

Interpretation and Cases

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Scheme of Lecture

- Significance of Case Law in the process of interpretation
- Using *Animal Welfare Board vs A Nagaraja* as case study to show how statute is transformed by interpretation
- The way in which that power is exercised shows how courts perceive that power
- **I am going to use the judgment to reflect with you how the Indian Supreme Court perceived its power**

Importance of Text

- (a) beats, kicks, over-rides, over-drives, over-loads, tortures or **otherwise** treats any animal so as to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animal to be so treated;
- The meaning of the expression “or otherwise” came up for consideration in [Lilavati Bai v. State of Bombay](#) 1957 SCR 721 and the Court held that the words “or otherwise” when used, apparently intended to cover other cases which may not come within the meaning of the preceding clause. In our view, the said principles also can be safely applied while interpreting [Section 11\(1\)\(a\)](#).

Welfare legislation

- we are dealing with a welfare legislation of a sentient-being, over which human-beings have domination and the standard we have to apply in deciding the issue on hand is the “Species Best Interest”, subject to just exceptions, out of human necessity.
- Sadism and perversity is writ large in the actions of the organizers of Jallikattu and the event is meant not for the well-being of the animal, but for the pleasure and enjoyment of human beings, particularly the organizers and spectators. Organizers of Jallikattu feel that their bulls have only instrumental value to them, forgetting their intrinsic worth.

Culture and Welfare

- . [PCA Act](#), a welfare legislation, in our view, over-shadows or overrides the so-called tradition and culture. Jallikattu and Bullock cart races, the manner in which they are conducted, have no support of Tamil tradition or culture. Assuming, it has been in vogue for quite some time, in our view, the same should give way to the welfare legislation, like the [PCA Act](#)

Custom as source of law

- Any custom or usage irrespective of even any proof of their existence in pre-constitutional days cannot be countenanced as a source of law to claim any rights when it is found to violate human rights, dignity, social equality and the specific mandate of the Constitution and law made by Parliament. No usage which is found to be pernicious and considered to be in derogation of the law of the land or opposed to public policy or social decency can be accepted or upheld by courts in the country.

International Law

- there has been a slow but observable shift from the anthropocentric approach to a more nature's right centric approach in International Environmental Law, Animal Welfare Laws
- The First Stage: Human self-interest reason for environmental protection
- The Second Stage: International Equity
- The Third Stage: Nature's own rights

Use of Precedent

- We have accepted and applied the eco-centric principles in [T. N. Godavarman Thirumulpad v. Union of India and Others](#) (2012) 3 SCC 277, [T. N. Godavarman Thirumulpad v. Union of India and Others](#) (2012) 4 SCC 362 and in Centre for Environmental Law World Wide Fund - India v. Union of India and Others (2013) 8 SCC 234

Statement of Object and Reasons

- The TNRJ Act, 2009 is an anthropocentric legislation enacted not for the welfare of the animals, unlike [PCA Act](#), which is an eco-centric legislation, enacted to ensure the well-being and welfare of the animals and to prevent unnecessary pain or suffering of the animals. [The State Act](#) basically safeguards the interest of the organizers and spectators while conducting the event of Jallikattu. Ac

Intrinsic Worth of Animals

- . [Sections 3, 11\(1\)\(a\)](#) & (o) and other related provisions have to be understood and read along with [Article 51A\(g\)](#) of the Constitution which cast fundamental duties on every citizen to have “compassion for living creatures”. Parliament, by incorporating [Article 51A\(g\)](#), has again reiterated and re-emphasised the fundamental duties on human beings towards every living creature, which evidently takes in bulls as well. All living creatures have inherent dignity and a right to live peacefully and right to protect their well-being which encompasses protection from beating, kicking, over-driving, over-loading, tortures, pain and suffering etc. Human life, we often say, is not like animal existence, a view having anthropocentric bias, forgetting the fact that animals have also got intrinsic worth and value. [Section 3](#) of the PCA Act has acknowledged those rights and the said section along with [Section 11](#) cast a duty on persons having charge or care of animals to take reasonable measures to ensure well- being of the animals and to prevent infliction of unnecessary pain and suffering

Directions Issued by the Court

- We declare that the rights guaranteed to the Bulls under [Sections 3](#) and [11](#) of PCA Act read with Articles 51A(g) & (h) are cannot be taken away or curtailed, except under [Sections 11\(3\)](#) and [28](#) of PCA Act.
- 2) We declare that the five freedoms, referred to earlier be read into [Sections 3](#) and [11](#) of PCA Act, be protected and safeguarded by the States, Central Government, Union Territories (in short “Governments”), MoEF and AWBI.
- 3) AWBI and Governments are directed to take appropriate steps to see that the persons-in-charge or care of animals, take reasonable measures to ensure the well-being of animals.
- 4) AWBI and Governments are directed to take steps to prevent the infliction of unnecessary pain or suffering on the animals, since their rights have been statutorily protected under [Sections 3](#) and [11](#) of PCA Act.
- 5) AWBI is also directed to ensure that the provisions of [Section 11\(1\)\(m\)\(ii\)](#) scrupulously followed, meaning thereby, that the person-in-charge or care of the animal shall not incite any animal to fight against a human being or another animal.
- 6) AWBI and the Governments would also see that even in cases where [Section 11\(3\)](#) is involved, the animals be not put to unnecessary pain and suffering and adequate and scientific methods be adopted to achieve the same.
- 7) AWBI and the Governments should take steps to impart education in relation to human treatment of animals in accordance with [Section 9\(k\)](#) inculcating the spirit of Articles 51A(g) & (h) of the Constitution.
- 8) Parliament is expected to make proper amendment of the [PCA Act](#) to provide an effective deterrent to achieve the object and purpose of the Act and for violation of [Section 11](#), adequate penalties and punishments should be imposed. 9) Parliament, it is expected, would elevate rights of animals to that of constitutional rights, as done by many of the countries around the world, so as to protect their dignity and honour

Directions Issued by Court

- 10) The Governments would see that if the provisions of the [PCA Act](#) and the declarations and the directions issued by this Court are not properly and effectively complied with, disciplinary action be taken against the erring officials so that the purpose and object of [PCA Act](#) could be achieved.
- 11) TNRJ Act is found repugnant to [PCA Act](#), which is a welfare legislation, hence held constitutionally void, being violative of [Article 254\(1\)](#) of the Constitution of India.
- 12) AWBI is directed to take effective and speedy steps to implement the provisions of [PCA Act](#) in consultation with SPCA and make periodical reports to the Governments and if any violation is noticed, the Governments should take steps to remedy the same, including appropriate follow-up action.