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ANIMAL BLOOD SPORT AND RELIGIOUS FESTIVALS OF INDIA: TRADITION OR BARBARISM?

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“The greatness of a nation and its moral progress can be judged by the way its animals are treated.”

-Mahatma Gandhi

INTRODUCTION

Ever since history has been recorded and read, the role of animals in the accounts of the early sapiens is undeniable. Animals have not only aided in the nourishment and development of skills to thrive through the tough waves of evolution, but have also been widely regarded in the holy texts of various religions.

In Rig Veda and Atharva Veda, it has been mentioned that high praise should be given to anyone who is sensitive towards animals. Further, the regard towards certain animals is magnified due to them being the reincarnate avatars of Hindu deities.¹ The notion has been further enunciated in Yagnavalkya Smriti, which states, “the wicked person who kills animals which are protected has to live in hellfire for the days equal to the number of hairs on the body of that animal”.² Similarly, Buddhism propounds in the virtue of compassion and ahimsa (non-violence) towards animals and condemns their blind exploitation for the benefit of the humankind.³

However, despite several beliefs and teaching, it cannot be ignored that the Indian society's views on animal protection and worship is hypocritical. While cows are worshipped as holy and

¹ Krishna,N., Sacred Animals of India. (Penguin Books India,2010)

² Ibid, Pg 16

³ Finnigan, B., Buddhism And Animal Ethics(Jul. 6.2017)

<https://onlinelibrary.wiley.com/doi/abs/10.1111/phc3.12424>

pious animals, bulls are paraded for pleasure and sport during various religious festivals. Similarly, despite the precedence set by the Hon'ble Supreme Court, animal sacrifice as a means to appease the Gods is prevalent.

The country witnesses the cruel animal sport of Kambala, Cock fights, Bulbul fights, to name a few during religious festivals and celebrations in the country. These animals are slaughtered, prodded and defiled for sport. While some of these issues and their negative repercussions have been brought to light for redressal before the judiciary, there has rarely been any positive change for the better.

AN OVERVIEW OF ANIMAL PROTECTION LAWS- SPECIFIC TO CRUELTY

India has one of the most detailed, yet unenforced animal rights and protection laws in the world.

1. First and foremost, it is the duty of all citizens to protect wildlife and have compassion for all living creatures.⁴
2. Article 48A poses a duty on state to protect, safeguard and improve the forests and wildlife of the country. Further, both the Centre and the States have the power to legislate on "Prevention of cruelty to animals."⁵ and "Protection of wild animals and birds."⁶
3. A. The most basic statute against animal cruelty is The Prevention of Cruelty to Animals Act, 1960(hereafter, referred to as P.C.A.A.).⁷ Section 11 of the Act lists out acts that can be regarded as being cruel to animals and prescribes punishment for the same.

⁴ Indian Const.art.51-A, Cl.(g)

⁵ Ibid, Concurrent List, Item 17A

⁶ Ibid, Concurrent List, Item 17B

⁷ The Prevention of Cruelty to Animals, No. 59 of 1960, India Code

https://www.indiacode.nic.in/bitstream/123456789/11237/1/the_prevention_of_cruelty_to_animals_act%2C_1960.pdf

B. As per the elements of the section, subjecting an animal to unnecessary pain by **beating, kicking, overdriving or overriding, or torturing**⁸; and neglecting an animal by **denying her sufficient food, water, shelter and exercise** or by keeping him chained/confined for long hours would qualify as forms of cruelty against animals.⁹

It also recognizes **the organising, keeping, using or acting in the management of, any place for animal fighting or for the purpose of baiting any animal or offering to do so and receiving money for the admission of any other person to any place kept or used for any such purposes**¹⁰, as a cognizable offence.

C. The prescribed punishment for such cruelty is:

First (time) offence- A fine between 10 Rupees to 50 Rupees;

Second or subsequent offence (committed within three years of previous offence)-

A fine between 25 Rupees to 100 Rupees, or with imprisonment to a term which may extend to one year, or both.

4. Section 24 of P.C.A.A. gives the power to any magistrate to make an order for prohibition of training and exhibition of animals, **if such act is accompanied with unnecessary pain or suffering**. However, such action is only possible against a complaint filed by a police officer or an officer authorized in writing by the prescribed authority under Section 23.¹¹

5. According to Sections 428 and 429 of the Indian Penal Code, 1860¹² also prescribes punishment for cruelty towards animals.

6. A. Killing, poisoning, **maiming or rendering useless any animal** would draw a fine of ten rupees or more and/or imprisonment for a period of 2 years, as per Section 428 of IPC.

⁸ Ibid, Section 11(1)(a)

⁹ Ibid, Section 11(1)(h)

¹⁰ Ibid, Section 11(1)(n)

¹¹ Ibid, Section 24(1)

¹² The Indian Penal Code, No. 45 of 1860, Indian Code

<https://www.indiacode.nic.in/bitstream/123456789/4219/1/THE-INDIAN-PENAL-CODE-1860.pdf>

B. Further, killing, poisoning, maiming or rendering useless, **any elephant, camel, horse, mule, buffalo, bull, cow or ox, or any other animal** shall be charged with a fine of the value of fifty rupees or upwards, imprisonment of either description for a term which may extend to five years, or with fine, or with both.

SITUATIONAL ANALYSIS AND IMPLICATIONS

The Prevention of Cruelty to Animals Act, 1960 is the first legislation made in post-independence India for welfare of animals. But the same seems to be not reviewed and updated as the fines prescribed are meagre in the Act, ranging from Rs. 10- 500 where offences have been committed in violation of Sections 11, 20 or 26 of the aforementioned Act. Further, it reflects upon the duality of the laws and their insufficiency in tackling certain issues head-on. For example, as per Section 28 of P.C.A.A., killing an animal in a manner required by the religion of any community has not been classified as an offence. It surely counters any deterrence set by all the welfare laws collectively.

Moreover, the laws under the sections 428 and 429 of the Indian Penal Code, 1860 does not do justice to animal lives, as it prescribes a negligent fine for killing and maiming of such animals. The application of these sections against acts of animal cruelty is rarely observed on the day-to-day.

Such ignorance and callousness in the efficacy of the law has led to failure and duality in redressal of controversial and staunch traditions, which encroaches upon the rights and protection laws of animals.

Jalikattu is one such traditional event where bulls are released into a crowd of people, and multiple human participants attempt to grab the large hump on the bull's back with both arms and hang on to it while the bull attempts to escape. It is typically practised in Tamil Nadu on the third or fourth day of Pongal celebrations annually. Although it initially began as a form of merriment, it has turned into a blood sport. It has resulted in the injury and in some cases, death of both

humans and bulls. Further, animal activists have recorded instances of forcing alcohol down the throat of the animal, chili powder rubbed into its eyes and tail twisted or even bitten.¹³

As per PETA India's latest report on Jallikattu Investigation, at least five bulls and one cow reportedly died during jallikattu events from January to April 2019.¹⁴ Later, an investigation by the Animal Welfare Board of India concluded that "jallikattu is inherently cruel to animals"¹⁵

Similarly, Kambala is a buffalo race conducted in South Karnataka. It is called also Devara Kambala (God's kambala) as it is associated with Sri Manjunatha Temple. In this two buffaloes are tied to a plough and raced as a team across paddy fields filled with slush and mud. The celebration of it began as a form of traditional salutation to the Lord and was originally non-competitive. However, it has recently become competitive, for which the use of whips to race the buffaloes has been criticized.

Indian courts have also deliberated on the specific issues of the scope, through interpretation of the provisions of The Prevention of Cruelty to Animals Act, 1960.

In the case of **A.W.B.I. vs A Nagaraja**¹⁶, the Hon'ble Supreme Court considered whether Jallikattu and bullock-cart races violate P.C.A.A. The Court noted that the Act is a welfare legislation and, as such, should be liberally construed in favour of the weak and infirm.¹⁷ The Court also stated Section 11 of the Act, which prohibits cruel treatment, "is a beneficial provision enacted for the welfare and protection of the animals and it is penal in nature. Being penal in nature, it confers rights on the animals and imposes obligations on all persons, including those who are in-charge or care of the animals . . . to look after their well-being and welfare."¹⁸

¹³ Tradition, Culture or Cruelty? , Federation of Indian Animal Protection Organisation (2017)(February 4, 2021) <https://www.fiapo.org/fiaporg/news/tradition-culture-or-cruelty-2/>

¹⁴ *Jallikattu Investigation*, PETA India, Pg. 3(2020) https://www.petaindia.com/wp-content/uploads/2020/06/Jallikattu_Investigation_Report_2020_English.pdf

¹⁵ Maulekhi, G., "Jallikattu: Bull taming is cruelty at its best, TN parties using it for political gains", First Post(2017)(January 30, 2021) <https://www.firstpost.com/india/jallikattu-bull-taming-is-cruelty-at-its-best-tn-parties-using-it-for-political-gains-2564184.html#:~:text=India-,Jallikattu%3A%20Bull%20taming%20is%20cruelty%20at%20its%20best%2C%20TN%20parties,Animal%20Welfare%20Board%20of%20India.>

¹⁶ *Animal Welfare Board of India vs A Nagaraja & Others*, (2014) 7 SCC 547

¹⁷ *Ibid* at 36

¹⁸ *Ibid* at 37

After considering in-depth reports of how animals are treated during these events, the Court held that the Jallikattu, bullock-cart races, and similar events, per se violate Sections 3, 11(1)(a), and 11(1)(m)(ii) of the Act. **The Court rejected arguments that these events were part of local culture and tradition because the PCA Act, being a welfare legislation, “over-shadows or overrides the so-called tradition and culture.”**¹⁹

The Court reiterated, “every species has an inherent right to live and shall be protected by law, subject to the exception provided out of necessity. Animal has also honour and dignity which cannot be arbitrarily deprived of and its rights and privacy have to be respected and protected from unlawful attacks.”

However, in an act to appreciate the so called “traditional practice”, the ban imposed upon the widespread practice of the sport was turned over when the legislature of Tamil Nadu passed the Jallikattu Bill bringing into effect the Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act, 2017²⁰. This has, ever since, allowed the conduct of the sport.

The new Tamil Nadu state law amended P.C.A.A., 1960, to allow jallikattu, which includes “manjuviratu”, “vadamadu”, and “erudhuvidumvizha”. The state government also devised corresponding rules – namely, the Tamil Nadu Prevention of Cruelty to Animals (Conduct of Jallikattu) Rules, 2017²¹ – regarding jallikattu events.

However, PETA India’s findings consistently show the rules do not prevent human or bull injuries and deaths. **The Tamil Nadu Prevention of Cruelty to Animals (Conduct of Jallikattu) Rules, 2017, does not include any fine or punishment that can be levied against people who violate the Rules or inflict cruelty on bulls at Jallikattu events.** Hence, it once again shows that Jallikattu must be banned.²²

¹⁹ Ibid at 54

²⁰ Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act, Act No. 1 of 2017, Tamil Nadu Government Gazette https://cms.tn.gov.in/sites/default/files/acts/20_Ex_IV_2.pdf

²¹ Prevention of Cruelty (Conduct of Jallikattu) Rules, 2017, Animal Husbandry Dairying and Fisheries Department <https://cdn.s3waas.gov.in/s3e44fea3bec53bcea3b7513ccef5857ac/uploads/2018/05/2018050231.pdf>

²² Supra at 14, Pg 4

Similarly, the ban on Kambala was overturned by the signing of The Prevention of Cruelty to Animals (Karnataka Amendment) Ordinance, 2017 by the then president, Shri Pranab Mukherjee.²³ Subsequently, Karnataka passed the The Prevention of Cruelty to Animals (Karnataka Second Amendment) Act, 2017²⁴, which reaffirmed the practice of Kambala and stressed upon the sport and its apparent cultural importance.

Cock fight is an immoral sport during the Sankranti festival in Andhra Pradesh. Sharp blades are tied to the legs of the roosters and it usually ends with the helpless participant getting killed or severely injured. On a positive note, the Hon'ble Supreme Court has actively banned its practice, decrying it as "a bloody and gruesome sport, which causes unnecessary pain and suffering on roosters".²⁵ But this has been next to no avail, as the enforceability of the decision of the court is weak. The sport is still illegally conducted all across the state of Andhra Pradesh.²⁶

In the north-east region of the country, Bulbul fight is another heinous sport, which is organised in the Hayagriva-Madhava Temple in Hajo, 30 km from Guwahati.²⁷ People rear bulbul bird and gather around as two birds are pitted against each other. And although several judicial steps have been taken by concerned parties like the Animal Welfare Board of India, it is still practiced and widely so.²⁸

CONCLUSION

The fundamental right guaranteed under Article 21 (Right to life and liberty) was given a new dimension by the Supreme Court (SC) in Animal Welfare Board of India Vs A. Nagaraja and Ors.²⁹ The Hon'ble Supreme Court incorporated non-humans within the ambit of Article 21. This

²³ Kambala, Wikipedia, (Last edited on 19 January 2021, at 07:46) <https://en.wikipedia.org/wiki/Kambala>

²⁴The Prevention of Cruelty to Animals(Karnataka Second Amendment) Act, Act No. 02 of 2018, Karnataka Government Gazette [http://dpal.kar.nic.in/ao2018/2%20of%202018%20\(E\).pdf](http://dpal.kar.nic.in/ao2018/2%20of%202018%20(E).pdf)

²⁵ Narahari Jagdish Kumar v. State of Andhra Pradesh, Order in W.P.(Civil) No. 881 of 2014 dated 13.07.2015

²⁶ Rajulapudi Srinivas, *Despite ban, stage being set for cockfighting in Andhra Pradesh*, The Hindu(2020) (February 2,2021) <https://www.thehindu.com/news/national/andhra-pradesh/fowl-play/article30546425.ece>

²⁷ Know About The 7 Disputed Animal Sports In India Which Are Similar To Jallikattu Tasneem Kutubuddin Kutubuddin (2017)(February 3,2021) <https://thellogicalindian.com/story-feed/sports/animal-sports-india/#:~:text=Legal%20Status%3A%20India's%20judiciary%20has,%20fighting'%20in%20Andhra%20Pradesh.>

²⁸ Ibid

²⁹ Supra at 16

inclusion of animals within the ambit of Article 21 should rightly be interpreted to strike down many laws and regulations pertaining to animals as unconstitutional.

Over the course of several failed and successful judicial discourses regarding animal rights and protection, the animal sport support agents have taken the shelter of Section 28 of the P.C.A.C., coupled with Article 25 of the Constitution of India, which provides a safeguard over such blood sports in the guise of religious traditions. As the people in the country have expressly shown their intention of not giving up on their staunch traditions by conducting animal sports in violation of set orders and ban, political parties seem to have benefitted in the elections by sympathizing with such sentimentalities.

This is clearly witnessed in the lifting of the bans on Kambala and Jalikattu through the passing of State Amendment acts by the state governments. And hence, when no deterrence upon such heinous activities is set by the government itself, highlighting the perils of non compassionate and unkind treatment towards animals becomes a distant dream.

- It is high time that the Central government actively remove such dualities in the law, starting with the repealing of Section 28 of P.C.A.A. Further, the deterrence set in the Act, along with Sections 428 and 429 of IPC should be amended to be more stringent. As a preliminary step, the state Amendment acts of Karnataka and Tamil Nadu should be heavily amended to levy a fine and impose a punishment in case of cruelty, in reference to Section 11 of P.C.A.A.
- Proper shelters should be constructed at the sites, with availability of caretakers, food and water for the bulls while the state government takes steps towards its complete and absolute ban.
- The central government should ideally act on the advise of the Animal Welfare Board of India and ideally depend upon their expert opinion. In reciprocity, the AWBI should aim to being itself to the forefront for national debate and dialogue, not only with the central government, but with the citizens of the country in general. This will surely lead to a shift in the beliefs and thought process of agents who have been oblivious to the repercussions of such sport on both animals and humans, alike.

- Awareness should be spread regarding the unkind subjection to cruelty by means of lectures, posters, cinematographic exhibitions etc. at a large scale with participation of school and bachelor degree students.
- Proper research should be conducted for the same, which will surely fortify the fact that animals are suffering due to such sports. Extensively, proper funds should be allocated by the central government for the same. This should also be redirected towards building of care shelters all over the country, specifically in the Southern region(since most animal sports take place in that region).
- Most importantly, political agendas should be discouraged and disassociated from such blood sports, as they cause pain and suffering to the animals and humans.

Conclusively, it should be understood that religious texts and a general compassionate character teach us to be kind towards animals and take care of them, rather than use them as a means to “please the Gods”. No amount of violation and defilement through blood sport traditions can be a greater proof of devotion towards the deities than being compassionate and taking care of animals.



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