Cultural Freedom Vs Animal Welfare

What is the issue?

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Supreme Court is yet to rule Jallikattu case involving community's right to cultural freedom Vs values of animal welfare.

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What is the existing act to protect animal welfare?

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- The Constitution has imposed no binding obligation on the state to protect animal welfare.
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- Due to the efforts of civil societies, in 1960 union government enacted the Prevention of Cruelty to Animals Act, 1960 PCA Act.
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- The act criminalised several different types of actions resulting in cruelty to animals.
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- However, the act also defined a set of exceptions. They are,\n
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    - The performance of experiments on animals aimed purportedly at advancing discovery of drugs.
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    - Concession for "killing any animal in a manner required by the religion of any community".
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What is case pending before SC on Jallikattu?

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- Earlier SC found that Jallikattu a bull-taming spectacle which is traditionally

held during the pongal period in various parts of TN, violated many of the provisions of the PCA Act.
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- It ruled that any attempt by Tamil Nadu to regulate these events could not be afforded any sanctity.
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- Recently Supreme Court referred few cases to a Constitution Bench for final determination, Jallikattu case is one among that.
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- Now, the issue before the Supreme Court arises out of Tamil Nadu's amendment to the (PCA Act) made in 2017, amidst strident protests in the State.
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What were the grounds used by TN to amend PCA?

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- The amendment made to PCA by TN, discharges the practice of jallikattu by defining it as an event involving bulls conducted with a view to follow tradition and culture.
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- Given that the subject of preventing animal cruelty falls in the **concurrent list** of the Seventh Schedule to the Constitution.
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- TN government claimed that it possess an equal authority to determine what actions constitute cruelty to animals within its respective territory.
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- Based on this TN legitimised jallikattu, by amending the PCA Act, and by exempting the practice entirely from the statute's demands.
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- Tamilnadu also argued that the amendment serves to preserve native varieties of bulls and the exemption in favour Tamil people's right to conserve their culture.
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What are the demands of the animal welfare organisations?

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- Part III of the Constitution, which lists the various fundamental rights,

provides to persons different manners of guarantees, including in Article 14 a right to equality, and in Article 21 a right to life.
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- These enumerated rights, however, do not explicitly recognise animals as persons.
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- The liberties contained in Part III have largely been understood as promises made to human beings, and, in appropriate cases, to associations of human beings, such as corporations, partnerships and other similar entities.
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- Based on this animal welfare organisations in India claim efforts to be founded on qualities of politeness, on a belief that to inflict unnecessary pain on animals which is morally unconscionable.
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What is conundrum pending before SC?

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- To unravel this SC can hold that animals too possess a right to live with dignity, and, therefore, enjoy a right to life under Article 21.
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- Or, it could hold that this right under Article 21 includes within its ambit a larger freedom to live in a society free of animal cruelty.
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- But appealing such conclusions won't fit with the Constitution's text and structure.
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- SC has previously held that the right to life under Article 21 partakes a right to a healthy environment, Tamil Nadu's law which strives to protect a community's cultural rights offends this larger.
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- Thus the court's venture must be to independently construe Article 21, to see whether a finding that the right partakes a freedom to live in a society free of animal cruelty fits with India's larger constitutional design.
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Source: The Hindu

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