instance of a human being or a juridical person who may espouse the cause of animal welfare.

The issues placed before the Constitution Bench²² was as follows:

Is the Tamil Nadu Amendment Act referable, in pith and substance, to Entry 17, List III of the Seventh Schedule to the Constitution of India, or does it further and perpetuate cruelty to animals; and can it, therefore, be said to be a measure of prevention of cruelty to animals?

The Court opined that, the expressions Jallikattu, Kambala and Bull Cart Race as introduced by the Amendment Acts of the three States have undergone substantial change in the manner they were used to be practiced or performed and the factual conditions that prevailed at the time the A. Nagaraja (supra) judgment was delivered cannot be equated with the present situation. The Court said that the large part of pain inflicting practices, as they prevailed in the manner these three sports were performed in the pre-amendment period have been substantially diluted by the introduction of these statutory instruments.

The Bench said that It cannot strike down the law on apprehension of its abuse or disobedience. Further, it stated that all the three bovine sports, after amendment, assume different character in their performance and practice, and for these reasons ejected the Board’s argument that the Amendment Acts were merely a piece of colourable legislation with cosmetic change to override judicial pronouncement.

After reading the amended Statutes with the respective Rules or Notification, the Court viewed that the Amendment Acts do not encroach upon the Central legislation.

The Court held that Tamil Nadu Amendment Act is not a piece of colorable legislation. It relates in pith and substance to entry 17, List III of the Seventh Schedule to the Constitution of India. It minimises cruelty to animals in the sports concerned and once the Amendment Act, along with the rules and notifications are implemented, the aforesaid sports cannot come within the mischief sought to be remedied by Sections 3, 11(1)(a) and (m) of the PCA Act. Jallikattu is a type of bovine sport, and it is going on in Tamil Nadu for at least last few centuries. This sport is an integral part of Tamil culture requires religious, cultural, and social analysis in greater detail, which cannot be undertaken by the judiciary. The question that the Tamil Nadu Amendment Act is to preserve the cultural heritage of the particular State is a debatable issue, which has to be concluded in the House of People and ought not be a part of the Judicial inquiry.

- **Is it colorable legislation which does not relate to any Entry in the State List or Entry**
- **17 of the Concurrent List? The Tamil Nadu Amendment Act states that it is to preserve the cultural heritage of the State of Tamil Nadu. Can the impugned Tamil Nadu Amendment Act be stated to be part of the cultural heritage of the people of the**
- **State of Tamil Nadu to receive the protection of Article 29 of the Constitution of India?**

The Court further held that the Tamil Nadu Amendment Act In not in pith and substance, to ensure survival and well-being of the native breeds of bulls. It is also not relatable to Article 48 of the Constitution. Incidental impact of the said amendment may fall upon the breed of a particular type of bulls and affect agricultural activities, but the said amendment is referable in pith and substance to Entry 17, List III of the Seventh Schedule to the Constitution.

Does the Tamil Nadu Amendment Act go contrary to Articles 51-A(g) and 51-A(h), and could it be said, therefore, to be unreasonable and violative of Articles 14 and 21 of the Constitution of India?

The Court opined that Tamil Nadu Amendment Act do not go contrary to Articles 51-A(g) and 51-A(h), and it does not violate Articles 14 and 21 of the Constitution of India

Is the impugned Tamil Nadu Amendment Act directly contrary to the Nagaraja judgment, and the review judgment of 2016 in the aforesaid case, and whether the defects pointed out in the aforesaid two judgments could be said to have been overcome by the Tamil Nadu Legislature by enacting the impugned Tamil Nadu Amendment Act?

The Court held that the Tamil Nadu Amendment Act along with the Rules concerned is not directly contrary to the Nagaraja judgment, and the review judgment of 2016 dismissing the plea for review of A Nagaraja Judgment, as the defects pointed out by the aforesaid Judgments have been overcome by the Tamil Nadu Legislature by enacting the impugned Tamil Nadu Amendment Act.

In other words:

The Supreme Court on May 18th, 2023, in the Animal Welfare Board v Union Of India case, upheld the practice of Jallikattu as per the 2017 Tamil Nadu Amendment to the Prevention of Cruelty to Animals Act, 1960.

CONCLUSION

The Jallikattu sports case highlights the complexities of balancing cultural traditions with animal welfare concerns. The Supreme Court's decision to ban Jallikattu in 2014, and subsequent attempts to revive the sport through legislative and judicial means, demonstrate the ongoing struggle to reconcile competing interests. This research paper has examined the legal, cultural, and ethical dimensions of the Jallikattu debate, revealing the need for a nuanced approach that respects both cultural heritage and animal rights. Ultimately, the Jallikattu case serves as a catalyst for broader discussions on the intersection of tradition, culture, and animal welfare in India, underscoring the importance of finding a middle ground that honours the country's rich cultural diversity while ensuring the humane treatment of animals."

In my opinion there is a long way to go before India's animal law has a genuinely strong basis. The Indian Constitution's animal protection clauses are still regarded as ideals rather than as binding legal requirements. The Prevention of Cruelty to Animals Act 1960's punishments for animal cruelty are just too lenient to effectively discourage crimes against animals. The statute includes a number of clauses that allow for liability to be avoided and are not strictly enforced. Significant changes must be made in this area so that India can have more robust animal protection legislation.