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Chapter 1

Animal sacrifice, politics and the law in Tamil Nadu, South India

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1 Animal sacrifice, politics and the law in Tamil Nadu, South India

Anthony Good

The sacrifice of animals – usually goats and chickens but occasionally, even now, buffaloes – forms the climax of many Tamil religious festivals, especially in rural areas. Such sacrifices are acts of huge cosmological and sociological significance. Prosperity and social order are prerequisites if they are to be performed properly on the lavish scale needed to satisfy the notoriously demanding village goddesses. The goddesses' satisfaction is in turn a precondition for continued order and prosperity in the year ahead. These goddesses also bestow or withhold the health, fertility and well-being of local households. The stakes at such festivals are thus very high, and the tension throughout, lest anything should anger or disappoint the goddess, is palpable, as is the sense of relief once the event has been successfully completed.

All this remained the case even though an Act banning such sacrifices had been in force from 1950 onwards. For more than half a century after the passing of that legislation no attempts were made to bring it into practical effect, but in 2003 the Chief Minister of Tamil Nadu, Jayalalitha, suddenly ordered officials to enforce the ban, only to reverse her policy a few months later.

This chapter begins by explaining the significance of animal sacrifice in a typical village goddess festival. It then considers the debates surrounding the passing of the *Madras Animals and Birds Sacrifices Prohibition Act 1950*, and the puzzling issue of its non-enforcement. It asks why Jayalalitha suddenly insisted upon enforcing the Act over 50 years later, and why she so quickly changed her mind. These policy reversals are set against the background of tensions between reformist, urbanised, generally high-caste Hindus and their traditionally minded, rural, generally lower caste counterparts. The struggles between these two competing visions of religiosity are by no means confined to the religious sphere itself, but take on political and legal dimensions too. More recently, similar divisions have again come to the fore in the controversy surrounding the Tamil sport of bull-taming (*jallikattu*). On such issues the higher Indian courts have displayed strong reformist tendencies that are hardly surprising given the background of most judges; to this may be added, in recent years, the increasing political influence of that particular extreme brand of reformism known generically as *Hindutva*.¹

Village goddess festivals in Southern Tamil Nadu

Almost every Tamil village contains a temple to the ‘village goddess’. Although each has her own identity and name, she is, as Dumont noted, ‘*toujours au fond ... la même déesse, la déesse universelle du village*’ (1957:389). In Terku Vandanam (‘TV’), a village in the Kovilpatti Taluk of Tuticorin District, she is named *Terku Vandānam vadakku-vācal Celviyamman* (‘TV north-gate lady-goddess’), and her north-facing temple (*kōvil*) lies just north of the main settlement. She is shown as a four-armed, trident-wielding female figure, and her shrine entrance is guarded by two *vīran* (‘heroes’). Outside, a pillared *mandapam* contains a stone table (*vettukal*, ‘cutting stone’; or *palipidam*, ‘sacrifice table’) guarded by Kattavarayan.

Celvi’s hereditary temple priest (*pucāri*), a man of Oduvar caste, performs perfunctory worship every day, but only during the annual festival (*ponkal*) does the temple attract attention from others. The festival worshippers comprise the entire non-Dalit population of TV as well as emigrants keen to maintain links to their ancestral home. The festival runs from the second to the fourth Tuesday in Pankuni (March–April), but the night of the third Tuesday is its centrepiece, when many collective and individual offerings – most relating to disease or infertility – are undertaken.²

The participation of Cakkiliyar (Dalit) musicians, playing in a highly rhythmic style (*kottu*, ‘drum beating’), is essential for divine possession to occur. During the festival period, mundane time is replaced by the cosmic ‘time’ set up by the complex, repetitive rhythm of the drums. Celvi’s hereditary medium (*sami pidikki*, ‘god caught’; *samiyadi*, ‘god-dancer’), an emigré of Vellalar (‘Pillai’) caste, lives inside the temple throughout the festival and observes an austere régime. To reduce ambiguity, ‘Celvi’, ‘she’ and ‘her’ are used below to refer to the goddess (or her image) in general; and ‘CELVI’, ‘SHE’ and ‘HER’ to the goddess as incarnated in her medium. In this state, SHE wears a tucked-up yellow *vesti*, with yellow garlands passing diagonally over each shoulder across HER bare chest. Protective amulets (*kappu*) of turmeric roots and betel leaves are tied around HER wrists as soon as possession begins. SHE carries a round clay ‘fire pot’ (*akkinniccatti*), containing burning embers, and a metal trident with fruits impaled on the prongs and Margosa leaves tied around the shaft.³ Like the turmeric water SHE sips from time to time, the fruits are cooling substances, deployed to control the heat and energy of possession (Babb 1975:233; Reiniche 1979:177).

Accompanied throughout by the drummers, CELVI first visits the local Aiyandar temple to invite him to her festival (*kudi alaippu*, ‘inviting the inhabitants’), and then makes a clockwise circuit of the village (*ur vilaiyadutal*, ‘village playing’). Every household hands over its contribution (*vari*) to festival costs on a winnowing basket, and CELVI smears ash on their foreheads. SHE then returns to her temple, followed by the entire population.

Meanwhile, the priest has decorated the inner shrine, helped by the village watchman (*talaiyari*) and temple servant (*tandal*), both of Maravar caste. The image is caked in turmeric paste, with her eyes and teeth picked out in white.

She wears an elaborate red and yellow sari and holds a large, red trident, blunted by Margosa fruits.

The watchman cooks chicken and mutton curries on the temple plinth, while the priest prepares *ponkal* rice inside. Wooden spikes with chains attached are set up in front of Kattavarayan and the cutting-stone. A red cloth is tied across the shrine door to prevent Celvi seeing what follows, and a white cloth screens off the village officials and important guests outside. The rice and meat curries are served onto four plantain leaves on the ground between the altar and temple door. The watchman and servant impale roosters on each spike, and throttle the birds with the chains. They cut the throat of a male goat-kid between altar and door, and its head is placed on the pile of food, facing the temple with one severed foreleg in its mouth.

The watchman removes the screens and invites important guests into the building. The medium becomes possessed to the accompaniment of a drum crescendo and *kuruvai* ululations from the women (who have to remain outside). CELVI dances outside and around the food offering. SHE then returns to the temple and the priest distributes ash and sandal paste to cool the spectators.

Next comes the eponymous episode of the festival, the communal cooking of *ponkal* rice outside the temple. All married women go there in procession, and their temporary hearths are laid out according to caste hierarchy.⁴ *Ponkal* is made from raw grain rather than the parboiled form used for ordinary cooked rice (*soru*). The cooking process is special too, with every step marked by *kuruvai* trills (Good 1983). This is yet another example of an association between the goddess and a pot containing divine 'seed'. *Ponkal* is a verbal noun connoting processes of boiling, fermenting or flourishing; these are brought about by fire, consistent with the idea that red or 'hot' substances effect transformations whereas whiteness is linked to stasis (Beck 1969).

At about 8 a.m. the drums begin again. There is a tense, excited atmosphere, and those who will do the actual 'cutting' are identifiable by the self-conscious swagger of their bearing. The Priest smears their upper bodies with sandalwood paste, to moderate the fierce heat of blood sacrifice. The sacrificial cutting is done with the sickle (*aruval*) used to harvest the rice crop, linking the beheading of the animal to the severing of ripened heads of grain. The same verb (*aru*) is used for both.

Goats are cut first by the Maravar watchmen or their sons. The adult goats are garlanded and anointed with turmeric water. They are held by their hind legs and Margosa leaves are waved to attract their attention and cause them to hold their necks straight and still. It is considered auspicious if they shiver or tremble, as a sign that the deity accepts the offering. The head must be severed with a single blow, or a fine is payable to festival funds. Failure is a considerable blow to a man's pride, as the event is so public and widely discussed afterwards. Dozens of roosters are cut next, mainly by Maravar and Konar youths. The rooster carcasses and heads, and the heads and forelegs of the goats, are then laid outside the mandapam facing into the temple.

The musicians, who had to withdraw during the cutting, return and play at a furious tempo while onlookers crowd into the pavilion. The priest and watchman

distribute ash and sandalwood paste because although the actual cutters are the hottest, all other witnesses are heated to some extent. In fact, spectators crowd in close during the sacrifices, and it is considered auspicious to get a few spots of blood on one's person or one's new clothes (see also Moodie, this volume).

Afterwards people return home to prepare and eat their meat curries. Gifts of meat are sent to relatives or to neighbours with none of their own. The distinction between meat-eaters and vegetarians only really manifests itself at temple festivals because almost the only meat eaten in the village is sacrificial meat. Meat-eating, in other words, has sacramental significance.

Later that day, CELVI once again dances around the village, accompanied by a troop of small boys wearing charcoal moustaches. At every house, pots of cooling turmeric water are poured over CELVI and the boys, as well as over junior cross-relatives of the household and, increasingly, over important villagers such as the Munsip. At the end, CELVI returns to the temple and re-enters her image there. The medium is anointed with ash by the priest to mark the ending of his possession.

Interpretation

In mythology the goddess is the wife of the Brahman seer Jamadagni, and mother of Parasurama, an incarnation of Visnu. Though normally perfectly chaste, she entertains a slightly impure thought, so Jamadagni orders Parasurama to take her into the wilderness and cut off her head. Siva and Parvati pardon her in recognition of her virtue and appoint her to guard the gateway to heaven, while Karup-pasami obtains her aid to protect villages from disease. In another version (Moffatt 1979:249), she embraces a Paraiyar woman in a desperate plea for help, so Parasurama accidentally cuts off both heads. Full of remorse, he begs his father to restore his mother to life. Jamadagni agrees, but in his haste Parasurama puts the heads on the wrong bodies.⁵ So the goddess is produced by sacrificial decapitation, is located in the 'wilderness' rather than inhabited human space, and is associated with the north, disease, and the 'gateway' to heaven – represented in village cosmography by the cremation ground. Finally, she is chaste and no longer has any sexual or familial relationships.

Of the sacrifices at the temple, one rooster is offered to Kattavarayan, the Paraiyar foster-son of Kali who, for the sin of Brahmanicide, was himself impaled. The other is offered to the altar, which can be seen as another kind of goddess image, differing from that inside the temple in representing her fierce, carnivorous aspect. The cooked offering outside the temple is named *padaippu soru*, where *soru* means boiled rice and *padaippu* ('emanation') is the Tamil synonym of (Skt.) *sruti*, the Revelation contained in Vedic texts. The everyday world is simply a great illusion (Skt. *maha-maya*, itself an epithet of the goddess), a transient emanation of the atemporal, unchanging goddess. Thus the *padaippu soru* offering coincides with the goddess becoming fully installed in her temple. Her dance around the sacrifice raises another question. Is she vegetarian, as the Priest asserted beforehand, or a meat-eater, as this episode suggests? The Priest later clarified that she is vegetarian inside her temple but a meat-eater outside it, a dichotomy neatly encapsulated by

the myth portraying her as part vegetarian Brahman, part meat-eating Dalit. The status difference between humans and deities is also maintained, for whereas the goddess is vegetarian inside the temple and a meat-eater on the plinth, human vegetarians cook *ponkal* on the plinth and meat-eaters cook below it.

The *padaippu soru* is later divided into nine shares, going to (1) the land accountant (*karnam*), (2) revenue officer (*munsip*), (3) watchman, (4) village barber, (5) village washerman, (6) temple servant, (7) village carpenter, (8) village blacksmith, and (9) the Cakkiliyar scavengers. Virtually every local specialist and official thus receives a share, so these offerings are in effect shared by the entire community in the persons of its key functionaries. However, to focus solely on human donors and recipients of such prestations would be to ignore their most crucial feature. Though modelled upon and/or paradigmatic for purely human transactions, they involve a third party – the deity – through whose interposition they are transformed into *pirasadam*, sanctified substances imbued with divine grace (*arul*). Every aspect of the festival can be seen as a prestation by or to the congregation, individually or collectively, the recipient or donor respectively being the deity. The ultimate prestations are the proper worship of the goddess by her devotees, and her reciprocal bestowal of health, fertility and social order during the coming year. The entire festival is in the last analysis a cosmic, not merely a sociological prestation.

Finally, the ritual ends on what is clearly a cooling ritual, in which the copious pouring of turmeric water serves to quell the ritual ‘heat’ that has built up over the previous 24 hours. The associated focus on cross-relatives and village officials denotes the reassertion of the everyday socio-political order.

The ban on sacrifices

When the *Madras Animals and Birds Sacrifices Prohibition Act, 1950 (Act 32 of 1950)* was promulgated, Madras state still resembled the colonial Madras Presidency, containing much of modern Andhra Pradesh, Kerala, and Karnataka as well as Tamil Nadu. Pressure for a ban had been growing, and a 1926 Jain campaign against animal sacrifice was supported by many Saivites too. Its ideology was heavily influenced by the writings of Maraimalai Adigal, who saw human history as a process of unilineal evolution from lower to higher cultural forms, with animal sacrifice as a relic from a lower, less civilised stage (Pandian 2005:2314–2315). The Bill itself resulted from further Jain pressure, with Saivite supporters including the then Chief Minister.

When the Bill was debated in the Legislative Assembly all those who spoke were in favour of a ban, though for differing reasons. Many of their arguments were ‘grounded in secular rationality’ rather than overtly addressing the issue *qua* religion (Pandian 2005:2316). One member portrayed it as a law and order issue, as it would prevent precedence disputes that often escalated into violence; others said animal sacrifice was a revolting, gruesome practice and should be banned in the name of progress, whereas the justice minister defended the bill as preventing a public nuisance. None of these justifications seem to have been found especially

persuasive by the legislators as a whole, which is hardly surprising because as Smith points out:

After all, what the assembly was doing was legislating a reform in Hindu religion. Animal sacrifice was a religious practice of which the members disapproved. [...] It was pointed out that such sacrifices were practiced only by those who were at the 'lowest rungs of the ladder of Hindu ceremonials'.
(1963:236)

That final comment probably refers especially to the arguments of D.S. Ramachandra Rao, who contended that human beings were cruel by nature, but it was the task of the more enlightened and civilised (such as themselves!) to educate the general population in higher ethics (Pandian 2005:2316).

Of the speakers who *did* offer religious arguments, several did so in strangely Christian terms, with references to 'the common Father, God' or to 'heathens'. Others sought to argue that animal sacrifice, and the deities who received it, were not authentic parts of Hinduism at all, but superstitions. One even suggested:

if we remove deities such as Madan and Kaateri and enforce that all should worship in big temples, we can stop this sacrifice in a little time.
(*ibid.*)

One motivation seems to have been a desire to make Hinduism more 'respectable' in the eyes of outsiders (Smith 1963:235). Almost no concern was expressed during the debate that the legislation might constitute an interference with freedom of religion, although D.S. Ramachandra Rao did point out that state-led reform and legislation could not of itself change worshippers' beliefs that their deities required animal sacrifice. Yet as Smith argues, the 1950 Act was

religious reform *per se*, not the incidental result of the state's pursuit of a valid secular object. It constitutes an infringement of religious liberty and is clearly an attempt to promote and advance the interests of the Hindu religion.
(1963:238)

Following all this, the lack of detailed reasoning or justification for the ban in the Act itself, even in its preamble, was noteworthy. Indeed, it was highly succinct: even with the addition of numerous, but purely formal, amending footnotes the 1969 version ran only to three pages. It was merely said to be '*expedient* to prohibit the sacrifice of animals and birds in or in the precincts of Hindu temples' (my italics). Section 2(b) defined sacrifice as 'the killing or maiming of any animal or bird for the purpose or with the intention of propitiating any deity'. Section 3 stated 'No person shall sacrifice any animal or bird in any temple or its precincts'; the penalty was a fine of up to Rs. 300. Section 4 said that no person should officiate at, perform, or assist in any such sacrifice, or offer to do so; and Section 5 said no one should allow a sacrifice to be performed in a temple under their control.

The penalties were again fines of up to Rs 300, although if the offender was a temple priest, official, trustee or servant they might also face up to 3 months simple imprisonment.

It is striking that the *Madras Animals and Birds Sacrifices Prohibition Act, 1950*⁶ received such high priority that significant preparatory work was completed within four months of India gaining independence, and that it passed into law at such an early stage. Yet despite the overwhelming consensus in the Legislature in favour of a ban, little or no attempt seems to have been made to implement the provisions of the Act once it came into force on 1 June 1951. I can find no records of prosecutions or attempts at prevention in the months or years that followed.

Enforcement of the ban

The 1950 Act thus remained a virtual dead letter for over half a century.⁷ On 28 August 2003, however, the AIADMK state government led by Jayalalitha suddenly wrote to District Collectors and police officials, ordering that the law against sacrifice should be strictly enforced, allegedly in response to the sacrifice of 500 buffalo at a village festival in Tiruchi District.

There was some confusion in contemporary news reports over the legal basis on which this order was made. Next day *The Hindu* claimed that the ban was issued under ‘the Tamil Nadu Prevention of Cruelty to Animals Act, 1950 and its subsequent amendment’;⁸ and that the use of this particular Act meant that the ban was – or could be portrayed as – overtly non-religious, an assertion that forms the starting-point for Pandian’s (2005) paper.⁹ There is, however, no such Act. There is a piece of central legislation with a very similar title, *The Prevention of Cruelty to Animals Act, 1960* (PCAA), but its sec. 28 explicitly states that it does *not* apply to religious sacrifice.¹⁰ By contrast, the news magazine *Frontline* clearly linked the ban to the *Tamil Nadu Animals and Birds Sacrifices Prohibition Act, 1950*. This rather negated *The Hindu*’s assertion that the ban presented itself as secular; indeed, that article had contradicted its own central thesis by reporting that Jayalalitha had explicitly referred to religion: ‘She told the authorities to advise and prevent people from indulging in such cruel acts to seek the blessings of Gods’.¹¹ Another piece in *The Hindu*, two days later, confirmed that it was indeed the 1950 Tamil Nadu Act that was being used to underpin the ban.¹² The initial writer in *The Hindu*, eager to put an animal rights spin on the story, had clearly confused the two pieces of legislation; this, in turn, misled Pandian, but fortunately most of his analysis remains valid despite this.¹³

Jayalalitha’s move was strongly supported by the rationalist DK, BJP leaders, and most constituent groups of the Sangh Parivar. One interesting exception was S. Gurumurthy, all-India co-convenor of Swadesh Jagaran Munch, who referred to the Kali temple festival in his native village at which Brahmans and other vegetarians worshipped Kali with vegetarian offerings before sunset, while other castes performed animal sacrifice at night. He described this approvingly as ‘worship based on the lifestyle of the worshipper’ (Pandian 2005:2314). The parallels

between this and the TV Priest's contrast between vegetarian and meat-eating forms of Celvi are striking.

The main opposition parties – the DMK, Communist Party of India (Marxist), and Communist Party of India – were caught on the hop. Although not at all in favour of animal sacrifice they felt obliged to oppose the ban, querying the wisdom of trying to end a widespread, ancient practice by mere enforcement of a law.¹⁴ Jayalalitha's perennial rival, DMK President M. Karunanidhi, was especially awkwardly placed:

Karunanidhi stated that the practice of animal sacrifice existed in Tamil Nadu since ancient times and the ban was an attempt at destroying Tamil culture. However, he added, that being a rationalist he had his personal views on the sacrifice.

(<http://lists.envirolink.org/pipermail/ar-news/Week-of-Mon-20030908/006427.html>; accessed 19/06/2015)

The banning order came immediately after Madras High Court had notified the government that it had received a Public Interest Litigation (PIL) petition seeking just such a ban.¹⁵ It also coincided with nationwide discussion over a proposed bill in the federal Indian Parliament banning the slaughter of cows, and the AIADMK government's decision to support the demand for such a ban. Opposition parties portrayed the move as further proof of the AIADMK's 'pro-Hindutva slant', systematically depriving Dalits and backward communities of their age-old cultural rights.¹⁶ This view was shared by sections of the media. *Frontline* noted that the main beneficiaries were

Hindutva forces, which are only too willing to 'cleanse' temples of village deities which are 'polluted' by 'undesirable' practices. [O]rganisations such as the Hindu Munnani and the Vishwa Hindu Parishad have been working among the rural communities with a view to 'homogenising' Hindu society.

(www.frontline.in/static/html/fl2020/stories/20031010001205000.htm; accessed 18/06/2015)

The ban evoked support from other sources too. The initial *Hindu* article was correct at least insofar as animal rights campaigners formed one prominent supporting faction. Chinny Krishna of the Animal Welfare Board of India (AWBI) stated:

Animal sacrifice is illegal. If you think the law is wrong, you must agitate to have it changed. Secondly, the temple is sanctified territory as compared to a butcher shop.

(www.paklinks.com/gs/culture-literature-and-linguistics/118516-animal-sacrifice-indian-crackdown-provokes-believers-ire.html; accessed 17/06/2015)

In expressing her support for the ban, and with fine disregard for historical and ethnographic evidence, Nanditha Krishna, Director of the reformist C.P. Ramaswami Aiyar Foundation,¹⁷ even advanced a feminist argument portraying animal sacrifice as an instrument of gender discrimination. Whereas gods are seen as ‘benign and peaceful’, she argued, goddesses are depicted as ‘blood-thirsty; violent and cruel’:

Women are potentially evil, according to this belief.... They are drinkers of blood and consumers of human and animal flesh.... What an awful image of women, which is ingrained in the Indian psyche! Surely the mother who procreates and nurtures deserves a better reputation? [...] Thus supporting animal sacrifice is supporting both [sic] gender inequity and perpetuating myths about the evil that is woman. [...] This image was created to justify the suppression of women.

(http://bluecrossofindia.org/?page_id=1690; accessed 08/07/2015)

Several contributors to an ongoing debate in *The Hindu* argued that to ban animal sacrifice while allowing animals to be killed for food was hypocrisy, and that a ban on sacrifice should only be introduced as part of a ban on all animal slaughter.¹⁸ One correspondent even drew parallels with policies on smoking in public places:

Just as certain places are reserved exclusively for smokers, certain temples where traditionally animal sacrifices are done should be allowed to continue the practice. We should accept the fact that it takes all kinds of people to make the world.

(www.thehindu.com/op/2003/09/09/stories/2003090900130300.htm; accessed 18/06/2015; link no longer active)

Popular reaction

Jayalalitha’s decision generated widespread resentment, especially in southern Tamil Nadu. In Tirunelveli and Tuticorin districts particularly, devotees went ahead with customary sacrifices at local temples, openly defying the ban. Even in Madurai city, devotees of the Pandi Muneeswarar temple went on performing animal sacrifice. In response Jayalalitha reportedly suspended a policeman who had witnessed a goat sacrifice while on duty at a temple in Madurai district.¹⁹

On 5 September 2003, S. Senthivel Nadar, a devotee of Sudalai Andavar temple at Sirumalanji (a few kilometres from TV) challenged the ban though a PIL petition in Madras High Court, arguing that it violated Articles 19 and 25 of the Constitution. He described it as an arbitrary and unwarranted interference with the religious faith of many Hindus and sought an interim injunction restraining the authorities from taking action against devotees participating in the pending temple festival. An understanding was reached with the government that no arrests would be made at the festival.²⁰

At Sirumalanji itself, although the ‘mood ... swung from depression to enthusiasm following the report that the court had issued notice to the Government’, the police seemed to ignore this understanding and warned that anyone defying the ban would be arrested immediately.²¹ They intervened to prevent the large-scale animal sacrifice due to take place that night – said to involve 2,500 goats, 1,000 pigs, and 500 chickens – by placing Muthuraj, the medium, under what seemed to be house arrest and banning the Musicians from playing. A huge crowd was present however, and to maintain calm the police asked Muthuraj to appeal for them to abide by the law. After donning the god’s robes he was allowed to go to the temple. He made the appeal as requested but afterwards, speaking as the deity, told the crowd: ‘Now you can do whatever you have to do in a place where you are staying. I, Sudalai Andavar, will accept it.’ Several sacrifices then took place away from the temple itself.²² Muthuraj told reporters that ‘enforcing the ban is a clear act of discrimination’.²³

On 8 September this incident came before the Chief Justice. He reminded the Advocate-General of the earlier understanding and was blithely assured that no arrests had been made. Another PIL petition challenging the Act was admitted, and while hearing it the Chief Justice questioned the urgency over enforcing the Act: was it right to suddenly ban an activity practised for generations? The Advocate-General, using similar secular-reformist arguments to those in the original 1950 debate, defined animal sacrifice as ‘a *social* menace like sati and untouchability [that] had to be brought to an end’ (my italics).²⁴ The petitioner’s advocate argued that it was an age-old practice in Tirunelveli district, but the Advocate-General, presumably appealing to the authority of the Supreme Court decisions discussed below, replied: ‘Unless it is established that the practice is essential for the religion ... it cannot be permitted’.²⁵

That same day there were protests in Tiruchi. Members of the People’s Art and Literary Association and the Revolutionary Students and Youth Front, two groups associated with the Communist Party of India (Marxist-Leninist), sacrificed a goat in front of Sappani Swamy temple only a few days after completion of its reconsecration ceremony (Pandian 2005:2313). Those involved were arrested, as were others trying to perform sacrifices elsewhere. Even participants in a march protesting against the ban were arrested.²⁶ In general, it seems that the ban was quite effectively enforced in larger temples administered by the Hindu Religious and Charitable Endowments Department – albeit, as in Tiruchi, sometimes only by dint of large-scale arrests – but continued virtually unchecked in smaller temples, especially in villages.²⁷

Policy reversal

The government’s attempt to enforce the Act continued to face strong resistance from those groups, particularly Dalits and Backward Classes, who claimed that it violated their constitutional right by interfering with their traditional forms of worship. A few months later, in February 2004, Jayalalitha performed a policy U-turn and withdrew the restrictions. Indeed, she went further: the *Tamil Nadu Animals*

and *Birds Sacrifices Prohibition (Repeal) Ordinance 2004* did not merely countermand the controversial 2003 order but repealed the 1950 Act itself.

The repeal legislation was even more succinct than the original Act had been – barely half a page in length. Again, it contained no background or rationale whatever. Elsewhere, however, Jayalalitha stated that this action had been taken because of ‘requests from across the state’, and the official government press release explained the policy change as ‘giving respect to the religious sentiments of the rural populace’.²⁸ A year earlier Jayalalitha had justified the ban by describing sacrifices as ‘cruel acts’, but she now ‘bowed to the wishes of people who felt they might invite divine retribution if they did not fulfil their vows’.²⁹ Rather more cynically, most political analysts noted that ‘she faced a backlash in the forthcoming general election if the ban was not lifted’.³⁰ As S. Murari explained in the *Deccan Herald*, her ‘somersault’ was understandable politically:

Her alliance with the BJP ... will get her middle class and intermediate caste votes. But the Dalits are strong in northern and southern Tamil Nadu. [...] It is in Ms. Jayalalitha’s interests to appease these parties and the communities they represent.... Sacrificing animals and birds is chicken feed to her.

(<http://archive.deccanherald.com/deccanherald/feb292004/sl4.asp>; accessed 19/06/2015)

Criticising Jayalalitha’s policy reversal, India’s best-known animal rights campaigner Maneka Gandhi, and Chinny Krishna of the AWBI, claimed that animal sacrifice is also forbidden by the PCAA.³¹ They also cited the *Wildlife Protection Act 1972* as providing a legal basis for such a ban, but that Act does not address animal sacrifice, and its Schedules of protected species do not include domesticated livestock used in such sacrifices.³² Their assertion that ‘the Tamil Nadu government could in theory be sued for failure to prosecute practitioners of animal sacrifice even if the 1950 state act is repealed’ therefore seems doubly implausible, firstly because the cited legislation provides no direct basis for this, and secondly because in any case, as the 1960 Act itself illustrates, the constitutional guarantee on freedom of religion ‘tends to trump the constitutional requirement that citizens have a duty to respect animal welfare’.³³

Temple entry and the ban on sacrifice

Long before Independence, religious customs like animal sacrifice – predominantly non-Brahmanical and for which textual sanction is allegedly absent – had been denigrated as superstitions by Hindu nationalists. We now consider the influence of this reformist nationalism upon the events described above, looking more broadly at the context, immediately before and after Independence, within which the 1950 Act was promulgated, and assessing the growing role of the Indian Supreme Court in not merely deciding religious disputes but actively creating the conceptual and definitional framework within which its decisions were made. Like the behaviour of Madras legislature in 1950, decisions of the Supreme Court, too,

can plausibly be related to the predominant roles played by judges from urbanised, well-educated, high-caste backgrounds.³⁴ We then consider the rise of Hindutva – not merely a reformist, homogenising ideology very much in that same tradition, but also a political movement whose influence a politician like Jayalalitha would ignore at her peril.

How to explain the seeming incongruity between the urgency accorded to the anti-sacrifice legislation and the subsequent failure to enforce it? Dumont (1970) proposed that imposition of the ban was part of the high-caste Hindu response to the opening of temples to Dalits, but his argument oversimplifies the situation and seems partly self-contradictory. Even before Independence, the *Madras Temple Entry Authorisation and Indemnity Act (Act XXII of 1939)* had empowered trustees to open their temples to all Hindus if in their opinion worshippers were generally not opposed to this. Within a decade, the *Madras Temple Entry Authorization Act (Act V of 1947)*³⁵ made opening compulsory for all public temples. Dumont notes that despite some resistance, ‘the reform was more or less generally imposed’ (1970:230). He adds that as a result:

[A] puritan reaction by vegetarians established itself in Madras, which flourished after Independence; prohibition on sacrificing animals in the immediate vicinity of the great temples, as the meat-eating castes were wont to do; prohibition by certain municipalities ... on butchering, even by Muslims.

(1970:231)

Given that animal sacrifice was practised by much of the Madras population, it seems at first sight strangely undemocratic that MLAs should have been unanimous in their desire to ban it. For Dumont, however, the reason is clear:

from the moment the Untouchables enter the temples, the purity of the higher castes and their very idea of worship and god is jeopardised: so the only solution is the forcible reform of the Untouchables, so that they would cease to be abettors of impurity.

(1980:231)

Even if taken at face value as an explanation for the passing of the 1950 Act, this hardly explains why that Act was never enforced until Jayalalitha’s intervention – indeed, it makes non-enforcement even more puzzling. There are two misleading elisions in Dumont’s reasoning. The first, on the part of opponents of sacrifice as well as Dumont himself, is that Dalits are portrayed as the archetypal practitioners of a ‘superstition’ that is in fact far more widespread:

Because animal sacrifice is ... associated with the low castes and hence – though incorrectly in fact – most firmly associated with the lowest of all, reforming the Harijans requires the abolition of sacrifice.

(Fuller 2004:103)

Dumont's second elision is his attribution to 'the higher castes' of a unified response to temple entry, disregarding the division between traditionalists and reformists that was clearly evident in events leading up to that legislation. Thus it was in fact a Brahman, A. Vaidyanatha Iyer, who spearheaded the temple entry movement in Madras. On 8 July 1939 he entered the Minakshi temple in Madurai with a group of six Dalits. Following this incursion, most of Minakshi's priests effectively went on strike for six years, refusing to perform their priestly duties until the temple was purified (Fuller 1984:116–128). But in the meantime the Madras government, led by C. Rajagopalachari, passed the 1939 Act.³⁶ All the priests' attempts to oppose temple entry in the courts, before and after that Act came into force, failed.³⁷ No other temples experienced opposition to temple entry on anything like this scale, although there was a limited initial boycott of temples by some higher caste worshippers.

It was, then, a Brahman who fronted the temple entry movement, and a Madras government led by another Brahman that passed the 1939 Act. Members of those very sections of society that, according to Dumont, felt most threatened by temple entry legislation, were in fact directly responsible for instigating it. Rather than the ban on sacrifice being a defensive response to Dalits' newly acquired access to temples, both were aspects of the same reformist project. High caste hostility to temple entry can therefore only be part of the story.

When it comes to sacrifice, however, there may be more justification for attributing common views to reformists and traditionalists. As we saw, attempts to ban sacrifice began several decades before the passing of temple entry legislation. What is more, the 'puritan reaction' described by Dumont was only made possible because after Independence Madras had a Congress government dominated by well-educated, urban Brahmans and other high-caste Saivites 'with typically reformist persuasions' (Fuller 2004:104). For such reformists, the 'rediscovery' of Hindu cultural and religious values associated with the nationalist movement encouraged the view that Hinduism was 'corroded from within by a host of indefensible, barbaric medieval customs' (2004:100). In this case, however, their views happened to coincide with those of conservatives – who were active, for example, in campaigns to ban cow slaughter. Both factions saw the 'superstitious' practice of blood sacrifice as 'a barbarity inconsistent with Hinduism's central tenet of non-violence' (2004:101).

Not only the Dalits, but the gods too needed to be reformed: 'many deities ... are thought to want blood sacrifice, but the logic of reformism insists that these deities must also accept only vegetarian offerings' (Fuller 2004:102). Here reformism comes into direct conflict with the widely held view that 'deities denied the sacrifices they want will wreak terrible revenge' (ibid.). In contexts like the TV goddess festival these risks, as we saw, are high: a goddess angered by the withholding of sacrifices to which she feels entitled is thought able to destroy harvests and inflict infertility and disease on her recalcitrant worshippers. What is more, such goddesses are now also thought able to protect their worshippers from the new risks associated with economic liberalization (Arumugam 2015:785). This helps explain the persistence of animal sacrifice in Tamil Nadu despite legal and high-caste opposition.

In fact, Jayalalitha's policy somersaults made little practical difference in rural areas. As Arumugam comments regarding her Kallar interlocutors, 'Just as they largely ignored the ban by continuing to conduct individual sacrificial worship ... they also largely ignored its repeal' (2015:770n).

Elsewhere in India the reformist project had been more successful in changing majority religious practices. In Gujarat, for example, many Hindus joined Vaisnava devotionalist movements advocating non-violence (Skt. *ahimsa*) and abandoned the worship of village deities (Pocock 1973:94). One result, apparent everywhere though not always to that extent, was the partial collapse of the hierarchical relationality linking Brahmanical and village deities on one hand, and high and low castes on the other. As a result, the once-widespread view that it is wholly appropriate for different communities to have different religious beliefs and practices has given ground to

a new view, postulating a real dichotomy between the reformed Hinduism ... of the 'modernising' elite and the unreformed religion – read 'superstition' – of the old-fashioned and lower orders.

(Fuller 1988:243)

Socio-religious reform in Hindu India is 'almost always a double-edged sword, which tends to reinforce superior values precisely as it seeks to undermine superiority itself' (Fuller 2004:103). And as Dumont noted, presciently foreshadowing the rise of Hindutva, 'traditional hierarchical tolerance gives way to a modern ... totalitarian mentality' (1980:231).

Another reformist response in parts of North India has been to offer goddesses the donated blood of humans in place of the sacrificial blood of animals: thus 'the *life-giving* bloodshed of blood donation is enacted on Kali Puja as the substitutive ennoblement of the *life-taking* bloodshed of animal sacrifice' (Copeman 2008:293; original italics). Yet the substitution of blood donation for blood sacrifice does not do away with the problem of violence in any straightforward way: 'Even when enacted instead of animal sacrifice ... it cannot but refer to violence in substituting for it' (ibid.). It is also interesting to note here the assumption that what is crucial to sacrifice is the offering of blood rather than the act of decapitation stressed in the mythology. It is true that goddesses may drink the blood of sacrificed animals, and that the fluidity of blood makes it an obvious material representation of prestatational transfer, yet the emphasis in Tamil village festivals lies more on the offering of the head, and sometimes also the foreleg, of the animal.

The courts and the definition of 'religion'

At the time of Independence the legal position in Madras did not reflect the kinds of reformist ideologies outlined above. In an influential 1938 case,³⁸ the fact that animal sacrifice was performed on a particular site had been taken (along with other factors) as evidence that the site was indeed a temple. The Madras Hindu Religious Endowments Board had drawn up a scheme of administration in respect of

the Sri Virulu Alaya in Karampudi village in present-day Andhra Pradesh – a mandapam containing memorial stones to 66 ‘heroes’. Its trustee argued, however, that it was *not* a temple as defined by the *Madras Hindu Religious Endowments Act*, so the Board had no jurisdiction to frame such a scheme. The District Judge found in his favour, holding that rites performed there were not religious worship but merely re-enactments of the war in which the heroes were said to have participated. The institution was therefore not a temple within the meaning of the Act, and the scheme should be set aside.

The appeal court did not agree. While recognising that differentiating between worship and mere commemoration was not always easy, it reasoned as follows:

4. [...] *The performance of Nitya Naivedya Deeparadhana,*³⁹ *the offering of animal sacrifices and the distribution of those offerings amongst the assembled audience certainly carry the celebration beyond the limits of a mere commemoration.... [T]he rice which is distributed at the end of the ceremony amongst the people present is carried home by them and scattered in their fields; obviously in the belief that it will make the fields more productive. [...]*

5. The Hindu Religious Endowments Act, no doubt, speaks of a temple as a place of ‘public religious worship’. That what the evidence in this case describes as taking place in connection with the institution is public worship can admit of no doubt. We think it is also religious. The test is not whether it conforms to any particular school of Agama Sastras;⁴⁰ we think that the question must be decided with reference to the view of the class of people who take part in the worship. If they believe in its religious efficacy, in the sense that by such worship, they are making themselves the object of the bounty of some superhuman power, it must be regarded as ‘religious worship’.

(italics added)

So the test to determine whether a particular practice constituted ‘religious worship’ was participants’ belief in its religious efficacy, rather than its conformity to Agamic prescriptions. Further, the performance of animal sacrifice during this particular event was taken as further evidence that it did indeed constitute ‘public religious worship’. This decision, especially the italicised sentence, was regularly cited in subsequent decades, even long after the passing of the 1950 Act.⁴¹

Meanwhile, however, a more authoritative legal definition of religion was taking shape at the Indian Supreme Court. The Indian constitution guaranteed freedom of religion but did not define what ‘religion’ actually was. This uncertainty still prevailed at the time the 1950 Act was passed, but in the following decades, such definitional questions were addressed in a series of Supreme Court decisions. The ‘Shirur Mutt’ case in 1954, concerning a monastery in Tamil Nadu, established that the constitution guarantees freedom of religious practice (‘acts done in pursuance of a religion’) as well as religious belief. It also set the scene for another important strand of legal interpretation by stating that ‘the essential part of a religion is

primarily to be ascertained with reference to the *doctrines* of that religion itself' (italics added).⁴²

In 1961 the Court specified that only 'essential and integral parts' of a religion were protected, not 'purely secular practices ... clothed with a religious form', nor 'practices [that] though religious may have sprung from merely superstitious beliefs and may in that sense be extraneous and unessential accretions to religion itself'.⁴³ In 1963 it further explained that a belief or practice is 'essential and integral' if it is so regarded by the religious community whose belief or practice it is, but if community members themselves disagree over this the court itself can decide.⁴⁴ Since then the Court has in effect had the final say on such matters; its decisions are based mainly on textual evidence, although traditional beliefs and customs may also be considered (Fuller 1988:228–229). Despite seeming entirely unqualified for such a role, the Court has thus granted itself a degree of theological authority far outstripping that of most religious leaders (Derrett 1968:447; Dhavan & Nariman 2000:259).

Indian courts are core institutions of a modern state whose official ideology and Constitution were 'significantly forged by the preoccupations of modern Hindu social and religious reform' (Fuller 1988:242). Here and in other ways too,⁴⁵ the Court does not merely adjudicate; it also 'actively intervenes and shapes public discourse ... at the expense of religious freedom and neutrality' (Sen 2007:6). Through its rulings the Court has consistently sought to homogenise and rationalise Hindu religious practices. Moreover, and of particular relevance here, although the Court's stance reflects a liberal-democratic conception of secularism and the nation-state,

there is a significant overlap between the judicial discourse and the ontology of Hindu nationalism. [...] It has also strengthened the hand of Hindu nationalists, whose ideology is based on a monolithic conception of Hinduism and intolerance of minorities.

(Sen 2007:6–7)

This overlap is evident in the three 'Hindutva judgments' of 1996, addressing charges against members of Hindu nationalist parties. Sec. 123 of the *Representation of the People Act, 1951* prohibits use of religion or religious symbols to solicit electors to vote or refrain from voting for particular candidates; and bans appeals to 'religion, race, caste, community, or language', to further or prejudice the cause of any candidate, or to promote enmity or hatred.⁴⁶ On this basis the election of Shiv Sena candidate Ramesh Prabhoo to Maharashtra Legislative Assembly in 1987 was declared null and void.⁴⁷ The Supreme Court upheld that decision, finding that three election speeches by Shiv Sena leader Bal Thackeray amounted to 'corrupt practices' under Sec 123.⁴⁸ Even so the Court's approach was seen by Hindutva groups as vindicating their position, because Justice J.S. Verma, author of all three decisions, asserted that the terms 'Hinduism' and 'Hindutva' were not to be construed narrowly:

these terms are indicative more of a way of life of the Indian people and are not confined merely to describe persons practising the Hindu religion as a

faith. [...] It is, therefore, a fallacy and an error of law to proceed on the assumption that any reference to Hindutva or Hinduism in a speech makes it automatically a speech based on the Hindu religion as opposed to the other religions or that the use of words 'Hindutva' or 'Hinduism' per se depict an attitude hostile to all persons practising any religion other than the Hindu religion.

This 'way of life' trope thus allowed Verma to conflate Indians and Hindus, 'Hinduism' and 'Hindutva', and thereby bridge the already somewhat blurred gap between what Sen (2010:5–14) terms inclusivist and exclusivist discourses on Hinduism. Inclusivist discourse, associated with Vivekananda in particular, portrays Hinduism – here meaning above all 'the religion of the Vedas' (Vivekananda 1971–1973 I:6) – as 'the universal religion ... inclusive enough to include All the ideals of religion that already exist in the world' (*ibid.* III:251–252), while at the same time being permeated by 'superstitions' that must be 'excised, cut off, and destroyed' (*ibid.* III:279). Inspired by Vivekananda, Radhakrishnan (1957:77) described Hinduism as 'a way of life' that had assimilated a vast range of diverse customs and ideas while managing to maintain a fundamental unity or 'common scheme' (*ibid.*:54), thanks to the gradual subordination of elements inconsistent with its Vedic core (*ibid.*:23).

By adopting this inclusivist discourse the Court thus 'contributed to the construction of a homogeneous Hinduism that was inimical to variations in beliefs, practices, and doctrines' (Sen 2010:6). Paradoxically, therefore, its approach also resonated directly with the exclusivist discourse associated with Hindutva. For V.D. Savarkar, who first coined that term, 'Hindu-ness' was linked above all not to religion but to the territory of the Vedic land of Sindhu: the 'essential qualification of a Hindu is that to him the land that extends from Sindhu to Sindhu is the Fatherland [and] Motherland' (Savarkar 1969:110). He saw Hinduism as merely one aspect of Hindutva, a far broader notion comprising a common nation, race, and civilisation. Even so, religious notions were central to his argument that Muslims and Christians could never fully identify with this territory, because 'though Hindusthan to them is Fatherland as to any other Hindu [sic] yet it is not to them a Holyland too' (*ibid.*:113). After Independence a crucial 'ideological shift' then took place, which 'took the form of identifying India with Hindutva, rather than Hindutva with India' (Sharma 2002:24; Sen 2010:14). By conflating the terms 'Hinduism' and 'Hindutva', during the very period when this shift was underway, the Supreme Court arguably lost sight of the very different contemporary political significances of the two terms (Cosman & Kapur 1999:34). In short, through these judgments, 'Hinduism ... comes to reflect the way of life of *all* Indians' (*ibid.*:33; Sen 2010:24) while at the same time needing to be purged of its non-Vedantic elements.

As the cases above illustrate, one key preoccupation of the Supreme Court was the reform of Hindu temples and monasteries, to try and separate truly religious elements from superstitious 'accretions'. As Galanter pointed out, the freedom of religion envisaged in the Indian secular state 'is not freedom for religion as it is ... but freedom for religion as it ought to be' (1965:151).

Hindutva influence in Tamil Nadu

Although Jayalalitha's Order enforcing the ban on sacrifice had met with widespread public opposition and was challenged in the High Court, the government repeatedly justified its action by referring to support for the policy on the part of heads of monasteries and state BJP leaders. However, many commentators saw this as merely another manifestation of Jayalalitha's 'willing cooperation in implementing some of the priority issues on the Hindutva agenda', a process analysed in a *Frontline* issue devoted to the spread of Hindutva values in southern states.⁴⁹ It begins by quoting the claim by the Minister for Hindu Religious and Charitable Endowments that 2,822 temples had been renovated by the AIADMK administration, and his sycophantic comment that 'Tamil Nadu today is under the spiritual rule of Jayalalithaa'. It sees his comments not only as indications of government priorities, but also – more broadly – as signifying the extent to which those priorities created 'a congenial atmosphere in the State for the Sangh Parivar ... to advance its communal and political agenda'.

This rise of Hindutva influence was helped by competition between the two main Tamil parties to foster relationships with the BJP administration in Delhi. This might seem paradoxical in that the Dravidian movement from which both parties sprang had its roots in the rationalist, self-respect ideology of Periyar E.V. Ramasami, but this secularist stance had weakened over time (Pandian 2000). Because rationalist ideology remained stronger in the DMK and was still publicly espoused by M. Karunanidhi (see above), it could not go as far as the AIADMK in its wooing of Hindutva organisations. As *Frontline* (*ibid.*) explained:

Jayalalithaa's AIADMK has been the more enthusiastic of the two in supporting the Hindutva cause. While in power the DMK extended only passive support to the Parivar, without concealing its reservations The AIADMK government has had no qualms in not only supporting many of its causes but also wresting the initiative from the Hindutva forces by launching certain legislative measures that even BJP-led governments in other States did not resort to.

For example, Jayalalitha's government introduced legislation in 2002 banning 'forcible' religious conversion, supplied significant funding to reconstruct temples, granted pensions to priests in small temples, provided for the feeding of poor Hindus in temples, arranged mass weddings for poor Hindu couples, and introduced 'Vedic' colleges to train priests. The directive to enforce the law against animal sacrifice was therefore just one of a long line of policies designed in part to foster relations with the BJP and the Sangh Parivar more generally, lending further force to Fuller's earlier comment (1996:22) that Jayalalitha's regime was 'actively promoting Sanskritic, brahminical Hinduism, almost as if it were the official religion. Dravidian ideology has been effectively reversed in favour of something close to Tamil-style Hindutva'.

The *jallikattu* controversy

Jayalalitha's promotion of Hindutva values met active resistance from some quarters however, as we saw, and the complex political forces and social fissions in play were thrown into further relief by the controversy surrounding the sport of bull-taming (*jallikattu*), which allegedly dates back thousands of years. It occurs during the Thai Pongal festival in mid-January, notably at Alanganallur in Madurai District. A bull is released into a crowd, whose members try to cling on to its hump for a specific time or distance, or to retrieve money tied to its horns. Participants are often killed or injured,⁵⁰ but breeders claim that the bulls themselves are well-treated. Animal rights groups like the international NGO People for the Ethical Treatment of Animals (PETA) contend however that their treatment involves significant cruelty.

In 2006 the Madras High Court (Madurai Bench) ruled that *jallikattu* violated the PCAA,⁵¹ but in 2007 this was overturned by the full bench, driven by a desire to protect 'our traditional and cultural life-style'. It called for legislation striking 'a proper balance safeguarding the interests of every one, including the animals'.⁵² The Supreme Court temporarily stayed this order in January 2008, but allowed a revised petition a few days later.⁵³ The State Government then passed the 2009 *Tamil Nadu Regulation of Jallikattu Act* (TNRJA). This allowed such events to continue, subject to the District Collector's permission, provided that they had previously taken place annually for at least five years.⁵⁴

In 2011, however, the Ministry of Environments and Forests added bulls to its schedule of banned performing animals, whereupon PETA and AWBI challenged the TNRJA in court as unconstitutional, claiming that *jallikattu* was a blood sport in which bulls were subjected to various types of cruelty. The Supreme Court eventually ruled in 2014 that *jallikattu* did indeed violate the PCAA, so the TNRJA was declared 'constitutionally void'.⁵⁵ There were localised attempts to defy the renewed ban in January 2015, but police arrested some participants. In early January 2016, however, the Ministry relaxed the ban in the case of 'traditionally practised cultural events' like *jallikattu*, subject to conditions such as testing the animals for performance-enhancing drugs, and monitoring by the local Society for Prevention of Cruelty to Animals and AWBI.⁵⁶ This was immediately challenged in the Supreme Court by PETA and others. The Court was highly critical of the Ministry's decision⁵⁷ and issued a stay order on 12 January, but this was not enforced by local police, so *jallikattu* took place on a significant scale.

Prior to the 2017 festival, the Supreme Court received several fresh petitions asking it to reconsider the ban, but these were all denied. To complicate matters further, Jayalalitha died on 5 December 2016 after a long illness, triggering a prolonged period of infighting, factional splits, and partial re-mergers within the AIADMK. Her immediate successor as Chief Minister was O. Panneerselvam, who had held the post several times previously while Jayalalitha herself was disqualified because of a 'disproportionate assets' case in which she was accused of misusing her office to amass a vast personal fortune. However, he tendered his resignation on 6 February 2017, and was replaced by E.K. Palaniswami on 16 February 2017.

In the meantime however, faced with massive public protests, Panneerselvam met with the Home Minister and law officials in Delhi, seeking help in overcoming the Supreme Court ban. The BJP government declined to act itself, claiming that to do so might be viewed as contempt of court. It promised, however, to ask the Court to delay any final ruling, to create scope for the state government to take its own legal measures (Sathiya Moorthy 2018). On 21 January, Central Government, in the person of the State Governor, cleared a proposed ordinance by the AIADMK government, seeking to introduce a state amendment to the *Prevention of Cruelty to Animals Act, 1960*,⁵⁸ and on 23 January, Panneerselvam's government passed an Act amending the PCAA so as to allow performances of *jallikattu*.⁵⁹ Next day, PETA and AWBI challenged this at the Supreme Court. It refused to stay the Act there and then, but later that year the Court asked the state government for its response to PETA's plea, and in February 2018, the Court referred the instances of *jallikattu* in Tamil Nadu and bullock cart races in Maharashtra to a Constitution bench,⁶⁰ tasked with deciding whether states had 'legislative competence' on such matters, and whether these practices were protected cultural rights under Article 29(1) of the Constitution.⁶¹

Meanwhile, an application to Madras High Court seeking to ban PETA on the grounds that it was a foreign-based organisation whose actions violated Indian sovereignty, was dismissed as 'a misadventure only for publicity sake'.⁶² However, hostility towards PETA's foreign origins was echoed by many protesters, in keeping with the growing anti-globalisation, anti-corporate character of the campaign. For example, another strand of argument concerned the threat to indigenous livestock posed by mechanization of agriculture, artificial insemination, and large-scale importation of hybrid Jersey cows. It was argued that breeding bulls for *jallikattu* helped preserve a critically endangered species, and that although imported cattle yielded far more milk, this had adverse side effects compared to the milk of native breeds. For good measure, pro-*jallikattu* protesters also campaigned against Coca and Pepsi Cola. Numerous public figures like film stars, politicians, and cricketers joined social activists and spiritual leaders in actively supporting the 2017 pro-*jallikattu* protests, which were largely coordinated through social media and remained determinedly leaderless, and largely peaceful.

There was however a clear political dimension to the protests. Protestors blamed the AIADMK and BJP for failing to reverse the ban over the previous three years, and certainly the reformist agendas of both parties seemed at odds with the values motivating the protestors. After all, Jayalalitha's initial decision to enforce the 1950 Act had coincided with the AIADMK's expression of support for the proposal to ban cow slaughter, brought forward by the BJP administration in Delhi. In addition, central government was widely perceived as consistently acting against the interests of Tamils, be it in relation to the long-running Cauvery water supply issue, or the repeated attempts at imposition of the Hindi language (Kalaiyaran 2017). Neither party, therefore, seemed on the face of it a likely proponent of *jallikattu*, yet neither could afford to ignore the strength of popular feeling the issue

had engendered. Instead, they attempted, pragmatically or cynically, to turn the situation into a political opportunity rather than a threat. As Suresh (2018:1) asks rhetorically:

are these protests in Tamil Nadu a form of resistance by the subaltern against an apathetic state or is it a way by which the BJP seeks to gain a foothold in this southern state where previously they had no presence? Or is it both?

This helps explain the Janus-faced response from the BJP at the centre, declining to intervene on its own account on the possibly spurious basis that the case was still *sub judice*, while facilitating the AIADMK's own enactment of new legislation whose constitutional legality has yet to be determined at time of writing.

Concluding comments

It was almost inevitable that by seeking greater influence within the Hindutva faction, Jayalalitha and the AIADMK would face a decline in support among those sections of Tamil society who did not conform – and did not *wish* to conform – to the Sangh Parivar's homogenised vision of Hindu belief and practice. It is therefore hard, especially given the soap-opera history of Tamil Nadu politics, to evaluate the relative importance of true conviction and tactical expediency in Jayalalitha's initial decision to order the crackdown on animal sacrifice. Indeed, a further paradox, given the militant anti-Brahmanism of the Dravidian movement for much of its history, is that Jayalalitha herself was a Brahman who might genuinely have regarded animal sacrifice as an inferior form of worship.

What seems clear, however, is that her rapid volte-face was a conscious attempt to retain political support among sections of the electorate that might otherwise have felt strongly hostile to her administration. Subsequent events proved that she had had good reason to worry. In the 2004 General Election, two months after lifting the ban, every single seat in Tamil Nadu was won by the DMK and its allies; Jayalalitha's AIADMK lost all ten seats previously held, and the BJP lost its five seats. The sacrifice ban was not itself the determinative issue at those elections, compared to the scrapping of a free electricity scheme for farmers and reductions in the rice ration, but it was one of a long list of factors working against the AIADMK-BJP alliance.⁶³ Voters seem to have viewed it as yet another example of Jayalalitha's 'autocratic style'.⁶⁴ This would-be populist measure had backfired by proving in fact to be deeply unpopular.

To return to the conundrum posed by the initial non-enforcement of the 1950 Act, one possible explanation is that it was mainly intended all along as a statement of religious principle rather than the ostensible socio-cultural reform portrayed by some speakers in the Legislative Assembly debate. As Fuller noted, there is a 'widespread assumption that the modern Indian state, the powerful child of reformist nationalism, is hostile to animal sacrifice'; the ritual is 'seen to have lost its legitimacy at the highest political level' (2004:104). This is a far cry from the 'staggering' (Sivapriyananda 1995:46) scale of animal sacrifices formerly carried

out by the kings of Vijayanagara, and later Mysore, in the Dasara rituals that served as paradigms for all the minor princes and zamindars of south India. Their importance was related by Stein (1983) to the changed emphasis in the post-Gupta period whereby ‘it was not the king who had a divine nature, but the royal function itself’ (Lingat 1973:208). Vedic rituals, which focused on regenerating the king’s sacred powers, lost their relevance, and the ritual stress fell instead on the goddess Durga who, in return for the offering of animal sacrifice, blessed the symbols of kingship and sanctioned the king’s authority to continue ruling for another year.

In Mysore, however, this macrocosmic sacrifice of animals had been replaced by the symbolic sacrifice of reddened pumpkins by the mid-19th century (Ikegame 2013:146), so even then Brahmanic orthopraxy, if not yet reformism as presently constituted, was gaining ground. Similar substitutions of pumpkins for sacrificial animals are widespread nowadays in Brahmanic temples like Kalugumalai (Good 2004:76, 293). All that remains, in relation to animal sacrifice, is the microcosm; offerings to goddesses who replicate at village level the role played by Durga with regard to the kingdom as a whole. But even when the perpetrators of sacrifice successfully resist the pressures of Brahmanic or Hindutva-inspired reformism, as in the case of goddess Chellattamman (Fuller 2004:104–105),⁶⁵ or the passive defiance by Sudalai Andavar’s ‘god-dancer’ discussed above, they do so at the cost of acknowledging the inferiority of their practices – and their deities – from a high-caste viewpoint. Seen in this light, the *Madras Animals and Birds Sacrifices Prohibition Act, 1950* appears more an act of attempted delegitimisation by the self-styled cultural élite, rather than an Act primarily intended to criminalise those performing such sacrifices.

This too may be changing, however. Of course, the parallels between animal sacrifice and *jallikattu* are not exact. The state government did attempt to argue before the Supreme Court in November 2016 that *jallikattu* was of religious significance for Tamils and so protected by Art. 25 of the Indian Constitution, but this claim was very firmly rejected by Justice Mishra, stating:⁶⁶

Jallikattu is not a religious event. You are defaming the framers of the Constitution by linking Jallikattu to Article 25. We are unable to connect this kind of reference to an event with the right to freedom of religion as it is totally alien to the Constitution.

Nonetheless, the *jallikattu* dispute further intensified the friction between the reformist, purifying trends discussed above – this time in the guise of concerns over animal cruelty rather than actual sacrifice – and the resurgent martial values among newly dominant agricultural castes like Kallar and Maravar in villages whose former Brahman landlords (and erstwhile cultural exemplars) have largely departed to seek educational and economic opportunities elsewhere. In Tanjore district

Social prestige and modernity are no longer primarily defined by Brahmin, or indeed even urban middle-class values. Instead they reflect the concerns

of the now dominant Kallar caste. [...] It is Kallar values and lifestyles that have come to be emulated as part of claims to social status....

(Arumugam 2015:774)

At least in these rural areas, then, it is possible to speak of a renaissance of 'Dravidian', non-Sanskritic values and lifestyles (Arumugam 2015:773). The *jallikattu* controversy can be understood partly in this light, as carrying further the forms of cultural resistance already evident in the hostile popular response to Jayalalitha's enforcement of the 1950 Act. These repudiate BJP attempts, supported by their fellow travellers in the AIADMK, to impose homogeneity onto Hindu belief and practice, a refusal which successive AIADMK administrations have been compelled to acknowledge, first by Jayalalitha's repeal of the 1950 Act, and later by Panneerselvam's promulgation of the 2017 amendment to the PCAA. In short, while there is no denying the extent to which Hindutva discourse came to permeate Tamil politics and civil society during Jayalalitha's tenure as Chief Minister, it is also true that in the process it was compelled to take on forms that diverged significantly from those of its North Indian origins. As Kalaiyarasan (2017:12) notes, the opposition to the bans on animal sacrifice and *jallikattu*, on the part of many rural, non-Brahman Tamils, displays their refusal to be simply subsumed under Hindutva-style uniformity.

Notes

- 1 The term Hindutva ('Hindu-ness') is widely used in Indian political debate. All the organisations thus labelled are broadly reformist or nationalist in outlook, but they may differ on particular issues, as S. Gurumurthy's response to Jayalalitha's ban (below) illustrates.
- 2 This summary focuses on the most obviously sacrificial elements of the festival. For a more complete description and analysis, see Good (1985).
- 3 Pots are used in many rituals to contain, embody, or symbolise divinities. In mythology too, pots may contain Siva's semen, represented by fire (O'Flaherty 1975:164–168) or Ganges water (Shulman 1980:64ff), and give birth to the deity Murukan (Clothey 1978:81) or Aiyandar (Dumont 1957:401).
- 4 This was the only occasion on which I saw that hierarchy fully manifest in behaviour.
- 5 For another myth linking sacrifice to an inadvertent union between a Brahman and a Dalit, see Ikegame (this volume).
- 6 In 1969 it was formally renamed the *Tamil Nadu Animals and Birds Sacrifices Prohibition Act* (www.lawsofindia.org/pdf/tamil_nadu/1950/1950TN32.pdf; accessed 16/06/2015).
- 7 Tanaka (2000:129) asserts that animal sacrifice 'was legally prohibited shortly before I began my research' [in a Tamil village in the early 1980s], but adds, 'I was not able to confirm the existence of this law'. (Owing to an error in the online version of this paper, it is often wrongly dated in bibliographies as 1999.) However, I am not aware of any law passed in that period.
- 8 www.thehindu.com/2003/08/29/stories/2003082907440100.htm (accessed 25/06/2015).
- 9 Pandian slightly misquotes *The Hindu*, by referring to the alleged legislation as 'the Tamil Nadu Prevention of Cruelties to Animals Act, 1950, and its subsequent amendment' (2005:2313; my italics).

- 10 Act 59 of 1960, as amended by Central Act 26 of 1982 (<https://www.animallaw.info/statute/cruelty-prevention-cruelty-animals-act-1960#s28>; accessed 12/09/2019); see also Krishna (2010:34). The wording of sec. 28 does however provide a possible loop-hole for those favouring a ban (see Endnote 31).
- 11 www.thehindu.com/2003/08/29/stories/2003082907440100.htm (accessed 25/06/2015).
- 12 www.thehindu.com/2003/09/06/stories/2003090605760100.htm (accessed 25/06/2015).
- 13 Unfortunately, though, that same error has since been unwittingly perpetuated by authors citing Pandian's work (e.g. Srinivasan 2010:30).
- 14 www.frontline.in/static/html/fl2020/stories/20031010001205000.htm. The CPI-M General Secretary, for example, said sacrifice 'was "part and parcel" of the lives of Dalits and other backward classes and the order would offend them' (www.religioscope.info/article_211.shtml) (both accessed 19/06/2015).
- 15 www.thehindu.com/thehindu/mp/2003/09/08/stories/2003090800700100.htm (accessed 17/06/2015).
- 16 *The Hindu*, 8 September 2003 (<http://alt.religion.hindu.narkive.com/a61KXcNi/hindutv-the-great-nationalist-ideology>; accessed 17/06/2015).
- 17 The Foundation's mission is 'to improve the social, economic and cultural life-styles' of the Indian population (<http://cprfoundation.org/otherpages/02-abtus.htm>; accessed 08/07/2015). For a more detailed discussion of Krishna's arguments, see Kent (2013:172–175).
- 18 http://natureprofiles.hpage.co.in/animal-sacrifice_61987868.html (accessed 17/06/2015; link no longer active). In practice, of course, it is likely that 'insisting that nothing be prohibited unless everything comparable is prohibited is tantamount to lifting all existing prohibitions' (Casal 2003:17).
- 19 www.religioscope.info/article_211.shtml (accessed 19/06/2015).
- 20 www.frontline.in/static/html/fl2020/stories/20031010001205000.htm (accessed 18/06/2015).
- 21 www.thehindu.com/2003/09/06/stories/2003090605760100.htm (accessed 18/06/2015). This report says that Senthivel's petition cited Article 14 of the Constitution, rather than Article 19.
- 22 On its face, the wording of sec. 3 of the 1950 Act (quoted above) did not rule out sacrifices performed away from temples; it is not clear whether this was intended, or the result of poor drafting.
- 23 www.thehindu.com/2003/09/07/stories/2003090704590400.htm; see also www.frontline.in/static/html/fl2020/stories/20031010001205000.htm (both accessed 18/06/2015).
- 24 www.frontline.in/static/html/fl2020/stories/20031010001205000.htm (accessed 18/06/2015).
- 25 www.thehindu.com/2003/09/09/stories/2003090905090400.htm (accessed 18/06/2015).
- 26 <http://www.thehindu.com/2003/09/09/stories/2003090905080400.htm> (accessed 19/06/2015).
- 27 <http://archive.deccanherald.com/deccanherald/sep15/n8.asp> (accessed 19/06/2015).
- 28 www.ghilham.com/news/tamilnadu/20040221b.html (accessed 19/06/2015).
- 29 <http://archive.deccanherald.com/deccanherald/feb292004/sl4.asp> (accessed 19/06/2015).
- 30 http://news.bbc.co.uk/2/hi/south_asia/3506623.stm (accessed 19/06/2015). Links were drawn with other measures designed to win back voters, such as her extended supply of free power to agricultural pump sets (<http://archive.deccanherald.com/deccanherald/feb212004/n1.asp>; accessed 19/06/2015).
- 31 Section 28 exempts sacrifice from the provisions of the Act but its wording provides a possible loop hole: 'Nothing in this Act shall render it an offence to kill any animal in a manner *required* by the religion of any community' (my italics). Animal rights activists have argued that sacrifice is not actually a *required* aspect of Hinduism (Radhika Govindrajan, pers. comm.).
- 32 <http://envfor.nic.in/legis/wildlife/wildlife1.html> (accessed 08/07/2015).
- 33 <http://www.animalpeoplenews.org/04/3/proanimalIndiapols3.04.html> (accessed 08/07/2015).
- 34 The 'prototypic' Supreme Court judge in the period 1950–1967 was 'the product of a socially prestigious and economically advantaged family, was a Hindu (most often a

- Brahmin), [and] was educated at one of the better Indian universities or in England' (Gadbois 1969:317).
- 35 www.tnhrce.org/pdf/TNHRCE_RULES_1959_PART17.pdf (accessed 10/07/2015).
- 36 Section 2 of the 1939 Act specifically indemnified those involved in the Madurai incursion.
- 37 *Srilasree Gnanasambandham Desikar Pandarasannadhi Averal v. R.S. Naidu*, Madurai Subordinate Judge's Court, 13 July 1939; *Manicka Sundara Bhattar and Ors. v. R.S. Nayudu, Executive Officer [and nine others]* (1945) 1 MLJ 372. The plaintiffs included several temple priests and the head of a local Saivite monastery. It is worth noting, in light of arguments elsewhere in this chapter, that the 1945 decision was written by a British judge.
- 38 *The Board of Commissioner for the Hindu Religious Endowments Board v. Pidugu Narasimham and Ors.*, (1939) 1 MLJ 134.
- 39 This synecdochical phrase (literally, 'daily food-offering lamp-showing') is conventionally used to refer to the entire daily liturgy in a temple.
- 40 The Agamas are held to be authoritative where worship in Brahmanic South Indian temples is concerned and are believed by many to contain detailed instructions for correct ritual performance.
- 41 For example, *Pichai v. The Commissioner for Hindu Religious & Charitable Endowments*, AIR 1971 Mad 405, (1971) 1 MLJ 166; *Sri Sai Baba and Ors. v. M.L. Hanumantha Rao*, (1980) 2 MLJ 518; *The Commissioner for Hindu Religious & Charitable Endowments v. G. Veluchamy and Ors.*, (1987) 2 MLJ 403.
- 42 *Commissioner of Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar, Shirur*, AIR 1954 S.C. 282, 290. Basing the modernist reform of religion upon doctrines articulated in archaic *shastra* texts, clearly creates potential for contradiction (Dhavan & Nariman 2000; Sen 2007:15; 2010:50).
- 43 *Durgah Committee, Ajmer v. Syed Hussain Ali*, AIR 1961 S.C. 1402, 1415.
- 44 *Tilkayat Shri Govindlalji Maharaj v. State of Rajasthan*, AIR 1963 S.C. 1638.
- 45 For example, in *Kesavananda Bharati v. The State of Kerala & Anor.* AIR 1973 SC 1461, the Court articulated the 'basic structure' doctrine, meaning that it can nullify any legislation that it finds contrary to the fundamental principles of the Constitution. As Sen notes, 'The Court then becomes the final arbiter of the Constitution' (2007:6).
- 46 <https://www.parliament.cat/document/intrade/181101> (accessed 23/06/2023)
- 47 *Prabhoo v. Kunte* AIR 1996 SC 1113. The other 'Hindutva cases' were *Joshi v. Patil* AIR 1996 SC 796, and *Kapse v. Singh* AIR 1996 SC 817.
- 48 For example, Thackeray had stated; 'Hinduism will triumph in this election.... You will find Hindu temples underneath if all the mosques are dug out. Anyone who stands against the Hindus should be ... worshipped with shoes. ... Prabhoo should be led to victory in the name of religion.'
- 49 S. Viswanathan, 'Tamil Nadu: a multi-pronged approach', in *Frontline* 21(6). 13–16 March 2004. (www.frontline.in/static/html/fl2106/stories/20040326004900900.htm; accessed 19/06/2015).
- 50 Between 2008 and 2014, 43 humans and 4 bulls were killed. In 2017 there were 23 human deaths, about 2,500 injuries and several injuries to bulls (<https://www.thehindu.com/news/national/tamil-nadu/23-died-in-jallikattu-in-last-one-year/article22683470.ece>; accessed 14/09/2019).
- 51 This case involved bullock-cart races (*rekla*), but R. Banupathi, later a Supreme Court judge, had included *jallikattu* in his judgment, because both involved animal cruelty in violation of the PCAA; *K. Muniyasamythevar v. Dy. Superintendent of Police & anor.* AIR 2006 Mad 255.
- 52 *K. Muniyasamythevar v. Dy. Superintendent of Police & anor.* WA No. 119 of 2006.

- 53 Application 15 of 2008 of 15 January 2008, in SLP 11686 of 2007, as quoted in *Karthiresan v. The District Collector* WP (MD) 3920 of 2008; MP (MD) 1 & 2 of 2008.
- 54 http://www.lawsofindia.org/pdf/tamil_nadu/2009/2009TN27.pdf (accessed 07/10/2019).
- 55 The Supreme Court noted that the conditions specified under the TNRJA were often being flouted; *Animal Welfare Board of India v. A. Nagaraja & Ors*, CA 5387 of 2014 (& SLP 11686 of 2007).
- 56 Ministry of Environment, Forests and Climate Change, Notification of 7 January 2016. (https://www.thehindubusinessline.com/multimedia/archive/02688/Jallikattu_gazette_2688411a.pdf; accessed 13/09/2019).
- 57 Complaints by Judges Dipak Misra and R.T. Nariman were widely reported: ‘How can (the Ministry) negate our judgment banning jallikattu by coming up with the January 2016 notification allowing bulls to participate in the sport again? [...] We cannot import Roman gladiator-type sport here.’ (http://www.ptinews.com/news/8141372_SC-questions-Centre-s-notification-supporting-jallikattu-; accessed 07/10/2019).
- 58 <http://timesofindia.indiatimes.com//city/chennai/tamil-nadu-governor-signs-ordinance-for-jallikattu/articleshow/56703340.cms> (accessed 10/09/2019). Ordinances have the same effect as Acts passed by the Legislative Assembly; they are employed when the Assembly is not in session, if the State Governor is satisfied that the circumstances require immediate action (Suresh 2018:6).
- 59 *The Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act (Act No. 1 of 2017)* (http://cms.tn.gov.in/sites/default/files/acts/20_Ex_IV_2.pdf; accessed 17/10/2019).
- 60 Under Article 145 of the Indian Constitution, cases involving a ‘substantial question of law as to the interpretation of this Constitution’ must be decided by benches of at least five Judges.
- 61 <https://www.thehindubusinessline.com/news/national/supreme-court-refers-pleas-against-jallikattu-to-constitution-bench/article22630441.ece> (accessed 09/10/2019).
- 62 *Dinesh v. Union of India* WP 2436 of 2017.
- 63 www.frontline.in/static/html/fl2111/stories/20040604004602400.htm (accessed 07/07/2015).
- 64 <http://www.webcitation.org/5iTJ5MvuM> (accessed 07/07/2015).
- 65 In 1977 the temple of goddess Chellattamman in Madurai was being administered by a highly orthodox Brahman, who decreed that animal sacrifices to her should cease and she should henceforth be worshipped in Sanskrit rather than Tamil. Her priest claimed that Chellattamman then manifested her displeasure in various ways, including rendering speechless the Brahman deputed to recite her names, so the service could only be completed by reverting to Tamil. This was seen as the goddess herself intervening to defend her customary worship against the imposition of reformist, Brahmanic standards.
- 66 <https://www.hindustantimes.com/india-news/supreme-court-refuses-to-lift-ban-on-jallikattu-dismisses-tamil-nadu-petition/story-JfTqQr3kc6cRHwUQ7LEYQJ.html> (accessed 17/10/2019).

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