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Case Comment: Balancing Cultural Rights and Animal Welfare: A Comment on Animal Welfare Board v Union of India

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INTRODUCTION

Jallikattu is a traditional bull-taming sport from Tamil Nadu, India, celebrated during the Pongal harvest festival. Participants attempt to grab the hump of a running bull and hold on, showcasing bravery and strength. The term 'Jallikattu' originates from the Tamil words *salli* (meaning 'calli' or 'coins') and *kattu* (meaning 'to tie'), referencing a bundle of coins that was historically tied to the bull's horns as a prize. A centuries-old tradition in the community, a vibrant festival that everyone eagerly awaits. Which tradition involves animals in a way that many people argue is cruel and painful? This marks the culmination of a lengthy and emotionally charged legal battle in India, which culminated in a decision by a five-judge bench of the Supreme Court in May 2023. The case, *Animal Welfare Board of India v Union of India, 2023*,¹ was about whether traditional sports like Jallikattu (bull-taming) in Tamil Nadu, Kambala (buffalo racing) in Karnataka, and Bullock Cart Races in Maharashtra should be allowed to continue or not.

¹ *Animal Welfare Board of India & Ors v Union of India & Anr* (2023) INSC 548

The Supreme Court's Constitution Bench examined the constitutionality of these amendments during a lengthy hearing in late 2022. The Court affirmed the State amendments in a unanimous ruling written by Justice Aniruddha Bose, highlighting the importance of cultural rights, federal autonomy, and legislative intent. The ruling is the result of almost twenty years of legal dispute between supporters of traditional rural sports and civil society organisations like PETA and the Animal Welfare Board of India. This decision marks a significant turning point in the development of Indian animal welfare law. The Supreme Court addressed the conflict between tradition and the ethical treatment of animals by revisiting and effectively modifying the principles established in *A. Nagaraja*, thereby influencing the discussion on the boundaries of cultural rights under the Constitution.

THE BACKSTORY OF CULTURAL PRACTICE JALLIKATTU

Jallikattu or 'Eruthazhuvuthal' is a very old and traditional sport from Tamil Nadu. People there have been playing it for over 2000 years, so it is a deeply important part of their culture and history. In this sport, a bull is let loose into a crowd of people. The participants then try to grab the bull by its hump and hold on to it to bring the animal under control.²

Even though it is a tradition, this sport is often challenged in court. The main reason is the way the bulls are treated. It is said that the animals are often fed chemicals or hurt to make them more aggressive and frantic during the event. This is considered cruel and a violation of the animal's rights. The sport is also allegedly harmful to the people involved. Because they are trying to control a powerful, agitated bull, participants often get seriously injured. These injuries can be severe, and there have even been cases of people dying while taking part in the event.³

In 2007, the Animal Welfare Board of India filed a petition before the Supreme Court, through which the court was placed before a two-judge bench that gave its verdict in the year 2014 in the *Animal Welfare Board of India v A. Nagaraja and Ors*⁴ case by banning the sport of Jallikattu practised in Tamil Nadu. The Court also directed the Parliament to elevate the rights of animals to the status of constitutional rights to protect their dignity and honour. It

² Ishan Ranjan, 'Case Comment: Animal Welfare Board of India and Others v Union of India and Another (2023)' (2023) 5(3) Indian Journal of Law and Legal Research <<https://www.ijlrl.com/post/case-comment-animal-welfare-board-of-india-and-others-v-union-of-india-and-another-2023>> accessed 12 November 2025

³ *Ibid*

⁴ *Animal Welfare Board of India v A Nagaraja and Ors* (2014) 7 SCC 547

is called the PCA Act, 1960, which is a welfare legislation, to be one with the capacity to 'overshadow' and 'override' any such 'so-called tradition and culture.'⁵

In 2016, the Ministry of Environment, Forest and Climate Change issued a notification prohibiting the exhibition, training or performing of bulls as performing animals. It also had an exception for bulls used in Jallikattu, which could be trained subject to conditions in order to reduce the pain and suffering of the bulls.⁶

In 2017, the Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act, 2017 was passed, which abrogated the effect of the Supreme Court's decision in the state of Tamil Nadu, which was passed in 2014. Similar legislations were also passed in other states to validate similar sports played in these states.⁷

In Tamil Nadu, many people saw Jallikattu as an inseparable part of their cultural identity, which proves bravery, according to them because of that. It was met with strong protests in states like Tamil Nadu. In response, those state governments amended the central PCA Act in 2017. These amendments made an exception for these specific sports, claiming they were part of the state's 'cultural heritage.' These state laws were then sent to the President of India for approval, which they received.

In 2018, these Acts were challenged before the Supreme Court by a writ petition in the case of 'Animal Welfare Board of India and Ors v Union of India and Anr', which was referred to a five-judge bench by the Honourable Court.

THE SUPREME COURT'S KEY DECISIONS

The Supreme Court passed an order on 2nd February 2018, formulating five questions to be addressed by a Constitution Bench, and the papers were directed to be placed before the Hon'ble Chief Justice of India. The Division Bench had formulated the following 5 questions, which were:

1. 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

⁵ Ranjan (n 2)

⁶ *Ministry of Environment, Forest & Climate Change Notification* (Government of India, 15 January 2016)

⁷ The Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act 2017

to animals; and can it, therefore, be said to be a measure of prevention of cruelty to animals? Is it colourable legislation which does not relate to any Entry in the State List or Entry 17 of the Concurrent List?

2. 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?

3. Is the Tamil Nadu Amendment Act, in pith and substance, to ensure the survival and well-being of the native breed of bulls? Is the Act, in pith and substance, relatable to Article 48 of the Constitution of India?

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

5. Is the impugned Tamil Nadu Amendment Act directly contrary to the judgment in *A. Nagaraja* (supra), and the review judgment dated 16th November, 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?⁸

In this matter, various laws and doctrines were applied, which were –

- Doctrine of Pith and Substance.
- Doctrine of Colourable Legislation.
- Article 51A(g) of The Constitution of India.⁹
- Article 51A(h) of The Constitution of India.¹⁰
- Article 14 of The Constitution of India.¹¹
- Article 21 of The Constitution of India.¹²

⁸ *Ibid*

⁹ Constitution of India 1950, art 51A(g)

¹⁰ Constitution of India 1950, art 51A(h)

¹¹ Constitution of India 1950, art 14

¹² Constitution of India 1950, art 21

- Article 48 of The Constitution of India.¹³
- Article 29(1) of The Constitution of India.¹⁴
- The Prevention of Cruelty to Animals Act 1960.¹⁵
- The Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act 2017.¹⁶
- The Prevention of Cruelty to Animals (Karnataka Second Amendment) Act 2017.¹⁷
- The Prevention of Cruelty to Animals (Maharashtra Amendment) Act 2017.¹⁸

There are also many cases on which both the parties and the honourable court relied, the core argument of the parties and the analysis of the court were –

ARGUMENTS OF THE PARTIES

Petitioner(s) –

The most relevant arguments that the counsel argued on behalf of the Petitioner(s) were:

1. Even after the State Amendments, the activities (Jallikattu, Bullock Cart Race, Kambala) remain destructive and contrary to the provisions of Sections 3, 11(1)(a), and (m) of the PCA Act 1960. The Amendment Acts do not cure the defects or deficiencies identified in the A. Nagaraja judgment is an attempt to bypass its ratio, which is impermissible in law.¹⁹
2. The expression ‘person’ in Article 21 of the Constitution includes sentient animals. By legitimising the bovine sports, the Amendment Acts unreasonably and arbitrarily curtail the animals' liberty, thereby violating Article 14 of the Constitution. The petitioners argue for a rights-regime for animals, inter-weaving Articles 14, 21, 48, and 51-A(g) & (h).²⁰
3. The sports cannot be held to be part of the cultural heritage of the respective states (as claimed in the Preambles of the Amendment Acts). The Tamil Nadu Amendment Act, in

¹³ Constitution of India 1950, art 48

¹⁴ Constitution of India 1950, art 29(1)

¹⁵ The Prevention of Cruelty to Animals Act 1960

¹⁶ The Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act 2017

¹⁷ The Prevention of Cruelty to Animals (Karnataka Second Amendment) Act 2017

¹⁸ The Prevention of Cruelty to Animals (Maharashtra Amendment) Act 2017

¹⁹ The Prevention of Cruelty to Animals Act 1960, ss 3, 11(1)(a) and 11(1)(m)

²⁰ The Constitution of India 1950, arts 14, 21, 48, 51A(g) and 51A(h)

particular, seeks to invalidate a conclusive judicial opinion without curing the defects specified in the A. Nagaraja's decision regarding the conduct of Jallikattu.²¹

4. The Amendment Acts are *colourable legislation*. They seek to validate provisions that were held illegal by the Supreme Court without curing the outlined defects, meaning they are not a legitimate exercise of legislative power in light of the constitutional provisions.

5. The subject matter of the Amendment Acts does not relate to Entry 17 of List III (Concurrent List) of the Seventh Schedule to the Constitution. Therefore, the State Legislatures lacked the legislative competence to enact them, and the subsequent Presidential assent cannot cure this inherent incompetence.

Respondent(s) –

The most relevant arguments that the counsel argued on behalf of the Respondent(s) were:

1. Amendment Acts, when read together with the consequential Rules and Notifications that provide for rigid regulatory measures, alter the manner of conducting these sports. These instruments eliminate or substantially dilute the pain-inflicting practices that were prevalent earlier, thus addressing the defects pointed out in the A. Nagaraja judgment.

2. The bovine sports (Jallikattu, Kambala, Bullock Cart Race) are part of the culture and tradition of the respective States (Tamil Nadu, Karnataka, Maharashtra). The legislative bodies, having recognised them as such in the preambles and body of the Amendment Acts, are the appropriate judges to determine what constitutes the cultural heritage of a region.

3. While the fact that animals are sentient beings is not directly contested, the nature, contours, and limitations of their rights should be determined by the legislature through the enactment of laws. This is a matter of seminal societal impact that is better suited for the legislative body to decide, rather than being determined by judicial interpretation.

4. Prohibition of practices like the Bullock Cart Race could lead to the collapse of specific native breeds of cattle that are useful for agricultural purposes. Therefore, the Amendment

²¹ The Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act 2017

Acts are also relatable to the preservation and improvement of livestock, which falls under the State's legislative competence (Entry 15, List II).²²

COURT'S OBSERVATION AND ANALYSIS

In light of the arguments, the honourable court addressed the five questions and observed that the Tamil Nadu Amendment Act is not a piece of colourable legislation. It relates, in '*pith and substance*', to Entry 17 of List III of the Seventh Schedule to the Constitution of India. It minimises cruelty to animals in the concerned sports, and once the Amendment Act, along with its Rules and Notification, is implemented, the aforesaid sports would not come within the mischief sought to be remedied by Sections 3, 11(1)(a) and (m) of the 1960 Act.²³ The court decided that it is not the judiciary's job to decide if Jallikattu is truly a part of Tamil culture; that is a matter for the elected government to determine. Since the Tamil Nadu legislature has officially passed a law stating that Jallikattu is part of its cultural heritage, the court will respect that decision. The court also disagreed with an earlier ruling.

The Nagaraja case,²⁴ which had banned Jallikattu, stated that there wasn't enough evidence for the court to conclude that it wasn't cultural. However, the court made it clear that a cultural tradition cannot be used as an excuse to break animal cruelty laws. The very important thing that needs to be looked at is that Jallikattu is now only legal because the new state law and its strict rules are designed to significantly reduce the pain and suffering of the bulls, making the event comply with the law. The Tamil Nadu Amendment Act is not in *pith and substance* to ensure the survival and well-being of the native breeds of bulls. The said Act is also not relatable to Article 48 of the Constitution of India. Incidental impact of the said Amendment Act may fall upon the breed of a particular type of bulls and affect agricultural activities, but in the *pith and substance*, the Act is relatable to Entry 17 of List III of the Seventh Schedule to the Constitution of India²⁵. The Honourable Court negatively addressed the fourth question, in the observation of the court, the Tamil Nadu Amendment Act does not go contrary to the Articles 51-A (g) and 51-A(h),²⁶ and it does not violate the provisions of Articles 14 and 21 of the Constitution of India. The hon'ble Court observed that the Tamil

²² The Constitution of India 1950; *Animal Welfare Board of India v Union of India* (2023) INSC 548

²³ The Prevention of Cruelty to Animals Act 1960, ss 3, 11(1)(a) and 11(1)(m)

²⁴ *Animal Welfare Board of India v A Nagaraja and Ors* (2014) 7 SCC 547

²⁵ The Constitution of India 1950

²⁶ The Constitution of India 1950 arts 51A(g) and 51A(h)

Nadu Amendment Act, read along with the Rules framed in that behalf, is not directly contrary to the ratio of the judgment in the case of A. Nagaraja and judgment of this Court delivered on 16th November 2016, dismissed the plea for Review of the A. Nagaraja judgment as in the observation of the court that the defects pointed out in the aforesaid two judgments have been overcome by the State Amendment Act read with the Rules made in that behalf. Decision of the Hon'ble Court on the Tamil Nadu Amendment Act would also guide the Maharashtra and the Karnataka Amendment Acts, and the Court found all three Amendment Acts to be valid legislation. However, we direct that the law contained in the Act/Rules/Notification shall be strictly enforced by the authorities. In particular, we direct that the District Magistrates/competent authorities shall be responsible for ensuring strict compliance with the law, as amended, along with its Rules/Notifications.

CONCLUSION

The Supreme Court's verdict in *Animal Welfare Board v Union of India* fundamentally establishes that the judiciary will defer to the legislature's determination of what constitutes a cultural tradition. By upholding the Tamil Nadu Amendment Act, the court prioritised cultural identity over a strict interpretation of animal welfare laws, reversing the interpretation of its earlier *A. Nagaraja* ruling. The practice of Jallikattu can be done as a cultural expression, but the way it is done must follow new rules that are meant to minimise the cruelty.

However, what is happening in the real world is putting this legal compromise to the test. The Hindu reports that a tamer died and 36 others were hurt at a Jallikattu event in Melarasur.²⁷ This gives us an example of the disparity between the objectives of the law and its implementation, and this event shows that the sport's inherent violence and danger continue, which makes the court's reliance on the regulatory framework very questionable.

²⁷ 'Tamer dies in jallikattu organised at Melarasur, 36 injured' *The Hindu* (12 May 2025) <<https://www.thehindu.com/news/cities/Tiruchirapalli/tamer-dies-in-jallikattu-organised-at-melarasur-36-injured/article69564367.ece>> accessed 17 November 2025